

# North Carolina Sheriffs' Association

Proudly Serving the Sheriffs and Citizens of North Carolina since 1922



Weekly Legislative Report

May 19, 2017

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On Thursday, the North Carolina Court of Appeals held special sessions in celebration of the Court's 50th anniversary.

In 1965, North Carolina voters overwhelmingly approved an amendment to the North Carolina Constitution to create the North Carolina Court of Appeals. The 1967 General Assembly enacted the necessary legislation and the Court of Appeals became operational on October 1, 1967. Prior to that time, the Supreme Court of North Carolina was our State's only appellate court. The Supreme Court of North Carolina was established in 1819 and will celebrate its 200th anniversary in 2019. The Superior Court in North Carolina was established in 1777 and is celebrating its 240th anniversary this year.

When created, the Court of Appeals had nine judges, which was later extended to 12 judges and currently has 15 judges. There has been some debate at the General Assembly about whether or not the court should be returned to its previous size of 12 judges. So far, that change has not been enacted.

During the ceremony on Thursday, Chief Justice Mark Martin of the Supreme Court of North Carolina noted that "the Court of Appeals is the last stop for most cases and renders the final decision in approximately ninety-five percent of all appealed cases."

Court of Appeals Chief Judge Linda McGee as well as Governor Roy Cooper addressed the attendees. Additional remarks included several former chief judges of the Court of Appeals and current judges.

The formal agenda for activity at the General Assembly this week remained very light, but a lot of behind-the-scenes discussions are occurring related to the State budget and to various pending legislation as the leadership decides which bills will be considered further this session and which bills will get no further consideration.

The House and Senate both adjourned on Thursday and are scheduled to return to Raleigh on Monday.

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## BILL STATUS

[HOUSE BILL 280](#), Juvenile Justice Reinvestment Act, has passed the House and has been sent to the Senate for their consideration. This bill, as amended, would increase the age of who is

considered a juvenile for purposes of juvenile court jurisdiction to include 16 and 17 year old offenders. Therefore, this bill would raise the age at which an individual is treated as an adult criminal offender to the age of 18. This change would be effective December 1, 2019, and would apply to offenses committed on or after that date.

The bill, however, would require a 16 or 17 year old, when probable cause has been found by the court to believe the juvenile committed a Class A, B1, B2, C, D or E felony, to be transferred to superior court to be tried as an adult.

This bill would give a court the discretion to transfer to superior court any 16 or 17 year old charged with the commission of a Class F, G, H or I felony.

This bill would also require a juvenile court counselor to share information in a juvenile's record with a law enforcement officer. The law enforcement officer would not be able to copy any part of the record.

The North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission would be required to develop education and training materials on juvenile justice issues such as detention, referral to diversionary programs and best practices for handling incidents involving juveniles.

No source of funding to implement these changes to the juvenile justice system is included in this bill. The Juvenile Jurisdiction Advisory Committee would be created, which would have the duty, in part, to develop a plan to cover the costs associated with changes to the juvenile justice system, and to report to the General Assembly their recommendations for implementing these changes. The Advisory Committee would consist of various public officials, including one sheriff appointed by the Speaker of the House of Representatives.

**The North Carolina Sheriffs' Association SUPPORTS the raise the juvenile age recommendation of the North Carolina Commission on the Administration of Law & Justice, which includes various improvements in the juvenile justice system and includes a requirement for adequate funding. However, the North Carolina Sheriffs' Association is OPPOSED to an increase in the juvenile age unless adequate funds are provided before the changes are implemented.**

[SENATE BILL 53](#), Law Enforcement Authority/Custody of a Child, has passed the Senate and passed the House with an amendment. The bill has been sent back to the Senate for consideration of the House amendment. This bill, as amended, would require a court, whenever it issues a temporary child custody order in North Carolina that requires a law enforcement officer to take physical custody of a minor child, to also issue a warrant to take physical custody of the minor child. A warrant to take physical custody of a child would be enforceable throughout the State. When issuing a warrant to take physical custody of a child, a court may, but would not be required to, authorize law enforcement officers to enter private property to take custody of the child. An officer executing a warrant to take physical custody of a child would not incur criminal or civil liability for serving the warrant within the scope of the terms set out by the court in the warrant.

[SENATE BILL 131](#), [Regulatory Reform Act of 2016](#), has been signed into law by Governor Roy Cooper with an effective date of May 4, 2017. The law makes 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 are required to treat customer e-mail addresses and Commission issued customer identification numbers as confidential information. This information is protected the same as customers' social security numbers and other identifying information. This provision is effective October 1, 2017.

2. A public agency is able to satisfy the requirement to provide access to public records and computer databases by making those public records and computer databases available online in a format that allows a person to download the public record or computer database to obtain a copy of the record. However, public records kept in a non-digital format (such as paper copies) are still subject to inspection by the public. This provision is effective July 1, 2017.

3. A motor vehicle is not subject to emissions inspections if the motor vehicle is 20 years or older from the current year and older than the three most recent model years, or 20 years or older from the current year and has 70,000 miles or more on its odometer.

4. Motor vehicle emissions inspections are required only in the following counties: Alamance, Buncombe, Cabarrus, Cumberland, Davidson, Durham, Forsyth, Franklin, Gaston, Guilford, Iredell, Johnston, Lee, Lincoln, Mecklenburg, New Hanover, Onslow, Randolph, Rockingham, Rowan, Union and Wake.

The provisions concerning motor vehicle emissions summarized in paragraphs 3 and 4 above are effective on the later of the following dates:

(a) October 1, 2017; or

(b) The first day of a month that is 60 days after the United States Environmental Protection Agency approves the changes in this emissions testing program.

5. 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 is authorized to kill the reptile without having to first consult with representatives of the North Carolina Museum of Natural Sciences or the North Carolina Zoological Park.

The North Carolina Department of Natural and Cultural Resources and the North Carolina Wildlife Resources Commission are required to jointly study and develop procedural and policy changes to improve the regulation of venomous reptiles, large constricting snakes or crocodilians. This provision is effective May 4, 2017.

[SENATE BILL 492](#), T and U Visa/Fees, as amended, would clarify that sheriffs, chiefs of police, district attorneys, superior or district court judges, and any other State or local authorities responsible for the investigation or prosecution of crimes under the Immigration and Nationality Act, are not required to, but may in their discretion, complete a law enforcement certification for an applicant for a "T" or "U" Visa. An official who completes the certification form would be required to charge an applicant \$5 for completing the form. T and U Visas represent a federal law that allows individuals to remain in the United States after the expiration of their visa if one of the officials named above certifies that the individual is a necessary witness in a criminal proceeding or would be at a risk of harm if the individual left the United States.

[SENATE BILL 547](#), Restitution Remission/Notice and Hearing Req, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature. This bill would require a district or superior court to provide written notice to the district attorney and the victim of a crime, notifying them of the right to be heard before entering an order excusing a criminal defendant from paying restitution owed to the victim. Currently, a court can excuse the payment of restitution by a defendant without giving notice to the district attorney and the victim.

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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.

North Carolina Sheriffs' Association, Inc.

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