

# North Carolina Sheriffs' Association

Proudly Serving the Sheriffs and Citizens of North Carolina since 1922



Weekly Legislative Report

May 25, 2018

“The Budget is coming!... The Budget is coming!... While it is not as significant as Paul Revere’s ride in 1775 alerting folks in Massachusetts that “the British are coming,” the speed at which this year’s General Assembly has prepared the State budget bill has created a lot of interest and discussion in Raleigh and throughout North Carolina.

The goal of the legislature every year is to get a State budget bill approved prior to the beginning of the new fiscal year that starts on July 1st. This year it appears that the legislature will get the State budget bill approved on or before June 1st.

Various legislative leaders have been publicly disclosing some of the funding provisions in this year’s State budget bill, particularly those provisions related to pay increases for state employees and related to enhancement of school security. It is unknown whether or not more information will be released to the public between now and when the State budget bill is posted on the General Assembly’s website for everyone to review.

If the current schedule is maintained, the State budget bill will be available for review in the next few days and will be voted on, and no doubt approved, by the House and Senate next week. Then it will go to Governor Roy Cooper for his consideration. The Governor will have 10 days within which to sign the bill into law, veto the bill or allow the bill to become law without his signature. If the Governor vetoes the bill, it is almost 100% certain that the legislature will override his veto, and then the bill will become law.

As we approach this Memorial Day holiday weekend, don’t forget the 25,000 North Carolina law-enforcement officers “serving and protecting” all of us, 24/7/365. Today, one of those dedicated officers (Trooper Samuel N. Bullard of the State Highway Patrol) is being buried after making the “ultimate sacrifice,” like so many soldiers that we also honor and remember on Memorial Day, so that we all can live free in a democracy. We should never forget, nor take their sacrifice for granted.

The House and Senate both adjourned on Thursday and are scheduled to reconvene on Monday evening. It is not expected that a lot of business will be transacted on Monday evening due to the Memorial Day holiday, with most activity resuming on Tuesday.

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## BILLS OF INTEREST

[House Resolution 987](#), [Honor Highway Patrol's Anniversary](#), honors the memory of members of the State Highway Patrol who have lost their lives in the line of duty, and acknowledges those

who have served the State Highway Patrol. **Introduced by Representatives Setzer, Howard, Henson and G. Martin.**

[House Bill 976](#), [Extreme Risk Protection Orders](#), is identical to [Senate Bill 734](#), which is listed below in this Weekly Legislative Report. This bill would create a process to temporarily restrict a person's access to firearms if there is evidence the person poses a danger to themselves or others by possessing a firearm. Among the significant provisions of this bill:

1. A family or household member, a law enforcement officer, or a law enforcement agency would be allowed to petition a district court for an Extreme Risk Protection Order (ERPO). A family or household member would be defined as any person related by blood, marriage, or adoption to the Respondent, including step-parents and step-children; a dating partner; a person who has a child in common with the Respondent; a domestic partner of the Respondent; or a person who is acting as the Respondent's legal guardian. The petition for an ERPO must include facts to show the Respondent is a danger to himself or herself or others by having firearms in their possession.
2. An ERPO would require the Respondent to surrender all firearms, ammunition, permits to purchase firearms and permits to carry a concealed handgun to the sheriff. A district court would also have the authority to order a Respondent undergo any mental evaluation or chemical dependency evaluation deemed appropriate.
3. A district court would have the authority to issue an *ex parte* ERPO, without the Respondent being present in court, if the court finds that the Respondent poses an imminent danger of causing physical injury to himself or herself or others by having firearms in their possession. An *ex parte* ERPO would be effective for ten days unless the district court has a hearing on the full ERPO sooner. The Chief District Court Judge would have the authority to designate at least one judge or magistrate in each county to issue *ex parte* ERPOs when the court is not in session.
4. A full ERPO would be effective for one year and could be renewed as necessary, provided the court makes findings that the Respondent is still a danger to himself or herself or others with firearms.
5. The sheriff would be allowed, but not required, to charge the Respondent a reasonable fee for the storage of any firearms and ammunition taken pursuant to an ERPO. These fees would be required to be used by the sheriff in carrying out his or her duties related to an ERPO.
6. The sheriff would be required to provide "prompt" entry of the ERPO, and any subsequent changes to the ERPO, into the National Crime Information Center registry (NCIC).
7. A Respondent who violates any term of the ERPO would be guilty of a Class A1 misdemeanor. A person who knowingly makes a false statement when petitioning for an ERPO or who knowingly makes a false statement to a law enforcement agency or officer

that an ERPO remains in effect, would be guilty of a Class 2 misdemeanor.

**Introduced by Representatives Morey, Harrison, G. Martin and Willingham, and assigned to the Committee on Rules, Calendar and Operations of the House. The North Carolina Sheriffs' Association SUPPORTS the concept of Extreme Risk Protection Orders.**

[House Bill 977](#), Admin. Changes Ret. System/Treasurer – 2018.-AB, would make various administrative changes to the Teachers' and State Employees' Retirement System (TSERS) and the Local Governmental Employees' Retirement System (LGERS). Of interest to the criminal justice community, the bill would add the following felony offenses to the list of offenses that would cause an elected official to lose their retirement benefits under TSERS and LGERS if convicted:

1. Embezzlement of property received by virtue of office or employment, G.S. 14-90.
2. Embezzlement of State property by public officers or employees, G.S. 14-91.
3. Embezzlement of funds by public officers and trustees, G.S. 14-92.
4. Embezzlement of taxes by officers, G.S. 14-99.
5. Accessing government computers, 14-454.1(a).
6. Damaging computer resources, G.S. 14-455(a1).
- 7 Denial of government computer services to an authorized user, G.S. 14-456.1.

Currently, an elected government official that is a member of the TSERS or LGERS retirement system would lose their benefits if convicted of certain federal and State felony offenses such as bribery, obstructing justice, secret listening and buying and selling offices. **Introduced by Representatives Ross, McNeill and Dulin and assigned to the House Committee on Pensions and Retirement.**

[House Bill 990](#), Rockingham Cty/Public Notices Electronically, would authorize Rockingham County to participate in a pilot program to publish legal notices electronically and to publish legal notices on a county-maintained website. Currently, only Guilford County and municipalities in Guilford County are participating in this pilot program.

This bill would allow Rockingham County and any municipality located in Rockingham County to publish legal notices electronically, if an ordinance is enacted by the Rockingham County Board of Commissioners or an appropriate city council authorizing electronic filing.

Additionally, Rockingham 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. **Introduced by Representatives Kyle Hall and Bert Jones, and assigned to the House Committee on State and Local Government II.**

[House Bill 991](#), Fox Trapping Local Omnibus, would create an open season for the taking of foxes with weapons and for the taking of foxes and coyotes by trapping during the trapping season set by the Wildlife Resources Commission. There would be no bag limit on coyotes and foxes taken under these methods.

This bill would apply only to the counties of Cabarrus, Gaston, Madison, McDowell, Mitchell, Montgomery, Rowan, Rutherford, and Stokes. **Introduced by Representatives Kyle Hall, Goodman and Torbett, and assigned to the House Committee on State and Local Government II.**

[House Bill 994](#), Revise Marijuana Laws, would allow for the lawful possession of marijuana if the quantity does not exceed four ounces (one-quarter pound). The possession of any amount over four ounces would be a Class 1 misdemeanor, and any amount over 16 ounces would be a Class I felony. Currently, it is a misdemeanor to possess 1.5 ounces of marijuana or less and is a felony to possess greater than 1.5 ounces.

This bill would also allow a person that has been convicted of possessing less than four ounces of marijuana to apply for an expungement of that conviction. **Introduced by Representative Alexander and assigned to the House Committee on Judiciary I.**

[House Bill 1003](#), Hunt or Trap Fox/Coyote Forsyth/Davie, would create an open season for the taking of coyotes and foxes with weapons and by trapping during the trapping season set by the Wildlife Resources Commission. There would be no bag limit on foxes and coyotes taken in this manner.

This bill would apply only to Davie County and to those portions of Forsyth County outside the city limits of the City of Winston-Salem. **Introduced by Representatives Lambeth, Howard and Conrad, and assigned to the House Committee on State and Local Government II.**

[Senate Bill 727](#), Rape Evidence Collection Kit Tracking Act, is identical to [House Bill 945](#), which was summarized in the May 18, 2018 Weekly Legislative Report. This bill would establish the Statewide Sexual Assault Evidence Collection Kit Tracking System (System) within the North Carolina State Crime Laboratory. The System would require all law enforcement agencies having custody or use of any sexual assault evidence collection kits to participate in the System and would track both new and previously untested kits. **Introduced by Senators Randleman and Sanderson, and assigned to the Committee on Rules and Operations of the Senate.**

[Senate Bill 728](#), Enhance Prison Security, is identical to [House Bill 969](#), which was summarized in the May 18, 2018 Weekly Legislative Report. This bill would modify the Class H felony offense of “malicious conduct by a prisoner,” by more specifically defining the offense. An inmate would be guilty of this crime if an inmate exposes their genitalia, masturbates, or throws or emits bodily fluids, excrement or an unknown substance at an employee of the State or a local government. Currently the crime only covers an inmate’s act of throwing or emitting “bodily fluids or excrement” at a State or local government employee. **Introduced by Senators Randleman and Sanderson, and assigned to the Committee on Rules and Operations of the Senate.**

[Senate Bill 729](#), Advanced Cert. Service Purchase Option/LEOs, would allow a law enforcement officer who has received his or her Advanced Law Enforcement Certificate from the North Carolina Criminal Justice Education and Training Standards Commission and who has

completed at least five years of service the option to purchase up to two years credible service in the TSERS or LGERS retirement system. A similar provision for deputies certified by the North Carolina Sheriffs' Education and Training Standards Commission is expected to be added to this bill if the bill gets scheduled for a committee hearing. **Introduced by Senator Randleman, and assigned to the Committee on Rules and Operations of the Senate.**

[Senate Bill 734](#), Extreme Risk Protection Orders, is identical to [House Bill 976](#), which is summarized above in this Weekly Legislative Report. **Introduced by Senators McKissick, Chaudhuri and Jeff Jackson, and assigned to the Committee on Rules and Operations of the Senate. The North Carolina Sheriffs' Association SUPPORTS the concept of Extreme Risk Protection Orders.**

[Senate Bill 737](#), Safer Schools, Healthier Kids Act, would make numerous changes to North Carolina's firearms laws. Among these changes:

1. A process would be established for the issuance of Extreme Risk Protection Orders (ERPOs) which would temporarily restrict a person's access to firearms if there is evidence that the person poses a danger to himself or herself or others by possessing firearms. This process is identical to the provisions for ERPOs set out in [House Bill 976](#), summarized above.
2. A person would be required to have either a purchase permit or a concealed handgun permit issued by the sheriff in order to purchase or receive an "assault weapon," or other shotgun or rifle. Currently, a purchase permit or concealed handgun permit issued by a sheriff can only be used for the purchase or receipt of a handgun.
3. The term "assault weapon" would be specifically defined to mean:
  - a. A firearm capable of fully automatic fire.
  - b. 109 specifically identified rifles, pistols, and shotguns.
  - c. All semiautomatic, centerfire rifles that accept detachable magazines and have at least one additional feature, such as a pistol grip or flash suppressor.
  - d. All semiautomatic, centerfire rifles that have a fixed magazine and will hold more than 10 rounds of ammunition.
  - e. All semiautomatic, centerfire rifles that have an overall length of less than 30 inches.
  - f. Certain semiautomatic pistols.
  - g. Certain semiautomatic shotguns.

4. A person under the age of 21 would be prohibited from possessing or carrying an assault weapon as defined above, with certain limited exceptions. It would be a Class H felony for a person to sell or transfer an assault weapon as defined above to an individual under the age of 21, with certain limited exceptions.
5. The provisions relating to "assault weapons" would be effective December 1, 2018 and would prohibit the sale, transfer or possession of assault weapons on or after that date. People already possessing these types of firearms would not be affected.
6. The possession of "bump stocks" or "trigger cranks" would be a Class I felony. A bump stock would be defined as a device that would increase the rate of fire of a firearm and a trigger crank would be a device that activates the trigger of a firearm through the use of a lever or other part that is turned in a circular motion. This provision would be effective December 1, 2018 and would prohibit the sale or possession of bump stocks and trigger cranks on or after that date. People already possessing bump stocks or trigger cranks would not be affected.
7. Among other appropriations from the general fund, \$7 million in recurring funds would be appropriated to the Department of Public Instruction, which would be allocated to local school administrative units for the purpose of increasing funds for school resource officers in public high schools. An appropriation of \$3 million in recurring funds would be given to the State Board of Education to employ additional school resource officers in public elementary and public middle schools.

**Introduced by Senators McKissick, Chaudhuri and Jeff Jackson, and referred to the Committee on Rules and Operations of the Senate.**

[Senate Bill 739](#), Lottery School Safety Grants, would establish a School Safety Grant Fund in the Department of Public Instruction to award grant money to local school administrative units to improve school safety. Any application submitted by the local schools shall include an assessment performed with local law enforcement of the need for improving school safety within that local school administrative unit. **Introduced by Senator Randleman and assigned to the Committee on Rules and Operations of the Senate.**

[Senate Bill 744](#), DOT/DMV Legislative Requests, would allow the sale of alcoholic beverages on passenger-only ferries. Currently the sale of alcohol on ferries is prohibited.

The bill would also would allow the Division of Motor Vehicles (DMV) to release information it has collected while determining whether a drivers license should have a restriction, such as prescription glasses, to any other State or federal government agency in certain circumstances. Local agencies would not be entitled to this information. **Introduced by Senators Jim Davis and McInnis.**

[Senate Bill 750](#), Health-Local Confinement/Prison HealthConnex, would clarify the reporting requirements of a sheriff or regional jail administrator in the event a prisoner dies while in the custody of a local confinement facility. The bill would require the death to be immediately

reported to the medical examiner and county coroner regardless of the physical location of the prisoner at the time of death. Therefore, the bill would require the immediate reporting of a prisoner death at a local hospital, for example, even though the death did not occur within the local confinement facility.

The bill would also require the North Carolina Department of Health and Human Services (DHHS) and the Government Data Analytics Center within the North Carolina Department of Information and Technology (DIT) to collaborate with local governments and law enforcement on the potential participation of local confinement facilities in the North Carolina Health Information Exchange Network (HIE). The HIE is a computer-based network that allows the secure transmission of patient health information that could be used to facilitate the exchange of inmate health information between local confinement facilities and health care providers.

DHHS and DIT would also be required to work with the North Carolina Department of Public Safety to ensure that State prison facilities fully participate in the HIE. No later than October 1, 2019, DHHS and DIT would be required to provide a final report to the Joint Legislative Oversight Committee on Health and Human Services relating to the steps needed to implement the HIE in State prisons and potentially in local confinement facilities. **Introduced by Senators Krawiec and Pate.**

[Senate Bill 756](#), [School Security Act of 2018](#), would create the position of Teacher Resource Officer (TRO) in public schools. A TRO would be a certified teacher who has completed Basic Law Enforcement Training (BLET) and is certified as a sworn law enforcement officer through either the North Carolina Sheriffs' Education and Training Standards Commission or the North Carolina Criminal Justice Education and Training Standards Commission. A TRO would be entitled to a salary supplement each month amounting to 5% of their monthly salary.

Individuals selected by a public school to become a TRO would be required to apply for certification through either the sheriff's office or city or county police department that has jurisdiction over their particular school. If the sheriff or police chief declines to allow certification of the teacher, the public school would be required to pursue certification on behalf of the teacher through the North Carolina Criminal Justice Education and Training Standards Commission. This bill would make an employing public school a criminal justice agency for purposes of seeking certification of TROs through the North Carolina Criminal Justice Education and Training Standards Commission.

A TRO would have subject matter jurisdiction to arrest for all felonies and misdemeanors and to charge for infractions. A TRO's territorial jurisdiction would include: (1) real property owned by or in the possession of the employing public school; (2) any portion of any public road or highway passing through the real property of the school; and (3) other real property while in continuous and immediate pursuit. Additionally, the employing public school would have the authority, with certain limitations, to enter into extraterritorial agreements with local law enforcement agencies to expand the territorial jurisdiction of the TRO.

The North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission would both be

authorized to establish active shooter training for TROs.

A TRO who is certified through a sheriff's office or a police department would report to the sheriff or chief of police, as appropriate, and would work under their direction and supervision when carrying out duties related to their role as a law enforcement officer. All other aspects of the TRO's job would be managed by the employing public school.

The bill would also make changes regarding firearms on private schools and private church schools. Private church schools would be encouraged to adopt a School Risk Management Plan (SRMP) relating to school violence and to provide schematic diagrams and keys to the school facilities to local law enforcement agencies. The private church school board of trustees or school administrative director would be authorized to allow a person with a valid concealed handgun permit to possess and carry a firearm, tear gas, or stun gun on the private church school property.

Other private schools would also be encouraged to adopt SRMPs related to school violence and to provide schematic diagrams and keys to school facilities to local law enforcement. The private school board of trustees or school administrative director, with the consent of the local sheriff, would be able to authorize a person with a concealed handgun permit to possess and carry a firearm, tear gas, or stun gun on the private educational property.

Finally, any person with a valid concealed handgun permit would be authorized to possess and carry certain weapons in a place of religious worship that is located on educational property when students are not attending class. This authority would allow the individual to carry a firearm, tear gas, or stun gun while the person is attending worship services and other functions at the place of religious worship. **Introduced by Senators Daniel, Hise, and Bishop.**

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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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