

# North Carolina Sheriffs' Association

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Weekly Legislative Report

February 24, 2017

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The Senate is sending all introduced bills to the Senate Rules Committee before assigning them to a specific substantive committee. This is possibly being done to allow the new chairman of the Senate Rules Committee additional time to assign bills to the appropriate committee as he gets accustomed to his new role. It remains to be seen whether or not, as the session progresses, newly introduced bills will be immediately assigned to their substantive committee and not first be assigned to the Rules Committee.

The Senate announced a new procedure for this year in which all bills, after being considered by a substantive committee, will be returned to the Senate Rules Committee for one last consideration before being considered by the full Senate membership. A bill, once returned to the Senate Rules Committee, could be modified by that committee before being further considered in the full Senate.

The House and Senate adjourned on Thursday and will reconvene on Monday afternoon.

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## BILLS OF INTEREST

[HOUSE BILL 138](#), Revise Gang Laws, would rename the current "North Carolina Street Gang Suppression Act" to the "North Carolina Criminal Gang Suppression Act." The bill would define a criminal gang as any ongoing organization, association, or group of three or more persons that has a primary goal of the commission of criminal acts and shares a common name, identification, symbols, or other types of distinguishing characteristics. The bill would also provide that an individual would be a "criminal gang member" if the person meets three or more of the following nine criteria:

1. The person admits to being a criminal gang member;
2. The person is identified as a criminal gang member by a reliable source;
3. The person has previously been involved in criminal gang activity;
4. The person has adopted symbols or hand signs associated with a criminal gang;
5. The person has adopted the display of colors or style of dress associated with a criminal gang;
6. The person is in possession of or is linked to a criminal gang by physical evidence such as photographs, rosters or membership documents;
7. The person has tattoos or markings associated with a criminal gang;
8. The person has adopted language or terminology associated with a criminal gang; or
9. The person appears in social media to promote a criminal gang.

The bill would also increase the penalties for criminal gang activity. Any felony conviction (except for Class A, B1 or B2 felonies) involving gang activity would be sentenced at one class felony higher than the principal felony. For a felony committed by a gang leader or gang organizer, the sentence would be two classes higher than the principal felony.

A misdemeanor conviction involving gang activity would result in sentencing one class higher than the principal misdemeanor, with a Class A1 misdemeanor becoming a Class I felony.

Finally, the bill would make it a Class F felony to retaliate or to threaten or deter someone from withdrawing or attempting to withdraw from a criminal gang. **Introduced by Representatives McNeill, Faircloth, Hurley and R. Turner, and assigned to the House Judiciary II Committee.**

[HOUSE BILL 142](#), Increase Oversight of OLBs, would increase the reporting responsibilities of occupational licensing boards (such as the North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission) to require additional information about the board's work to be reported to the Joint Legislative Administrative Procedure Oversight Committee. Among other requirements, occupational licensing boards would be required to adopt rules for the handling of complaints, taking disciplinary or enforcement actions against its licensees and for taking enforcement actions against unlicensed persons who are working in a regulated profession. **Introduced by Representatives Stevens and Jordan, and assigned to the House Judiciary III Committee.**

[HOUSE BILL 145](#), Repeal Const. Reg. of Concealed Weapons, would allow North Carolina citizens to vote to remove language from the North Carolina Constitution that states that there is no constitutional right to carry concealed weapons and that the General Assembly can regulate the carrying of concealed weapons. By removing this language, the General Assembly may not be able to regulate the carrying of concealed weapons. **Introduced by Representatives Speciale, Pittman and Adams, and assigned to the Committee on Rules, Calendar and Operations of the House.**

[HOUSE BILL 147](#), Amend NC Constitution – Remove Secession, would allow North Carolina citizens to vote to remove the section from the North Carolina Constitution that prohibits secession from the United States. If removed, State officials would be able to vote to secede from the United States, although it is unlikely the federal government would recognize or allow such action. **Introduced by Representatives Speciale, Cleveland and Pittman, and assigned to the Committee on Rules, Calendar and Operations of the House.**

[HOUSE BILL 152](#), Hate Crime/Increase Scope & Penalty, would create a new offense called "felonious assault as a hate crime." It would be a Class F felony to assault someone and inflict serious bodily injury on the person because of the victim's race, color, religion, nationality, country of origin, disability, gender, gender identity, or sexual orientation. The bill would make it a Class E felony if the victim dies because of the assault, or if the crime involved forcible rape or a forcible sex offense.

The bill would also increase the misdemeanor punishment for crimes such as simple assault that

were committed because of the victim's gender, gender identity, disability or sexual orientation. A Class 2 or Class 3 misdemeanor would be elevated to a Class 1 misdemeanor, and a Class A1 misdemeanor (such as an assault on a female due to the woman's sexual orientation) would become a Class H felony. **Introduced by Representatives R. Moore, Gill, Harrison and Meyer, and assigned to the House Judiciary III Committee.**

[HOUSE BILL 165, Citizens Review Boards Established](#), would give cities and counties the authority to establish a citizen review board. The citizen review board would have the authority to investigate city and county police officers and sheriffs' deputies for alleged misconduct, such as allegations of excessive use of force, abuse of power and discriminatory profiling. The citizen review board would also have the authority to:

1. Issue subpoenas;
2. Review internal affairs files from law enforcement agencies;
3. Review personnel records of the officer unless prohibited by federal law;
4. Make findings and issue disciplinary action against a law enforcement officer for misconduct;
5. Recommend changes to the policies of any law enforcement agency within the citizen review board's jurisdiction; and
6. Exercise any other power deemed necessary to carry out the authority of the citizen review board, as determined by the city or county creating the board.

If the citizen review board finds the officer committed misconduct, any decision by the board on disciplining the officer would be binding on the law enforcement agency.

Finally, if a crime watch program is established by a city or county, the city or county would be required to provide training that:

1. Emphasizes that the role of the program is to observe and report suspicious activities to law enforcement;
2. Instructs members of the program on developing effective methods for maintaining a visible presence in the community;
3. Instructs members of the program that they are to adhere to the instructions given to them by law enforcement officials; and
4. Educates members of the program about discriminatory profiling.

**Introduced by Representatives R. Moore and Quick, and assigned to the House Committee on State and Local Government I.**

[HOUSE BILL 174, Concealed Carry/Church School Prop](#), would allow anyone with a concealed handgun permit (or who is exempt from having a permit, such as law enforcement officers) to carry a concealed handgun on the premises and parking lot of a place of religious worship when the place of worship is located on school grounds. The bill would only allow the carrying of a concealed handgun on the premises of the place of worship while the school is not in session. **Introduced by Representative R. Turner, and assigned to the House Judiciary I Committee.**

[HOUSE BILL 179](#), Dog Breeding Stds./Law Enforcement Tools, would establish standards for the operation of large commercial dog breeding facilities. A large commercial dog breeding facility would be one that has custody of 10 or more female dogs over the age of 6 months that are kept primarily for breeding and the subsequent sale of the offspring. A person operating a commercial dog breeding facility that does not comply with the standards of care for large commercial dog breeders would be guilty of a Class 3 misdemeanor punishable by a fine of not less than \$25 per animal and no more than a total of \$1,000. If the breeder has been found guilty of, or pled guilty or nolo contendere to, a previous violation of this law, then each violation would be a Class 1 misdemeanor.

Cities and counties would be allowed to adopt and enforce their own animal welfare laws and regulations in addition to the provisions of this bill. This bill would not apply to kennels and boarding facilities where the majority of the dogs are:

1. Being bred, maintained or trained primarily for hunting, sporting, field trials, or show;
2. Kept primarily for purposes other than the sale of offspring as pets; or
3. To veterinary facilities.

**Introduced by Representatives Saine, Jordan, Bradford and Harrison, and assigned to the House Judiciary II Committee.**

[HOUSE BILL 181](#), First Responders Act of 2017, would provide that the surviving spouse of certain emergency personnel who were killed in the line of duty would not have to pay property tax. A surviving spouse (who has not remarried) of an "emergency personnel officer" who was killed in the line of duty would be entitled to not pay property tax on the value of their permanent residence. The term "emergency personnel officer" would include firefighting, search and rescue, emergency medical services personnel or law enforcement officers.

Additionally, the list of individuals that could serve involuntary commitment orders and take people into custody for a mental health examination would be expanded to include company police officers who work at a mental health facility and security guards (non-law enforcement officers) employed by a mental health facility. Currently, only law enforcement officers of cities, counties and the State are authorized to take individuals into custody under an involuntary commitment order.

Also, a new criminal offense called "hate crime against emergency personnel" would be created. It would be a Class H felony for someone to assault another person and cause serious bodily injury to the person because the person was emergency personnel (law enforcement officers, firefighters, ambulance attendants, utility workers, doctors, nurses, and other persons providing services during an emergency). If emergency personnel are assaulted with a firearm, the offense would be a Class F felony. If the emergency worker is "lured" to a scene for the purpose of the assault, the crime would be punished as a Class E felony.

Finally, emergency medical personnel who are assisting special weapons and tactics units in an emergency situation would be exempt from the restrictions on carrying concealed weapons. These emergency medical services persons would be able to carry weapons in carrying out their duties,

if they have taken a firearms safety and training class approved through either the North Carolina Criminal Justice Education and Training Standards Commission, the National Rifle Association, or any law enforcement agency, college, or firearms training school. **Introduced by Representatives Warren, Clampitt, Ford and Potts, and assigned to the House Committee on Finance.**

[HOUSE BILL 185](#), [Legalize Medical Marijuana](#), would allow patients with certain diagnosed terminal or chronic illnesses (such as cancer, glaucoma and rheumatoid arthritis) to lawfully possess or use cannabis (marijuana). The patient would have to obtain a registry identification card from the Department of Health and Human Services in order to lawfully use the marijuana.

The bill would also allow individuals to apply for a license to become a medical cannabis center or medical cannabis producer, which would be issued by the North Carolina Department of Agriculture and Consumer Services, and would allow for the sale of marijuana to qualified patients and qualified caregivers. These licenses to produce and sell marijuana would have to be renewed annually and could not be issued to individuals who have been convicted of certain felony offenses. A medical cannabis center or medical cannabis producer would be required to provide information about themselves and the person(s) to whom the center or producer distributes the marijuana on a quarterly basis, and would also be required to submit 10% of their gross revenue to the North Carolina Department of Agriculture and Consumer Services. The bill would make it a Class 2 misdemeanor for an individual to make false representations to a law enforcement officer relating to the person's medical use of marijuana in order to avoid arrest or prosecution for the drug. **Introduced by Representatives Alexander, Carney, Harrison and R. Moore.**

[HOUSE BILL 186](#), [Repeal HB2/State Nondiscrimination Policies](#), was introduced this week in an effort to repeal [House Bill 2](#), [Public Facilities Privacy and Security Act](#) (a.k.a. the "bathroom bill"), that was enacted on March 23, 2016. This bill is similar to House Bill 78 that was reported in the February 10, 2017 Weekly Legislative Report. In addition to calling for the repeal of [House Bill 2](#), this bill contains similar antidiscrimination provisions and enhanced mandatory minimum sentences for certain sex crimes committed in public changing facilities. **Introduced by Representatives McGrady, Lucas, Goodman and Davis.**

[HOUSE BILL 195](#), [Visual Record/LEO Interrogation of Suspect](#), would provide that in counties and cities with a population of 150,000 people or more, a visual and audio recording would be required for all custodial interviews of juveniles and all custodial interviews of adults involving Class A, B1, B2 felonies and certain Class C felonies. Currently a visual and audio recording is required whenever it is reasonably feasible. **Introduced by Representatives Alexander and R. Moore.**

[HOUSE BILL 196](#), [Zip Lines/Challenge Courses/Sander's Law](#), would require any zip line or challenge course to obtain a certificate of operation from the Commissioner of Labor, and would also require periodic maintenance, testing and inspection of zip lines and challenge courses. These standards would not apply to zip lines and challenge courses operated by a government entity for law enforcement or military training purposes. It would be a Class 2 misdemeanor (which may include a fine of up to \$10,000) to violate any insurance or safety provisions established by the

Commissioner of Labor for a first offense, and a Class 1 misdemeanor (which may include a fine of up to \$20,000) for additional violations. **Introduced by Representatives Davis and Howard.**

[HOUSE BILL 197](#), Study/Distracted Driving & Road Rage, would require the Division of Motor Vehicles, in consultation with the Department of Public Safety, to study the issue of distracted driving and road rage. Among the issues to be studied would be whether increased penalties should be imposed for distracted driving and road rage and what types of crimes may be initiated as acts of road rage. **Introduced by Representative Pierce.**

[SENATE BILL 123](#), Release of LEO Recordings, would give law enforcement agencies the sole discretion to release agency audio or video recordings (such as recordings from body-worn cameras or dashboard cameras) to the public in order to help identify a suspect or for “community-oriented publicity or goodwill.” A court order would not be required to release a law enforcement recording for these purposes. **Introduced by Senators D. Davis and Pate, and assigned to the Senate Committee on Rules and Operations.**

[SENATE BILL 124](#), LEO Managed CBD Oil Drop Box, would require anyone who can lawfully use or possess “hemp extract” (seizure patients for example) to dispose of any residual hemp extract or hemp oil at a secure collection box managed by a law enforcement agency. **Introduced by Senators D. Davis and Hise, and assigned to the Senate Committee of Agriculture/Environment/Natural Resources.**

[SENATE BILL 131](#), Regulatory Reform Act of 2016, would make numerous regulatory changes to various businesses and entities in North Carolina. Those changes of interest to the criminal justice community are:

1. The North Carolina Wildlife Resources Commission, the North Carolina Division of Marine Fisheries and the North Carolina Utilities Commission would be required to treat customer e-mail addresses and Commission issued customer identification numbers as confidential information. This information would be protected the same as customer’s social security numbers and other identifying information.

2. A public agency would be able to satisfy the requirement to provide access to public records and computer databases by making those public records and computer databases available on-line in a format that would allow a person to download the public record or computer database to get a copy of the record. A public agency that provides access to public records or computer databases on-line would not be required to provide copies through any other method or medium. If the public agency voluntarily chose to provide copies of a public record by another method or medium, the public agency would be able to negotiate a reasonable charge for the service with the requester.

3. In any case in which a law enforcement officer or animal control officer is investigating to determine if an individual is in unlawful possession of a venomous reptile, a large constricting snake or crocodilian, if the officer determines there is an immediate risk to public safety, the officer would be authorized to kill the reptile without having to consult with representatives of the North Carolina Museum of Natural Sciences or the North Carolina Zoological Park first.

The North Carolina Department of Natural and Cultural Resources and the North Carolina Wildlife Resources Commission would be required to jointly study and develop potential procedural and policy changes to improve the regulation of venomous reptiles, large constricting snakes or crocodilians. **Introduced by Senators Wells, Cook and Sanderson.**

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The **Weekly Legislative Report** is provided at no charge as a service to the sheriffs, criminal justice community and citizens of North Carolina.

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