A BILL TO BE ENTITLED
AN ACT TO RESTORE STATE TORT CLAIM FOR WRONGFUL DISCHARGE; ADOPT FEDERAL WORKPLACE ANTI-DISCRIMINATION STANDARDS TO REPLACE THE STATE WORKPLACE ANTI-DISCRIMINATION STANDARDS IN HOUSE BILL 2; ADOPT FEDERAL PUBLIC ACCOMMODATIONS ANTI-DISCRIMINATION STANDARDS TO REPLACE THE STATE PUBLIC ACCOMMODATIONS ANTI-DISCRIMINATION STANDARDS IN HOUSE BILL 2; DIRECT NORTH CAROLINA VITAL RECORDS OFFICE TO ACCOMMODATE NEEDS OF NORTH CAROLINA RESIDENTS BORN IN JURISDICTIONS THAT DO NOT ALLOW THE AMENDMENT OF BIRTH CERTIFICATES FOR PERSONS WHO HAVE HAD SEX CHANGE SURGERY; INCREASE PUNISHMENT FOR CERTAIN CRIMES COMMITTED AGAINST ANYONE IN BATHROOMS, LOCKER ROOMS AND SHOWERS; AND TO AUTHORIZE THE ESTABLISHMENT OF A BLUE RIBBON COMMISSION.

The General Assembly of North Carolina enacts:

PART I: RESTORE STATE TORT CLAIM TO WRONGFUL DISCHARGE

SECTION 1.(a). G.S. 143-422.3 reads as rewritten:
§ 143-422.3. Investigations; conciliations.
The Human Relations Commission in the Department of Administration shall have the authority to receive charges of discrimination from the Equal Employment Opportunity Commission pursuant to an agreement under Section 709(b) of Public Law 88-352, as amended by Public Law 92-261, and investigate and conciliate charges of discrimination. Throughout this process, the agency shall use its good offices to effect an amicable resolution of the charges of discrimination. This Article does not create, and shall not be construed to create or support, a statutory or common law private right of action, and no person may bring any civil action based upon the public policy expressed herein.

SECTION 1.(b). This section is effective March 23, 2016.

PART II: ADOPT FEDERAL WORKPLACE ANTI-DISCRIMINATION STANDARDS TO REPLACE THE STATE WORKPLACE ANTI-DISCRIMINATION STANDARDS IN HOUSE BILL 2
SECTION 2. G.S. 143-422.2 reads as rewritten:

"§ 143-422.2. Legislative declaration.
(a) It is the public policy of this State to protect and safeguard the right and opportunity of all persons to seek, obtain and hold employment without discrimination or abridgement by employers which regularly employ 15 or more employees on account of those classifications included in Title VII of the federal Civil Rights Act of 1964, 42 U.S.C. 2000e, et seq., as amended, the federal Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 et seq., as amended, the federal Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq., as amended, or the Persons with Disabilities Protection Act, Chapter 168A of the General Statutes, provided that designating or requiring use of multiple or single occupancy bathrooms or changing facilities according to biological sex, as defined in G.S. 143-760(a)(1), (3), and (5), shall not be deemed to constitute discrimination based on those classifications included in Title II of the Civil Rights Act of 1964, 42 U.S.C. § 2000a, et seq., or biological sex, provided that designating or requiring use of multiple or single occupancy bathrooms or changing facilities according to biological sex, as defined in G.S. 143-760(a)(1), (3), and (5), shall not be deemed to constitute discrimination.
(b) The General Assembly declares that the regulation of discriminatory practices in places of public accommodation is properly an issue of general, statewide concern, such that this Article and other applicable provisions of the General Statutes supersede and preempt any ordinance, regulation, resolution, or policy adopted or imposed by a unit of local government or other political subdivision of the State that regulates or imposes any requirement upon an employer pertaining to the regulation of discriminatory practices in employment, except such regulations applicable to personnel employed by that body that are not otherwise in conflict with State law."

PART III: ADOPT FEDERAL PUBLIC ACCOMMODATIONS
ANTI-DISCRIMINATION STANDARDS TO REPLACE THE STATE PUBLIC ACCOMMODATIONS ANTI-DISCRIMINATION STANDARDS IN HOUSE BILL 2

SECTION 3. G.S. 143-422.11 reads as rewritten:

"§ 143-422.11. Legislative declaration.
(a) It is the public policy of this State to protect and safeguard the right and opportunity of all individuals within the State to enjoy fully and equally the goods, services, facilities, privileges, advantages, and accommodations of places of public accommodation free of discrimination because of race, religion, color, national origin, or biological sex, provided that designating multiple or single occupancy bathrooms or changing facilities according to biological sex, as defined in G.S. 143-760(a)(1), (3), and (5), shall not be deemed to constitute discrimination, based on those classifications included in Title II of the Civil Rights Act of 1964, 42 U.S.C. § 2000a, et seq., or biological sex, provided that designating or requiring use of multiple or single occupancy bathrooms or changing facilities according to biological sex, as defined in G.S. 143-760(a)(1), (3), and (5), shall not be deemed to constitute discrimination.
(b) The General Assembly declares that the regulation of discriminatory practices in places of public accommodation is properly an issue of general, statewide concern, such that this Article and other applicable provisions of the General Statutes supersede and preempt any ordinance, regulation, resolution, or policy adopted or imposed by a unit of local government or other political subdivision of the State that regulates or imposes any requirement pertaining to the regulation of discriminatory practices in places of public accommodation."

PART IV: DIRECT NORTH CAROLINA VITAL RECORDS OFFICE TO ACCOMMODATE NEEDS OF NORTH CAROLINA RESIDENTS BORN IN
JURISDICTIONS THAT DO NOT ALLOW THE AMENDMENT OF BIRTH
CERTIFICATES FOR PERSONS WHO HAVE HAD SEX CHANGE SURGERY

SECTION 4.(a). G.S. 130A-2(10) reads as rewritten:
"(10) "Vital records" means birth, death, fetal death, sex reassignment, marriage, annulment and divorce records registered under the provisions of Article 4 of this Chapter."

SECTION 4.(b). G.S. 130A-93 is amended by adding a new subsection to read:
"(b1) Certificates of sex reassignment, in any form and on any medium, shall not be public records pursuant to Chapter 132 of the General Statutes. The State Registrar and other officials authorized to issue certified copies of vital records shall provide certified copies of sex reassignment only to the following:
(1) A person requesting a copy of the person's own sex reassignment certificate.
(2) An authorized agent, attorney or legal representative of a person described above."

SECTION 4.(c). Article 4 of Chapter 130A of the General Statutes is amended by adding a new section to read:
An individual who (i) was born in another state or another jurisdiction that does not provide a mechanism for amending a current certificate of birth or issuing a new certificate of birth to change the sex of an individual following sex reassignment surgery and (ii) resides in this State at the time of the written application may request a certificate of sex reassignment from the State Registrar. The State Registrar shall issue a certificate of sex reassignment upon a written application from an individual accompanied by a notarized statement from the physician who performed the sex reassignment surgery or from a physician licensed to practice medicine who has examined the individual and can certify that the person has undergone sex reassignment surgery."

SECTION 4.(d). G.S. 115C-521.2(a)(1) reads as rewritten:
"(1) Biological sex. – The physical condition of being male or female, which is stated on a person's birth certificate, amended birth certificate, as provided in G.S. 130A-118(b)(4), or North Carolina issued certificate of sex reassignment, as provided in G.S. 130A-109.5, whichever is most recent."

SECTION 4.(e). G.S. 143-760(a)(1) reads as rewritten:
"(1) Biological sex. – The physical condition of being male or female, which is stated on a person's birth certificate, amended birth certificate, as provided in G.S. 130A-118(b)(4), or North Carolina issued certificate of sex reassignment, as provided in G.S. 130A-109.5, whichever is most recent."

PART V: INCREASE PUNISHMENT FOR CERTAIN CRIMES COMMITTED IN
BATHROOMS, LOCKER ROOMS AND SHOWERS

SECTION 5.(a). Article 81B of Chapter 15A of the General Statutes is amended by adding a new section to read:
"§ 15A-1340.16E. Enhanced sentence if defendant committed certain offenses in a multiple occupancy bathroom or changing facility.
(a) If a person is convicted of any of the felonies set out in subdivisions (1) through (8) of this subsection and it is found as provided in this section that the felony was committed in a multiple occupancy bathroom or changing facility, then the person is guilty of a felony that is one class higher than the underlying felony for which the person was convicted. An enhanced penalty may be imposed pursuant to this section on a person convicted of any of the following offenses:
(1) G.S. 14-27.22. (Second degree forcible rape.)
(2) G.S. 14-27.27. (Second degree forcible sexual offense.)
(3) G.S. 14-27.33. (Sexual battery.)"
(4) G.S. 14-32.4 (Assault inflicting serious bodily injury; strangulation; penalties.)

(5) G.S. 14-202(d), (e), or (f). (Secretly peeping into room occupied by another person.)

(6) G.S. 14-202(g) or G.S. 14-202(h) if the person knew or had reason to know that the photographic image possessed or the image being disseminated was taken in a multiple occupancy bathroom or changing facility. (Secretly peeping into room occupied by another person.)

(7) G.S. 14-202.1. (Taking indecent liberties with children.)

(8) G.S. 14-202.4. (Taking indecent liberties with a student.)

(b) An indictment or information for the felony shall allege in that indictment or information or in a separate indictment or information the facts set out in subsection (a) of this section. The pleading is sufficient if it alleges that the defendant committed the felony in a multiple occupancy bathroom or changing facility. One pleading is sufficient for all felonies that are tried at a single trial.

(c) The State shall prove the issue set out in subsection (a) of this section beyond a reasonable doubt during the same trial in which the defendant is tried for the felony unless the defendant pleads guilty or no contest to that issue. If the defendant pleads guilty or no contest to the felony but pleads not guilty to the issue set out in subsection (a) of this section, then a jury shall be impaneled to determine that issue.

(d) For purposes of this section, a multiple occupancy bathroom or changing facility is a facility designed or designated to be used by more than one person at a time where persons may be in various states of undress in the presence of other persons. A multiple occupancy bathroom or changing facility may include, but is not limited to, a restroom, locker room, changing room, or shower room.

SECTION 5.(b). G.S. 14-202 reads as rewritten:

§ 14-202. Secretly peeping into room occupied by another person.

(a) Any person who shall peep secretly into any room occupied by another person shall be guilty of a Class 1 misdemeanor, provided however, that if the room is a multiple occupancy bathroom or changing facility, as defined in G.S. 15A-1340.16E(d), the person is guilty of an offense that is one class higher than the underlying offense for which the person was convicted.

(b) For purposes of this section:

(1) The term "photographic image" means any photograph or photographic reproduction, still or moving, or any videotape, motion picture, or live television transmission, or any digital image of any individual.

(2) The term "room" shall include, but is not limited to, a bedroom, a restroom, a bathroom, a bathroom stall, a shower, and a dressing room.

(c) Unless covered by another provision of law providing greater punishment, any person who, while in possession of any device which may be used to create a photographic image, shall secretly peep into any room shall be guilty of a Class A1 misdemeanor, provided however, that if the room is a multiple occupancy bathroom or changing facility, as defined in G.S. 15A-1340.16E(d), the person is guilty of a Class I felony.

(h1) Any person who violates subsection (a1) of this section while in a multiple occupancy bathroom or changing facility, as defined in G.S. 15A-1340.16E(d), is guilty of an offense that is one class higher than the underlying offense for which the person was convicted.

(m) The provisions of subsections (a), (a1), (c), (e), (g), (h), (h1) and (k) of this section do not apply to:
SECTION 5.(c). G.S. 14-33 reads as rewritten:

"§ 14-33. Misdemeanor assaults, batteries, and affrays, simple and aggravated; punishments.

(a) Any person who commits a simple assault or a simple assault and battery or participates in a simple affray is guilty of a Class 2 misdemeanor.

(c) Unless the conduct is covered under some other provision of law providing greater punishment, any person who commits any assault, assault and battery, or affray is guilty of a Class A1 misdemeanor if, in the course of the assault, assault and battery, or affray, he or she:

(9) Assaults another person while in a multiple occupancy bathroom or changing facility, as defined in G.S. 15A-1340.16E(d).

SECTION 5.(d). G.S. 14-277.3A(d) reads as rewritten:

"(d) Classification. – A violation of this section is a Class A1 misdemeanor. A defendant convicted of a Class A1 misdemeanor under this section, who is sentenced to a community punishment, shall be placed on supervised probation in addition to any other punishment imposed by the court. A defendant who commits the offense of stalking after having been previously convicted of a stalking offense is guilty of a Class F felony. A defendant who commits the offense of stalking (i) when there is a court order in effect prohibiting the conduct described under this section by the defendant against the victim or (ii) if any of the harassment or conduct in violation of this section occurs while in a multiple occupancy bathroom or changing facility, as defined in G.S. 15A-1340.16E(d), is guilty of a Class H felony."

SECTION 5.(e). G.S. 14-27.33 reads as rewritten:

"§ 14-27.33. Sexual battery.

(a) A person is guilty of sexual battery if the person, for the purpose of sexual arousal, sexual gratification, or sexual abuse, engages in sexual contact with another person:

(1) By force and against the will of the other person; or

(2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know that the other person is mentally disabled, mentally incapacitated, or physically helpless.

(b) Any person who commits the offense defined in this section while in a multiple occupancy bathroom or changing facility, as defined in G.S. 15A-1340.16E(d), is guilty of a Class I felony."

SECTION 5.(f). G.S. 14-159.13 reads as rewritten:

"§ 14-159.13. Second degree trespass.

(a) Offense. – A person commits the offense of second degree trespass if, without authorization, he enters or remains on premises of another:

(1) After he has been notified not to enter or remain there by the owner, by a person in charge of the premises, by a lawful occupant, or by another authorized person; or

(2) That are posted, in a manner reasonably likely to come to the attention of intruders, with notice not to enter the premises.

(b) Classification. – Second degree trespass is a Class 3 misdemeanor.

(c) Any person who commits the offense defined in this section while in a multiple occupancy bathroom or changing facility, as defined in G.S. 15A-1340.16E(d), is guilty of a Class 2 misdemeanor."
SECTION 5.(g). This section applies December 1, 2016, to offenses committed on or after that date.

PART VI: BLUE RIBBON COMMISSION

SECTION 6. The Governor may establish a Blue Ribbon Commission to study and consider issues of discrimination and other related issues in North Carolina by examining approaches to these issues in North Carolina, other states, and the federal government and by soliciting contrasting viewpoints on the issues considered by the Commission. If established, the Blue Ribbon Commission should report its finding to the Governor and the General Assembly on or before May 1, 2017.

PART VII: EFFECTIVE DATE

SECTION 7. Except as otherwise provided herein, this act is effective when it becomes law.