

# North Carolina Sheriffs' Association

Proudly Serving the Sheriffs and Citizens of North Carolina since 1922



Weekly Legislative Report

May 12, 2017

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As expected, the Senate released and then approved their proposed State budget bill and sent it to the House for further consideration. It is likely that the House will come up with a somewhat different version and then the House and Senate will work to reconcile the differences. Their goal is to get a final budget adopted sometime in June before the new fiscal year begins on July 1st.

The Senate's proposed budget was considered in various committees during the week. On Thursday evening, eight amendments were adopted making various changes to the original proposal.

After approving the bill, the Senate adjourned Thursday evening and reconvened shortly after midnight at 12:05 AM to vote on this bill a final time. Under the law, there must be at least two votes on the State budget bill on separate calendar days.

During the early Friday morning session, the Senate adopted five additional amendments and failed to adopt one amendment. Shortly after 3:00 AM on Friday morning, the Senate adjourned.

The House is scheduled to return to Raleigh on Monday and the Senate is scheduled to return on Tuesday. However, neither chamber has any bills scheduled for their first day of return next week, so the week will probably get off to a relatively quiet start.

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## BILL STATUS

HOUSE BILL 280, Juvenile Justice Reinvestment Act, as amended would increase the age of who is considered a juvenile for purposes of juvenile court jurisdiction to include 16 and 17 year old offenders. Therefore, this bill would raise the age at which an individual is treated as an adult criminal offender to the age of 18.

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

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

This bill would also require a juvenile court counselor to share information in a juvenile's record

with a law enforcement officer. The law enforcement officer would not be able to copy any part of the record.

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

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

**This bill has passed the House Judiciary I Committee and the House Appropriations Committee and is awaiting further consideration by the full House. The North Carolina Sheriffs' Association SUPPORTS the raise the juvenile age recommendation of the North Carolina Commission on the Administration of Law & Justice, which includes various improvements in the juvenile justice system and includes a requirement for adequate funding. However, the North Carolina Sheriffs' Association is OPPOSED to an increase in the juvenile age unless adequate funds are provided before the changes are implemented.**

SENATE BILL 53, Law Enforcement Authority/Custody of a Child, as amended would require a court, whenever it issues a temporary child custody order in North Carolina that requires a law enforcement officer to take physical custody of a minor child, to also issue a warrant to take physical custody of the minor child. A warrant to take physical custody of a child would be enforceable throughout the State. When issuing a warrant to take physical custody of a child, a court may, but would not be required to, authorize law enforcement officers to enter private property to take custody of the child. An officer executing a warrant to take physical custody of a child would not incur criminal or civil liability for serving the warrant within the scope of the terms set out by the court in the warrant.

SENATE BILL 257, Appropriations Act of 2017, was amended to include the Senate's proposed budget for 2017 - 2019. Those items of interest to the criminal justice community include:

1. \$2.4 million, disbursed over two consecutive years, would be appropriated to the Department of Health and Human Services to improve the security and functionality of the North Carolina Controlled Substances Reporting System ("CSRS"). The CSRS is used by medical practitioners and pharmacists to identify individuals that misuse controlled substances, and to avoid the overprescribing of controlled substances such as opioids. Additionally, \$25,000 a year for two years would be used to buy opioid antagonists to be given at no charge to North Carolina law enforcement agencies.
2. Alcohol Law Enforcement ("ALE"), which currently is a branch of the State Bureau of Investigation, would be relocated as a separate Division of the Department of Public

Safety. The law enforcement jurisdiction of ALE agents would also be modified. Currently, ALE agents may arrest for any criminal offense at any time, although their primary responsibility is the enforcement of alcoholic beverage control ("ABC") and lottery laws. This bill would modify and limit the jurisdiction of ALE agents to:

- a. The enforcement of ABC and lottery laws;
- b. The enforcement of other criminal laws only when the crime is committed in the ALE agent's presence and the ALE agent is in the act of enforcing ABC or lottery laws; and
- c. The enforcement of other criminal laws when the ALE agent has been asked to provide temporary law enforcement assistance by the head of another law enforcement agency.

The law enforcement jurisdiction of local Alcoholic Beverage Control ("ABC") officers employed by local ABC boards would also be modified. Currently, local ABC officers have law enforcement jurisdiction to enforce all criminal laws at any time, although their primary responsibility is the enforcement of ABC and controlled substances laws. This bill would modify and limit local ABC officers' jurisdiction to:

- a. The enforcement of ABC laws;
- b. The enforcement of other criminal laws only when the crime is committed in the local ABC officer's presence and the local ABC officer is in the act of enforcing ABC laws; and
- c. The enforcement of other criminal laws when the local ABC officer has been asked to provide temporary law enforcement assistance by the head of another law enforcement agency.

3. The State Capital Police, which currently is a section of the State Highway Patrol, would be relocated as a separate Division of the Department of Public Safety.
4. The Division of Adult Correction and Juvenile Justice, which is currently a division of the Department of Public Safety, would be transferred out of the Department of Public Safety and would be established as a new Department known as the Department of Adult Correction and Juvenile Justice. Within this new Department would be the Division of Adult Correction and the Division of Juvenile Justice.
5. The Department of Public Safety ("DPS"), in conjunction with the units of local government listed below, would be required to create a Quick Response Team ("QRT") that would provide overdose treatment services for opiate and heroin victims within those units of local government. The QRT would consist of law enforcement officers, firefighters and medics. DPS and the cities and counties listed below would be required to work together to determine what services would be provided by the QRT, such as counseling services and follow-up care, for opiate and heroin addicts.

The cities and counties involved in this pilot project are the City of Wilmington, the City

of Jacksonville, the City of Hickory, and the Counties of Gaston, Moore, Mitchell and Watauga.

6. The State Capitol Police would be authorized to contract with State agencies to provide security services in the buildings occupied by those agencies.
7. The Department of Justice and the Department of Public Safety would be prohibited from using federally forfeited assets for new personnel positions, new projects, and acquisitions of real property and repair of buildings without having the prior approval of the General Assembly.
8. The Class I felony offense of assault or affray on a firefighter, emergency medical technician, medical responder or hospital personnel would be expanded to also include hospital security personnel.
9. The Lieutenant Governor Executive Protection Detail would be created to protect the Lieutenant Governor and his family. The Commander of the State Highway Patrol would be required to appoint to this Detail three State Highway Patrol troopers selected by the Lieutenant Governor.
10. The Department of Public Safety would continue to pay the sum of \$40 per day as reimbursement to counties for the cost of housing backlogged convicted inmates for the Division of Adult Correction and Juvenile Justice ("DACJJ") who were sentenced to imprisonment in DACJJ. **The North Carolina Sheriffs' Association SUPPORTS this reimbursement fee.**
11. State inmates employed in the "Prison Industry Enhancement Program" (a program where private employers employ inmates on-site at a prison to make goods) would be eligible to receive workers' compensation benefits for an injury suffered while working in the Program. This would not apply to State inmates held in county jails pursuant to the Statewide Misdemeanant Confinement Program who are injured while working in county work programs.
12. The age at which a juvenile is treated as an adult criminal offender would be raised from the age of 16 to the age of 18. This change would only apply to misdemeanor crimes, excluding motor vehicle law violations. Juveniles charged with felonies would be handled under the current procedures for processing juveniles alleged to be juvenile delinquents.

A juvenile court counselor would be required to share information in a juvenile's record with a law enforcement officer investigating an incident involving the juvenile. The law enforcement officer however would not be able to copy any part of the record.

The North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission would be required to develop education and training materials on juvenile justice issues such as

detention, referral to diversionary programs and best practices for handling incidents involving juveniles.

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

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13. Company police agencies would be authorized to enter into mutual aid agreements with the governing board of a municipality or with a county, provided the sheriff of that county consents. Company police officers would also be authorized to provide "as needed" assistance to a chief of police or to a sheriff without the need to enter into a mutual aid agreement, if the assistance is requested by the head of a law enforcement agency.
14. Hospital emergency rooms, adult "live entertainment" establishments and adult book stores would be required to post, in a conspicuous location, a public awareness sign and hotline telephone number concerning human trafficking. The signs would be provided by the North Carolina Human Trafficking Commission.
15. In all criminal convictions where digital forensics was performed by the North Carolina State Crime Laboratory, such as an analysis of a computer, the district or superior court judge would be required to include in the court costs a payment of \$600, which would be provided to the Department of Justice for use by the State Crime Laboratory.
16. Funds would be provided for a 200 bed facility located adjacent to the Swannanoa Correctional Center for Women, which would be dedicated as a female Confinement in Response to Violation ("CRV") facility. The CRV would house females that have violated probation and are subject to a mandatory 90 day sentence of imprisonment.

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North Carolina Sheriffs' Association, Inc.

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