

North Carolina Sheriffs' Association

Proudly Serving the Sheriffs and Citizens of North Carolina since 1922



Special Legislative Report

July 3, 2024

As the General Assembly continues its work later this 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, this week as we celebrate Independence Day it 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 248 years ago on July 4, 1776 which resulted in our form of government being the envy of people all around the world.

The House and the Senate adjourned this past Friday and will reconvene Wednesday, July 10, 2024.

BILL STATUS

[HOUSE BILL 10](#), [Require Sheriffs to Cooperate with ICE](#), has been assigned to a Senate and House conference committee. The conference committee is authorized to draft a version of the bill that is acceptable to both chambers of the General Assembly and, if so, can submit the version for adoption by both the House and the Senate. Under the terms of [Senate Joint Resolution 916](#), [Adjournment Resolution](#), this bill can be considered by the General Assembly during the remaining legislative session in 2024. The current version of the bill would:

1. Require administrators of county jails, local confinement facilities, district confinement facilities, satellite jails, or work release units (including the sheriff) to take an inmate or detainee before a judicial official in this State if the administrator is in receipt of a detainer and administrative warrant issued for the inmate or detainee by Immigration and Customs Enforcement (ICE) of the United States Department of Homeland Security.

The bill would also require the judicial official to issue an order directing that the person

be held in compliance with the detainer and administrative warrant if the judicial official finds that the person presented is the same person subject to the detainer or administrative warrant. If ICE does not take custody of the person within 48 hours from receipt of the detainer and administrative warrant (excluding weekends and holidays), a person held pursuant to an order issued under the bill's provisions would be required to be released unless they are being held on other legal process (such as pending criminal charges).

2. Require the administrator or other person in charge of any county jail, local confinement facility, district confinement facility, satellite jail, or work release unit to adopt a policy conforming to the bill's requirements.
3. Allow any person, including a federal agency, to file a complaint with the North Carolina Attorney General alleging that an administrator (including a sheriff) has failed to comply with the bill's requirements and authorize the Attorney General to file an action compelling the jail administrator (including a sheriff) to comply with the bill's requirements.

[HOUSE BILL 237](#), [Various Criminal and Election Law Changes](#), has been enacted into law by the General Assembly with various effective dates. The bill:

1. Allows a person to wear a medical or surgical grade mask for the purpose of preventing the spread of contagious diseases without violating the State's masking laws.

Effective: June 27, 2024 and applies to offenses committed on or after that date.

2. Requires an individual wearing a medical or surgical grade mask for the purpose of preventing the spread of contagious disease to remove the mask upon request by a law enforcement officer or upon request by the owner of public or private property where the individual is present to allow for the identification of the person wearing the mask.

Effective: June 27, 2024 and applies to offenses committed on or after that date.

3. Increases the penalty for the criminal offense of standing, sitting, or lying upon highways or streets if the offense is part of a demonstration intended to prohibit or impede the use of the highway or street or if the offense obstructs an emergency vehicle.

Effective: December 1, 2024 and applies to offenses committed and causes of action arising on or after that date.

[HOUSE BILL 250](#), [ME/IDS/Driving Privileges/Xylazine Changes](#), has been amended and renamed [Public Safety/Other Changes](#). The bill has been approved by the General Assembly and has been sent to Governor Roy Cooper for his signature. Under the terms of [Senate Joint Resolution 916](#), [Adjournment Resolution](#), if the Governor vetoes the bill, it may be considered by the General Assembly during the remaining legislative session in 2024 to determine if there are sufficient votes to override the veto.

The bill would establish a pilot program that would allow, but not require, the North Carolina

Department of Transportation (DOT) to enter into agreements with the North Carolina State Bureau of Investigation (SBI) for the placement and use of automatic license plate reader systems in DOT rights-of-way.

The bill would also add Tianeptine to Schedule II of North Carolina Controlled Substances Act. Finally, the bill would clarify the investigatory authority of the medical examiner when a death falls within the jurisdiction of the medical examiner under G.S. 130A-383, as detailed in the bill.

[HOUSE BILL 495](#), Revise Money Laundering/Retail Crime, has been signed into law by Governor Roy Cooper with an effective date of December 1, 2024. The bill enacts G.S. 14-118.8, which creates a new criminal offense, “Money laundering.” This new offense criminalizes specific conduct described in the bill if it is done knowingly and if it alone or in the aggregate involves more than \$10,000. The bill also expands the criminal offenses of “Concealment of merchandise in mercantile establishments” and “Larceny from a merchant,” as detailed in the bill.

Effective: December 1, 2024 and applies to offenses committed on or after that date.

[HOUSE BILL 563](#), Hemp-Derived Consumables/Con Sub Changes, has passed the Senate and has been sent back to the House for consideration of the Senate amendment. Under the terms of [Senate Joint Resolution 916](#), Adjournment Resolution, this bill cannot again be considered by the General Assembly until Tuesday, November 19, 2024.

The bill would provide for the licensing and regulation of businesses in the State that manufacture, distribute, or sell “hemp-derived consumable products,” as detailed in the bill. The bill would also allow medical use of marijuana in the State under certain conditions as set forth in the bill. The provisions in the bill addressing medical use of marijuana are identical to [Senate Bill 3](#), NC Compassionate Care Act, which is summarized in the January 27, 2023 and February 24, 2023 Weekly Legislative Reports.

The bill would also prohibit the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services from rescheduling or deleting marijuana as a controlled substance in the State without an enactment from the General Assembly, even if marijuana has been rescheduled or deleted as a controlled substance under federal law.

The bill would also create the offense of “Exposing a child to a controlled substance,” making it a Class I felony to knowingly, recklessly, or intentionally expose a child to a controlled substance. The bill would classify the offense as a higher-level felony if the child ingests the controlled substance as a result of the exposure or suffers serious physical injuries or death as a result of ingestion.

Finally, the bill would place Tianeptine on Schedule II, Xylazine on Schedule III, and Kratom on Schedule VI of the North Carolina Controlled Substances Act.

[HOUSE BILL 591](#), Modernize Sex Crimes, has been approved by the General Assembly and has been sent to Governor Roy Cooper for his signature. Under the terms of [Senate Joint Resolution 916](#), Adjournment Resolution, if the Governor vetoes the bill, it may be considered by the General

Assembly during the remaining legislative session in 2024 to determine if there are sufficient votes to override the veto.

The bill would create the new criminal offense “Sexual extortion; aggravated sexual extortion,” which would criminalize threatening the disclosure of private images, as detailed in the bill, or the refusal to delete private images in order to obtain additional private images or anything else of value from the victim or an immediate family member of the victim.

The bill would also create the new criminal offense “Obscene visual representation of sexual exploitation of a minor,” which would make it a felony to produce, distribute, or possess obscene material depicting a minor engaging in sexual activity, as detailed in the bill.

Finally, the bill would expand the criminal offenses of “First degree sexual exploitation of a minor,” “Second degree sexual exploitation of a minor,” and “Third degree sexual exploitation of a minor” to include “child sex dolls,” as defined in the bill, and material produced using artificial intelligence (AI).

[HOUSE BILL 768](#), [LEO Return to Work from Retirement](#), has passed the House with amendment and has been sent to the Senate for consideration. Under the terms of [Senate Joint Resolution 916](#), [Adjournment Resolution](#), this bill cannot again be considered by the General Assembly until Tuesday, November 19, 2024.

The bill would allow members of the Teachers’ and State Employees’ Retirement System (TSERS) or the Local Governmental Employees’ Retirement System (LGERS) who retired on an early or service retirement as law enforcement officers or justice officers to return to work (be reemployed) full-time and continue to receive their retirement allowance and special separation allowance, provided the reemployment follows a break in service and provided they meet the other conditions for eligibility as detailed in the bill.

Finally, the bill would allow retired sheriffs to be reemployed by an employer that participates in LGERS and continue to receive the Sheriffs’ Supplemental Pension, provided they meet all other conditions for eligibility.

[HOUSE BILL 810](#), [Alternative LEO Special Separation Allowance](#), has passed the House with amendment and has been sent to the Senate for consideration. Under the terms of [Senate Joint Resolution 916](#), [Adjournment Resolution](#), this bill cannot again be considered by the General Assembly until Tuesday, November 19, 2024.

The bill would create an Alternate Special Separation Allowance (Alternate SSA) for State and local government law enforcement officers, as explained in greater detail in the bill. The Alternate SSA would allow a law enforcement officer to retire later in life without sacrificing the number of years during which the officer would receive Special Separation Allowance payments. Currently, an officer that retires and qualifies to receive Special Separation Allowance payments will stop receiving those payments upon reaching 62 years of age.

[HOUSE BILL 834, Juvenile Justice Modifications](#), has been enacted into law by the General Assembly with an effective date of December 1, 2024. The bill excludes from the definition of “Delinquent juvenile” any juvenile between the ages of 16 and 18 who commits an offense which would be a Class A through E felony if committed by an adult.

This means that juveniles between the ages of 16 and 18 will be charged as adults if they commit, on December 1, 2024 and thereafter, an offense which would be a Class A through E felony if committed by an adult. These juveniles will also be tried in adult court unless the prosecutor and the juvenile’s defense attorney jointly move to adjudicate the case in juvenile court, as detailed in the bill.

Nevertheless, the juvenile will be housed in the custody of the Division of Juvenile Justice and Delinquency Prevention, NOT in county jails.

Effective: December 1, 2024 and applies to offenses committed on or after that date.

[HOUSE BILL 984, Removal of Squatter from Private Property](#), has passed the House with amendment and has been sent to the Senate for consideration. Under the terms of [Senate Joint Resolution 916, Adjournment Resolution](#), this bill cannot again be considered by the General Assembly until Tuesday, November 19, 2024.

The bill would amend our summary ejectment (eviction) statutes to allow a property owner of residential property or other authorized agent of the property owner to request, from the law enforcement agency with jurisdiction where the residential property is located (including the sheriff of the county where a residential property is located), the immediate removal of an unauthorized person, such as a squatter, if certain legal conditions are met. The bill would authorize this immediate removal without any expedited eviction process in our courts before a magistrate or district court judge, based only on a sworn affidavit.

Upon receipt of the affidavit, the sheriff would be required to remove the unauthorized person from the property within 24 hours. The sheriff would not be liable to the unauthorized person or any other person or entity for actions under the bill provided the actions or omissions were made in good faith and did not constitute gross negligence, willful or wanton misconduct, or intentional wrongdoing.

[SENATE BILL 565, Revise Automatic Expunction](#), has been approved by the General Assembly and has been sent to Governor Roy Cooper for his signature. Under the terms of [Senate Joint Resolution 916, Adjournment Resolution](#), if the Governor vetoes the bill, it may be considered by the General Assembly during the remaining legislative session in 2024 to determine if there are sufficient votes to override the veto.

The bill would modify the Second Chance Act to require the automatic expunction, between 180 days and 210 days after the date of final disposition of the case, of criminal charges that are dismissed without leave, dismissed by the court, or that result in a finding of not guilty or not responsible.

The **Special 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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