

North Carolina Sheriffs' Association

Proudly Serving the Sheriffs and Citizens of North Carolina since 1922



Weekly Legislative Report

June 30, 2017

Independence Day

As the General Assembly wrapped up their session, we could be tempted to remember a quotation from a very old court case that said:

“No man’s life, liberty or property are safe while the legislature is in session.”
1 Tucker 248, N.Y. Surr.18

As tempting as it is to repeat this court case quotation, the week of Independence Day is a good time for all of us to remember how fortunate we are to live in a country where citizens of our State can govern our affairs through a General Assembly. While observers of the General Assembly might agree that it is not an efficient process, we should all agree that the form of government that we enjoy in the United States of America is undoubtedly the best form of government in the entire world.

So, we should all be thankful for our country’s ancestors who took historic action 241 years ago on July 4, 1776 which resulted in our form of government being the envy of people all around the world.

Legislative Schedule

The General Assembly adjourned shortly after 2:00 a.m. this morning, Friday, June 30. The Adjournment Resolution schedules additional sessions of the General Assembly during 2017 and establishes the date for convening the 2018 session.

The legislature will reconvene on Thursday, August 3 and be authorized to consider any legislation that has been vetoed by the Governor, any court litigation matters, any matters related to impeachment of State officials and a few other selected matters.

The General Assembly will reconvene again on Wednesday, September 6, 2017 and consider overriding any vetoes by the Governor, any court litigation, and changes to the judicial divisions and districts that assign Superior Court judges, District Court judges and District Attorneys, to consider revising districts for cities and counties for election of their local government officials, to consider proposed amendments to the North Carolina Constitution, and to revise the districts for election of our State Senators and Representatives. If these redistricting matters cannot be resolved initially during the September 6th session, the legislature is authorized

to continue meeting to resolve these districts as long as it is resolved no later than November 15, 2017.

Once these 2017 sessions are adjourned, the General Assembly is scheduled to be out of session until they reconvene on Wednesday, May 16, 2018 at 12:00 noon.

Today's edition of the North Carolina Sheriffs' Association Weekly Legislative Report is the last weekly report that we will produce for this year's session. If there are any matters related to criminal justice considered during the August 3 or September 6 sessions of the General Assembly, we will issue a Special Legislative Report at that time.

We will begin preparing this year's Final Legislative Report and will publish it later this summer. It will include a summary of all of the bills enacted by this year's General Assembly that are of interest to the sheriffs, others in the criminal justice community and the citizens of North Carolina.

BILL STATUS

[HOUSE BILL 21](#), [Driver Instruction/Law Enforcement Stops](#), has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would require the Division of Motor Vehicles, in consultation with the State Highway Patrol, the North Carolina Sheriffs' Association and the North Carolina Association of Chiefs of Police, to include in the drivers license handbook a description of law enforcement procedures during traffic stops and the actions that a motorist should take during a traffic stop. This would include instructions on appropriate interactions with law enforcement officers. These materials would also be required to be taught in the driver education curriculum. **This bill is SUPPORTED-HIGH PRIORITY by the North Carolina Sheriffs' Association.**

[HOUSE BILL 27](#), [Clarify Expiration of Vehicle Registration](#), has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would clarify that a motor vehicle's registration that is renewed by the issuance of a new registration plate would remain valid through midnight of the last day of the year in which the new registration plate was issued. There would, however, be a grace period which would allow the vehicle to be operated through midnight February 15th of the next year.

[HOUSE BILL 95](#), [Truck Deliveries to Port/Night Travel](#), has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would authorize the Department of Transportation to issue a special permit to allow oversized or overweight vehicles to transport cargo, containers and other equipment after sunset when transporting to or from international ports.

[HOUSE BILL 98](#), [Crim. Offense/Vandalize Fire & EMS Equipment](#), has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would make it a Class 1 misdemeanor for a person to intentionally injure, destroy, remove, vandalize or interfere with the operation of any firefighting equipment, ambulance or rescue squad emergency medical services vehicle or equipment.

[HOUSE BILL 128](#), Prohibit Drone Use Over Prison/Jail, has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would prohibit the use of a drone above or adjacent to any confinement facility (local, State or federal). This restriction would not apply to: (1) a person operating a drone who has written permission from the head of the confinement facility; (2) law enforcement officers operating a drone while discharging their official duties; (3) a public utility or commercial entity such as a surveying company, so long as certain distance and notice requirements are met; and (4) emergency management agencies, emergency medical services personnel, firefighters and law enforcement officers who are using the drone in response to an emergency.

The bill would also make it a Class H felony to deliver or attempt to deliver a weapon into the confinement facility with a drone. It would be a Class I felony to deliver or try to deliver contraband (such as alcohol, drugs, etc.) into the facility. Finally, the bill would make it a Class 1 misdemeanor to operate a drone in this protected area for any other purpose. Upon conviction for any of these crimes, the drone would be subject to forfeiture to the State. **The North Carolina Sheriffs' Association SUPPORTS this bill.**

[HOUSE BILL 138](#), Revise Gang Laws, has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would increase the punishment from a Class H felony to a Class G felony for someone to threaten or deter a person who is assisting another to withdraw from a gang, or to retaliate against someone for withdrawing from a gang. It would be a Class F felony to physically injure a person with the intent to deter them from assisting someone to withdraw from a gang, or to physically injure a person in retaliation for withdrawing from a gang.

Evidence that gang activity has occurred at any real property at least five times in a 12-month period would be sufficient evidence to establish that the property owner, or renter of the property, knowingly permitted the criminal gang activity to continue. This evidence could be used in declaring the property a public nuisance. This presumption that the owner or renter of a piece of real property is allowing gang activity to occur would not apply, however, if the property owner or renter could show that they have made a good faith effort to stop the criminal gang activity or to remove the criminal gang members from the property, such as by attempting to evict the criminal gang members or by trespassing them from the property.

The bill would also 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. 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. Finally, 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. **This bill is SUPPORTED-HIGH PRIORITY by the North Carolina Sheriffs' Association.**

[HOUSE BILL 176, Pensions Integrity Act of 2017](#), has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would make various changes to the Teachers' and State Employees' Retirement System, the Local Governmental Employees' Retirement System and the State Health Plan. Among the changes, it would allow sheriffs to transfer their sick leave accrued under the Local Governmental Employees' Retirement System to the Sheriffs' Supplemental Pension Fund, so that the sick leave would count towards the sheriffs' eligible service under the Sheriffs' Supplemental Pension Fund. If a sheriff transfers their sick leave between the two systems, the sheriff would have to transfer all of the sick leave, as opposed to a portion of it.

[HOUSE BILL 205, WC Changes/Legal Notice Modernization](#), has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would allow an inmate employed in the "Prison Industry Enhancement Program" (a program where private employers employ inmates on-site at a prison to make goods) to receive workers' compensation benefits for an injury suffered while working in the Program. This bill would not apply to State inmates held in county jails pursuant to the Statewide Misdemeanant Confinement Program (SMCP) who are injured while working in county work programs.

The bill would also make numerous changes to the laws concerning the publication of legal notices. Among these changes:

1. When a legal notice is required to be published by a city or county government more than once and the city or county pays for the publishing of the notice, and the cost of the publication is not paid or reimbursed by private parties, then the city or county could not be charged for the second and subsequent publication of the notice at a rate greater than 85% of the first publication rate.
2. Newspapers that carry legal notices would be required to: (i) appeal to the general public; (ii) have at least 100 paid subscribers and distribute at least 1,000 copies per issue; (iii) have a distribution that is not limited entirely to one geographical part of the community; (iv) be available to anyone in the county where the notice is required to be published; (v) be published for at least one day in each week for at

least 50 out of 52 consecutive weeks; and (vi) the newspaper must maintain a physical location in the county where the notice is published.

3. If the newspaper in which a legal notice is placed also maintains an Internet Web site, then the legal notice would be required to be placed, at no additional charge, on that newspaper's Internet Web site on the same day that the notice appears in the print newspaper.
4. Guilford County would be allowed, in the discretion of the Board of County Commissioners, to adopt an ordinance establishing the county Web site as a central location for publishing and advertising legal notices.

[HOUSE BILL 224](#), Warrant Check of Inmate in Custody, has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would require a court, in all criminal cases where the defendant is in custody, to check for any outstanding warrants (and to notify law enforcement of those outstanding warrants) prior to entering any order of the court in a criminal case.

[HOUSE BILL 229](#), GSC Technical Corrections 2017, has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. The bill would make numerous technical corrections throughout the General Statutes. Of interest to the criminal justice community, the crime of first-degree statutory rape (G.S. 14-27.24) would be added as a "sexually violent offense" for which a defendant would be placed on the sex offender registry.

[HOUSE BILL 243](#), Strengthen Opioid Misuse Prevention (STOP) Act, has passed the General Assembly and has been signed into law by Governor Roy Cooper. Sheriff Charles Blackwood (Orange County), Sheriff Ennis Wright (Cumberland County) and Chief Deputy Richard Jenkins (Cumberland County) were in attendance at the bill signing ceremony at the State Capitol in Raleigh as special guests of Governor Cooper. Eddie Caldwell, NCSA Executive Vice President and General Counsel, was also in attendance as well as other representatives of local and State law enforcement agencies.

This law allows a medical practitioner (for example a doctor or the State Health Director) to prescribe to a law enforcement agency, or any other governmental or nongovernmental organization, a "standing order" (presumably unlimited supply) for opioid antagonists, so that members of the organizations, including law enforcement officers, can administer the opioid antagonist to individuals suspected of an opioid overdose. The law also allows a law enforcement agency to give or distribute the opioid antagonist to opioid addicts and to family members or friends of individuals at risk for opioid overdose. The agency is required to give basic instruction and information on the proper use of the opioid antagonist.

This law would also makes an agency or law enforcement officer immune from civil or criminal liability for administering or distributing an opioid antagonist.

Finally, the law limits the amount of opioids a doctor can prescribe to a single patient. Prescriptions of any Schedule II through V drug are limited to a 5-day supply for acute pain, and a 7-day supply

for acute pain following a surgical procedure. A doctor is allowed to re-evaluate the continued need for the drugs after another consultation with the patient because of continued pain. Prior to prescribing these drugs, a medical practitioner is required to review the information in the Controlled Substances Reporting System (CSRS) for the patient in question for the preceding 12-month period. **This bill is SUPPORTED-HIGH PRIORITY by the North Carolina Sheriffs' Association.**

[HOUSE BILL 256](#), [2017 Appointments Bill](#), has passed the General Assembly. This bill would make numerous appointments to State commissions and boards. Among those of interest to the criminal justice community are:

The Speaker of the House of Representatives makes the following appointments:

1. Effective July 1, 2017, R. Steven Johnson of Wake County, Randy Byrd of Wake County, Angela L. Williams of Guilford County, and David L. Dail of Caswell County are appointed to the North Carolina Criminal Justice Education and Training Standards Commission for terms that will expire on June 30, 2019.
2. Effective July 1, 2017, Joel R. Shores of Cleveland County is appointed to the North Carolina Criminal Justice Information Network Governing Board for a term that will expire on June 30, 2021.
3. Effective September 1, 2017, Saira Estrada of Iredell County, the Honorable Robert M. Wilkins of Randolph County, and Erica S. Gallion of Harnett County are appointed to the Domestic Violence Commission for terms that will expire on August 31, 2019.
4. Effective March 1, 2017, Robert C. "Bert" Kemp of Pitt County and James Calvin Cunningham, III of Davidson County are appointed to the Governor's Crime Commission for terms expiring on February 28, 2019.

The President Pro Tempore of the Senate makes the following appointments:

1. Effective July 1, 2017, Crystal Combs Cody of Lincoln County, Daniel N. Kiger of Surry County, and Robert W. Lee of Anson County are appointed to the North Carolina Criminal Justice Information Network Governing Board for terms expiring on June 30, 2021.
2. Effective July 1, 2017, Richard A. Epley of Burke County, Teresa M. Jardon of Catawba County, Ronald L. Parrish of Alamance County, and Michael D. Slagle of Mitchell County are appointed to the North Carolina Criminal Justice Education and Training Standards Commission for terms expiring on June 30, 2019.
3. Effective September 1, 2017, Cathy M. Cloninger of Gaston County, Rekha J. Parikh of Wake County, Nathaniel C. Parker of Wake County, and Pamela T. Thompson of Alamance County are appointed to the Domestic Violence Commission for terms expiring on August 31, 2019.

A correction was made for Sheriff Samuel S. Page's appointment to the North Carolina Industrial Hemp Commission to clarify that his appointment will expire on June 30, 2018.

[HOUSE BILL 284](#), [25-Year LEO Retirement Option](#), has passed the House and has been sent to the Senate for consideration. This bill would give law enforcement officers who are members of the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System the option to retire after completing 25 years of creditable service. Currently, officers need to complete 30 or more years of creditable service in order to maximize their retirement benefit.

State law enforcement officers opting to retire after 25 years of creditable service would continue to use the current percentage of 1.82% of the officer's average final compensation to calculate their retirement pay. The number arrived at by multiplying this percentage by the officer's average final compensation would then be multiplied by the officer's years of service to get the officer's retirement pay. Local law enforcement officers would continue to use the current percentage of 1.85% of the officer's average final compensation to calculate their retirement pay. It is important to note that the monthly retirement benefit for an officer retiring with only 25 years of creditable service would be less than the monthly retirement benefit for an officer retiring after 30 years of creditable service because the officer would be working fewer years, and therefore would receive less retirement money per month.

This bill would also allow, but not require, any State or local government employer to offer a lump sum payout of an officer's special separation allowance to the officer if the officer chooses to take a reduced retirement (such as the 25 year retirement option). The lump sum payout by the employer would not be able to exceed the total amount of money the officer would normally receive in special separation allowance payments had the officer stayed for a full 30-year retirement. **The North Carolina Sheriffs' Association SUPPORTS this bill.**

[HOUSE BILL 337](#), [Unmanned Aircraft Systems Law Revisions](#), has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would allow an emergency management agency to operate an unmanned aircraft system (UAS) (commonly referred to as a drone) for all functions related to emergency management, such as reconnaissance, search and rescue, damage assessment and hazard risk management.

The bill would also eliminate the current restrictions on imaging technology (such as infrared imaging) on private and commercial UASs. Currently, the use of imaging technology is limited to only scientific and farming operations. By eliminating these restrictions, the imaging technology could be used for other reasons, such as law enforcement activities.

The bill would adopt the standards for the issuance of commercial drone operator permits established by the Federal Aviation Administration.

Finally, the permitting and testing requirements for drones established by the Division of Aviation of the North Carolina Department of Transportation would not apply to drones used solely for hobby or recreational purposes, as opposed to drones used for commercial or governmental purposes, which are subject to the permitting and testing requirements. **The North Carolina**

Sheriffs' Association SUPPORTS this bill.

[HOUSE BILL 343](#), Enforcement of DVPO on Appeal, has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would make a domestic violence protective order (“DVPO”) valid and enforceable while the DVPO is on appeal to the North Carolina Court of Appeals or the Supreme Court of North Carolina, unless one of these appellate courts enter an order stating that the DVPO cannot be enforced while the DVPO is being appealed.

[HOUSE BILL 362](#), Changes to the Juvenile Code, has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would make numerous changes to the juvenile laws. Among these changes, a magistrate would be required to accept petitions for filing that allege a juvenile is neglected, abused or dependent in emergency situations when the office of the clerk of court is closed. The magistrate would be required to deliver the petition to the clerk of court’s office as soon as it is open for business, but the petition would be deemed “filed” when the magistrate accepts the petition. Currently, a magistrate can only issue a juvenile petition when authorized to do so by the chief district court judge.

[HOUSE BILL 374](#), Business Freedom Act, has passed the House and has passed the Senate with an amendment. The bill has been sent back to the House to consider the Senate’s amendment. This bill, as amended, would make numerous changes to the labor laws of North Carolina. Among these changes, it would be a Class E felony to operate a “passenger tramway,” such as a chair lift, or a carnival ride in an unsafe manner, and the unsafe operation of the device results in serious injury or death.

[HOUSE BILL 384](#), Increase Penalties/Organized Retail Theft, has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would expand the circumstances under which a person commits the Class H felony offense of “larceny from a merchant.” The bill provides that the crime would also be committed if a person exchanges stolen property for something of value. Currently, a person commits larceny from a merchant when they do any of the following: (1) take infant formula; (2) take property worth over \$200; (3) take merchandise by removing or destroying an antishoplifting device; or (4) affix a fraudulent product code (swapping tags) to take the property.

The bill would also make it a Class G felony to conspire with another person to steal \$20,000 or more in retail property within a 90 day period, with the intent to sell the property, or to conspire with two or more people, while acting as an organizer or leader, with the purpose of selling or transferring stolen property.

Finally, the bill would make changes to our currency converter laws and would include “e-buyers” as currency converters. Currently, a currency converter is defined as a person engaged in the business of purchasing goods from the public for cash. An e-buyer would be a currency converter that is engaged in the business of “purchasing gift cards or merchandise cards online.”

E-buyers would be required to maintain detailed records in English, which include: (i) a clear description of what was purchased; (ii) the name, address, and telephone number or email address of the seller; (iii) the date of purchase, purchase price and value of the gift card or merchandise

card; and (iv) the identification number or the internet protocol (IP) address of the seller, if available. Finally, prior to making a purchase, the seller would be required to provide to the e-buyer a statement attesting that the property is not stolen and that it is not subject to any liens or other encumbrances. **The North Carolina Sheriffs' Association SUPPORTS this bill.**

[HOUSE BILL 385](#), [Impaired Hunting/Orange County](#), has been approved by the General Assembly and became effective June 27, 2017. Since the bill applies to fewer than 15 counties, it is considered a local bill and therefore does not require the signature of the Governor to become law. Rather, this local bill became law when it was approved by the General Assembly.

The law adds Orange County to the list of counties that prohibit hunting on private property while under the influence of an impairing substance. A violation is a Class 2 misdemeanor. This prohibition on impaired hunting on private property also applies to Caswell, Johnston and Stanly counties.

[HOUSE BILL 399](#), [Stop Images Taken W/O Consent From Dissemin](#), has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would modify the crime of “disclosures of private images.” Currently, an offender commits this crime if, for the purpose of humiliating or harassing a person, they disclose the image of another person’s private parts, or the image of a person engaged in sexual activity, under circumstances in which the offender should know the depicted person has a reasonable expectation of privacy (for example, the depicted person was in a personal relationship with the offender). This bill would remove the requirement that the depicted person have a reasonable expectation of privacy. Instead, the crime would require that the offender obtained the image without the consent of the depicted person, or under circumstances that the depicted person expected the images to remain private.

An “image” would be defined as a photograph, film, videotape, recording, live transmission, digital or computer-generated visual depiction, or any other reproduction that is made by electronic, mechanical, or other means.

[HOUSE BILL 464](#), [Revise Schedule of Controlled Substances](#), has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would expand the offense of second-degree murder to include the death of a drug abuser that is caused by the unlawful distribution and ingestion of a depressant, methamphetamine, or any opium, opiate, or opioid (including any preparation of these substances). This bill would also revise and add to the schedule of controlled substances: synthetic fentanyls, designer hallucinogenics, synthetic cannabinoids, system depressants and other substances.

The bill would also create the Task Force on Sentencing Reforms for Opioid Drug Convictions (“Task Force”). The Task Force would be required to study and review cases of inmates who are incarcerated solely for convictions of opioid drug offenses and to consider options for reducing sentences for such individuals. **This bill is SUPPORTED-HIGH PRIORITY by the North Carolina Sheriffs' Association.**

[HOUSE BILL 469](#), [Regulation of Fully Autonomous Vehicles](#), has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would define a fully

autonomous vehicle as a motor vehicle equipped with an “automated driving system” that will not at any time require an occupant to perform any of the driving tasks while the automatic driving function is engaged. An automated driving system would be the hardware and software in the vehicle that allows the vehicle to operate independently on a sustained basis.

The bill would allow an operator of a fully autonomous motor vehicle to operate the vehicle without a drivers license. The operator would be the person that causes the automated driving system to engage and the vehicle to drive or travel autonomously.

The parent or legal guardian of a minor riding in a fully autonomous vehicle would be responsible for ensuring that the minor is properly restrained with a safety belt or child restraint seat. Any person 12 years of age or older would be allowed to occupy a fully autonomous motor vehicle unsupervised while the vehicle is in motion.

The bill would make the registered owner of a fully autonomous vehicle responsible for any moving violations of that vehicle. In addition, the bill would require a fully autonomous vehicle to stop at the scene of an accident.

Finally, the bill would create the Fully Autonomous Vehicle Committee within the Department of Transportation. The Committee would consist of 18 members, including a representative of the North Carolina State Highway Patrol, the North Carolina Sheriffs' Association and the North Carolina Association of Chiefs of Police.

The Committee would meet at least four times a year and would be tasked with reviewing fully autonomous vehicle technology, traffic rules and ordinances, and State motor vehicle laws. The Committee would be required to make recommendations to the Department of Transportation and the General Assembly with respect to necessary changes to traffic rules, ordinances and State law in order to facilitate the use of fully autonomous vehicles.

[HOUSE BILL 511](#), [Game Nights/Nonprofit Fund-Raiser](#), has passed the General Assembly and will be sent to Governor Roy Cooper for his signature. This bill would allow a nonprofit organization that has been in continuous existence for at least 5 years to hold a game night at which games of chance are played and would allow for the consumption of alcoholic beverages at game nights held at facilities with alcoholic beverage permits. Participants would be allowed to play roulette, blackjack, poker, craps, simulated horse race and merchandise wheel of fortune. However, participants would not be able to win cash playing these games. Instead, the chips or markers won from playing these games would be exchanged for raffle tickets and prizes would be won through raffles.

The bill would require the nonprofit organization to obtain a permit to operate a game night from the Alcohol Law Enforcement Branch of the State Bureau of Investigation for each game night, at a cost of \$100 for each permit. No more than 4 game nights could be held in one year. It would be a Class 2 misdemeanor for any nonprofit organization to operate a game night without the permit.

In addition, the bill would allow an employer with 25 or more employees and trade associations with 25 or more members to hold game nights for their employees and members. An employer or trade association would not be able to charge a fee to the attendees. The same permitting requirements and limitations on game night events applicable to nonprofit organizations would also apply to game nights hosted by employers and trade associations.

Game nights would only be allowed in those areas of the State east of Interstate 26, as that interstate highway was located on November 28, 2011. Interstate 26 runs through the western part of North Carolina, from the Tennessee border to the South Carolina border. Note: Harrah's Cherokee Casino located in Cherokee, North Carolina (Jackson County) and Harrah's Cherokee Valley River Casino located in Murphy, North Carolina (Cherokee County) are both located west of Interstate 26. Both casinos are owned by the Eastern Band of Cherokee Indians.

This bill would also allow a nonprofit organization to hold up to four raffles a year, and would allow the nonprofit organization to offer raffle prizes totaling \$250,000 annually. Currently, a nonprofit organization can hold two raffles a year and can offer no more than \$125,000 in raffle prizes annually. The bill would also allow a nonprofit organization to offer alcoholic beverages in the manufacturer's original closed container as prizes at a raffle, and would allow the sale of alcoholic beverages in the manufacturer's original closed container at auction to raise money if the nonprofit receives a permit from the North Carolina Alcoholic Beverage Control Commission.

[HOUSE BILL 528](#), Budget Technical Corrections, has passed the General Assembly and will be sent to Governor Cooper for his signature.

This bill would make numerous changes to the State budget bill, Senate Bill 257, that was summarized in the June 23rd Weekly Legislative Report. Senate Bill 257 was passed by the General Assembly and was vetoed by Governor Cooper. The Senate and House overrode the Governor's veto on June 27th and June 28th, respectively. Therefore, Senate Bill 257 is now enacted into law.

Those changes of interest to the criminal justice community would include:

1. The State Bureau of Investigation ("SBI") would be authorized to use \$125,000 of the funds appropriated to the SBI, including funds appropriated for Alcohol Law Enforcement, in fiscal year 2017-2018 for Operation Medicine Drop. Operation Medicine Drop provides locations at which citizens can safely dispose of unwanted prescription and over the counter medications.
2. The Department of Public Safety ("DPS") would be required to use existing confinement facilities to house juvenile offenders.

[HOUSE BILL 559](#), Outdoor Heritage Enhanced, has passed the General Assembly and will be sent to Governor Roy Cooper for his signature. This bill would, with some limitations, expand hunting with firearms on Sunday to allow hunting upland game birds, such as quail, and migratory birds, such as duck. Examples of limitations on hunting on Sundays would include not being able to hunt: (i) between the hours of 9:30 A.M. and 12:30 P.M.; (ii) with firearms to take deer that

have been run or chased by dogs; and (iii) within 500 yards of a place of religious worship.

The bill would also allow a county to enact an ordinance prohibiting the hunting of wild animals, upland gamebirds and migratory birds on Sunday if the ordinance: (i) applies to the entire county; (ii) allows a hunter to retrieve an animal that was lawfully shot in an adjacent county; and (iii) there is a county-wide referendum and a majority of those voting on the issue approve the ordinance.

[HOUSE BILL 577](#), LSC Crim. Check/Felonious Gaming Machines, has passed the House and passed the Senate with an amendment. The bill has been sent back to the House for consideration of the amendment. This bill, as amended, would make it a Class G felony for any person to operate more than four video sweepstakes machines. **This bill is SUPPORTED-HIGH PRIORITY by the North Carolina Sheriffs' Association.**

[HOUSE BILL 629](#), Amend Funeral Procession Law, has passed the House and has been sent to the Senate for consideration. The bill would give vehicles in a funeral procession the right-of-way at intersections when the lead vehicle in the procession has gone through an intersection, regardless of any change to a traffic control device, such as a traffic light turning from green to red. The bill would require each vehicle in a funeral procession to exercise reasonable care towards other vehicles when participating in a funeral procession.

[HOUSE BILL 716](#), CMVs/Use of Platoons, has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would provide that the laws regulating the distance between motor vehicles traveling on the road would not apply to a commercial motor vehicle traveling within a "platoon" on any roadway where the Department of Transportation has authorized travel by platoon through a traffic ordinance. A platoon would mean a group of individual commercial motor vehicles traveling at close following distances in a unified manner through the use of an electronically interconnected braking system.

[SENATE BILL 55](#), School Bus Cameras/Civil Penalties, has passed the General Assembly and will be sent to Governor Roy Cooper for his signature. This bill would allow a county to adopt an ordinance authorizing the installment and operation of school bus cameras in any school bus located in that county in order to identify motor vehicles failing to stop for a stopped school bus. The bill would provide that citations issued to violators would be purely civil in nature, resulting in civil monetary penalties, but would not result in drivers license points or insurance points.

The bill would also allow a local board of education or board of county commissioners to enter into an agreement with a law enforcement agency for the installation and operation of the school bus cameras, and to arrange for cost-sharing and reimbursement. Finally, this bill would require that any video or photographs of motor vehicle violations must be provided to law enforcement as potential evidence. In the event law enforcement pursues criminal charges, then the offender would not be subject to the civil penalties imposed under this bill, but would instead proceed through the criminal courts.

[SENATE BILL 74](#), Update Rabies Control Laws, has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would modify current law on how animals such as dogs, cats and ferrets would be handled when they are suspected of being rabid. This bill would remove the current requirement that the animal be destroyed or vaccinated in a timely manner and would instead adopt the recommendations and guidelines set out by the National Association of State Public Health Veterinarians in the most current edition of the Compendium of Animal Rabies Prevention and Control.

[SENATE BILL 88](#), Landlord/Tenant – Alias & Pluries Summary Eject., has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would provide that in summary ejectment cases which include a demand for money damages, if the service of process has been achieved solely by first-class mail and affixing the summons and complaint to the premises (and not by personal service on the defendant), then the plaintiff (landlord) can ask the magistrate to separate the claim for summary ejectment from the claim for money damages.

If personal service was not obtained on one or more of the defendants, an alias and pluries summons would be issued to be served on the defendant in the claim for money damages. The alias and pluries summons would be delivered to the sheriff for service upon the defendant in the claim for money damages. If the alias and pluries summons is returned by the sheriff unserved, the plaintiff could have the summons served by a private process server.

[SENATE BILL 100](#), Aerial Adventure Financial Responsibility, has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would require any zip line or challenge course to obtain liability insurance, but would exempt from this requirement any zip line or challenge course operated at a private residence that is not open to the public or a zip line or challenge course operated by the State, city or county. Therefore, zip lines and challenge courses operated for law enforcement training purposes would be exempt from this requirement.

[SENATE BILL 148](#), Juror Excused by Clerk/Modify Various Appts., 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 allow a chief district court judge to delegate to the clerk of superior court the authority to excuse persons from jury duty, if the clerk consents.

[SENATE BILL 155](#), ABC Omnibus Legislation, has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. The bill would make numerous changes to the alcoholic beverage laws in the State and would expand when and where alcoholic beverages could be sold and consumed in the State.

Among these changes, the bill would allow the holder of a distillery permit to sell spirituous liquor in closed containers for delivery outside the State. The holder of a distillery permit would be able to obtain a spirituous liquor special event permit that would allow the distillery to give free tastings of its liquors at trade shows, conventions, balloon races, and similar events approved by the North Carolina Alcoholic Beverage Control Commission.

Similarly, an auction firm or auctioneer licensed by the North Carolina Auctioneers Commission

would be able to obtain a permit to sell wine and spirituous liquors at auctions.

Finally, establishments allowed to sell or consume alcoholic beverages, such as restaurants, would be able to sell alcoholic beverages before noon on Sundays (beginning at 10:00 AM), subject to approval by the unit of local government where the restaurant is located.

[SENATE BILL 160, Handicap Parking Privilege Certification](#), has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would allow licensed physician assistants and licensed nurse practitioners to make the certifications for a handicapped parking privilege. Currently, only physicians, ophthalmologists, optometrists or the Division of Services for the Blind can make these certifications. For an initial application for a temporary removable windshield placard only, a licensed certified nurse midwife would be able to certify that a person is handicapped.

[SENATE BILL 182, Prohibit Use of Light Bars on Motor Vehicles](#), has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would prohibit a person from driving a motor vehicle on any public roadway while using a "light bar lighting device." A light bar lighting device would be defined as a bar-shaped lighting device made up of multiple lamps that are capable of projecting light with an intensity greater than 25 candlepower. This restriction would not apply to ambulances, law enforcement and fire department vehicles, other emergency vehicles, and motorcycles. In addition, this restriction would not prohibit the use of a light bar lighting device with strobing lights.

[SENATE BILL 217, Richmond/Right of Way Safety](#), has been approved by the General Assembly and is effective October 1, 2017, and applies to offenses committed on or after that date. Since the bill applies to fewer than 15 counties, it is considered a local bill and therefore does not require the signature of the Governor to become law. Rather, this local bill became law when it was approved by the General Assembly.

This law makes it a Class 3 misdemeanor to shoot a firearm or bow and arrow, or attempt to do so, from or across a roadway or right-of-way of any public road in Buncombe and Richmond Counties. This crime is applicable only to Buncombe and Richmond Counties and will be enforceable by Wildlife Resources Commission officers, and any other law enforcement officer with general subject matter jurisdiction.

[SENATE BILL 249, Coyote Bounty Pilot Program](#), has been approved by the General Assembly and became effective June 26, 2017. Since the bill applies to fewer than 15 counties, it is considered a local bill and therefore does not require the signature of the Governor to become law. Rather, this local bill became law when it was approved by the General Assembly.

The law requires the Wildlife Resources Commission to allow Richmond County to capture, neuter and tag coyotes. Richmond County, or a local nonprofit organization, are able to offer a bounty of not less than \$500 for tagged coyotes. This law applies only to Richmond County.

[SENATE BILL 344, Combine Adult Correction and Juvenile Justice](#), has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would consolidate

the Division of Adult Correction and the Division of Juvenile Justice into a single division within the Department of Public Safety.

[SENATE BILL 384, Criminal Law Changes](#), has passed the General Assembly and will be sent to Governor Roy Cooper for his signature. This bill would make numerous changes to the criminal laws in the State and would make changes to adequately fund the Sheriffs' Supplemental Pension Fund. Among these changes:

1. The bill would clarify that a "felony offense" for purposes of determining if a person is a habitual felon would include any felony crime that a defendant was found guilty of in another state, regardless of the sentence imposed on the defendant in the other state. A conviction in another state not classified as a felony but which would carry a punishment of more than one year in prison and any conviction that is a felony under federal law would also count towards determining if a person is a habitual felon.
2. The offense of habitual breaking and entering would be committed if a person commits a breaking or entering offense with the intent to terrorize or injure an occupant of the building. The bill does not define the term "terrorize."
3. A court would be required to order a defendant to be fingerprinted when a person is charged with an offense that requires fingerprinting, but the defendant was not arrested for the crime. The court would be required to order the defendant to submit to fingerprinting by the sheriff or other appropriate law enforcement agency at the earliest practical opportunity. The court would be able to hold the defendant in contempt of court for failing to comply with an order to submit to fingerprints.
4. A judicial official would be required to issue a criminal summons charging an individual with a criminal offense instead of a warrant for arrest if the probable cause to support the criminal charge is based solely upon the affidavit of a person who is not a sworn law enforcement officer.

However, a judicial official could issue a warrant for arrest based on the affidavit of a person who is not a sworn law enforcement officer if: (i) there is corroborating testimony from a sworn law enforcement officer or at least one disinterested witness; (ii) the judicial official finds that obtaining an investigation of the alleged offense by a law enforcement agency would constitute a substantial burden for the complainant; or (iii) the judicial official finds that certain factors exist in the case, such as the defendant poses an imminent danger to the public or the defendant has a history of failing to appear before the court.

5. This provision will fully fund the retirement benefits for retired sheriffs from the Sheriffs' Supplemental Pension Fund (Fund).

The Sheriffs' Supplemental Pension Fund was enacted into law in 1985 to provide supplemental pension benefits for eligible county sheriffs who are retired from the Local Governmental Employees' Retirement System. Eligible sheriffs are those who have retired from the Local Governmental Employees' Retirement System and who are 55 years of age

or older or have 30 years of creditable service regardless of age (or been approved for disability benefits), and who have completed at least 10 years of service as sheriff.

This bill will now be sent to Governor Roy Cooper, who is expected to sign the bill into law. These changes will apply to benefits paid from the Fund on and after January 1, 2018.

Currently, the money for the Fund is supplied by a small portion of court costs, which are at an all-time low resulting in reduced benefits for eligible retired sheriffs. Senate Bill 384 amends the law to provide sufficient funding to adequately and fully fund the Sheriffs' Supplemental Pension Fund benefits for all eligible retired sheriffs.

Under this new legislation, in any year in which the court cost funds in the Fund are insufficient to pay the full benefits owed to eligible retired sheriffs, the North Carolina Department of Justice will bill each county on a pro-rata basis (based on county population) for the amount of the additional funds needed to pay the benefits owed from the Fund.

The legislation specifies that counties may use their portion of the civil process service fees that is not required by statute to be used to ensure the timely service of process within the county, or any other funds of the county, to pay the county's contribution to the Fund.

Each eligible retired sheriff will be entitled to a benefit from the Fund that, when added to the retired sheriff's retirement benefit from the Local Governmental Employees' Retirement System (LGERS) will be equal to 75% of the sheriff's annual salary at retirement.

However, each retired sheriff's payment from the Fund cannot exceed \$18,000 per year [\$1,500 per month].

In addition, each retired sheriff's payment from the Fund cannot exceed 100% of the sheriff's annual salary at retirement when the payment from the Fund is added to the retired sheriff's benefit from LGERS and the retired sheriff's special separation allowance benefit earned pursuant to G.S. 143-166.42. **This provision on the Sheriffs' Supplemental Pension Fund is SUPPORTED-HIGH PRIORITY by the North Carolina Sheriffs' Association.**

[SENATE BILL 410](#), Marine Aquaculture Development Act, has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would require the Division of Marine Fisheries of the Department of Environmental Quality to set standards for marine aquaculture. Marine aquaculture would include the operation of marine hatcheries and fish farming operations in North Carolina.

Anyone who unlawfully takes marine species from an aquaculture business without the permission of the owner of the business would be guilty of a Class A1 misdemeanor, which would include a fine of not more than \$5,000. It would also be a Class 1 misdemeanor for any aquaculture business to provide false information to the Division of Marine Fisheries, such as falsifying the amount of a harvest.

[SENATE BILL 445](#), Expungement Process Modifications, has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would require the clerk of superior court to send a certified copy of an expunction order to the Combined Records Section of the Department of Public Safety and to the State Bureau of Investigation. Currently, the clerk of superior court is only required to send copies of expunctions to the arresting law enforcement agency, the Division of Motor Vehicles, and to any other State or local agency that has a record of the offense that is to be expunged.

Additionally, prosecutors would have access to confidential expunction files maintained by the Administrative Office of the Courts if the record was expunged on or after July 1, 2018.

[SENATE BILL 548](#), Strengthen Human Trafficking Laws/Studies, has passed the General Assembly and will be sent to Governor Roy Cooper for his signature. The bill would increase the penalty for the human trafficking of an adult from a Class F felony to a Class C felony. If the victim is a minor, the penalty would be increased from a Class C felony to a Class B1 felony.

Massage and bodywork therapy would not be allowed to be practiced in an adult establishment. Massage and bodywork therapy would include treatments such as soft tissue massage.

[SENATE BILL 582](#), Agency Technical Corrections, has passed the Senate and passed the House with amendments. The bill has been sent back to the Senate for consideration of the House amendments. A conference committee has been appointed to attempt to reconcile the differences between the Senate and the House.

This bill, as amended, would modify our sex offender registry laws and would prohibit a registered sex offender who has been convicted of the crime of solicitation of a child by computer, in violation of G.S. 14-202.3, from being within 300 feet of any location intended primarily for the use, care or supervision of minors. These locations would include places open to the general public, such as shopping malls, shopping centers and parks. **This provision is SUPPORTED by the North Carolina Sheriffs' Association.**

The bill would also make changes to the Alcoholic Beverage Control ("ABC") laws. The ABC Commission would be authorized to issue on-premises malt beverage permits, unfortified wine permits and mixed beverage permits at "sports and entertainment venues." A sports and entertainment venue would be defined as a stadium, ballpark or other similar facility with a permanent seating capacity of 3,000 people or more, but would not include venues that are located on school, college or university campuses.

The bill would allow an elected law enforcement official, such as a sheriff, to serve on the North Carolina State Lottery Commission.

The bill would also include 2-[(dimethylamino) methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, optical and geometric isomers, and salts of these isomers (including tramadol) in the list of Schedule IV controlled substances.

Additionally, the bill would list the North Carolina Sheriffs' Education and Training Standards

Commission and the North Carolina Criminal Justice Education and Training Standards Commission (the “Commissions”) among the group of commissions and agencies that are allowed to review and modify the recommended decisions of administrative law judges following a contested case hearing. Therefore, when the Commissions are deciding cases involving justice officers and criminal justice officers, the Commissions would be allowed to independently evaluate the evidence in a case and modify the decision of an administrative law judge, if appropriate. This change in the law merely confirms the way the Commissions have operated since they were created.

Finally, Sworn State law enforcement officers employed by the Department of Natural and Cultural Resources would be included in the list of sworn officers that are entitled to receive salary continuation benefits when they are unable to work due to an injury suffered while performing their official duties.

[SENATE BILL 600](#), Britny’s Law: IPV Homicide, has passed the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill would create a presumption that a murder is a premeditated killing and therefore would constitute first degree murder if the murder is committed by a defendant in a “personal relationship” with the victim, as that term is defined for purposes of a domestic violence protective order, and if the defendant has previously been convicted of one of the following crimes involving the same victim:

1. A crime involving domestic violence or the violation of a domestic violence protective order;
2. Communicating threats;
3. Stalking or cyberstalking; or
4. Domestic criminal trespass.

[SENATE BILL 604](#), Homemade Alcoholic Beverage Tasting Permit, has passed the Senate and has been sent to the House for consideration. The bill, as amended, would allow an on-premises malt beverage permit holder to host homebrew club meetings or events that are not open to the general public. Participants would be allowed to consume on-premises homebrewed malt beverages at the event.

The bill would also allow a non-profit organization to obtain a homemade alcoholic beverage competition and tasting permit. The organization would be able to charge an entrance fee for an event, but would not be able to charge for the beverages consumed. The bill would require that the beverages be consumed only on-site.

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.

Proudly Serving the Sheriffs and Citizens of North Carolina Since 1922

www.ncsheriffs.org
