

North Carolina Sheriffs' Association

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Weekly Legislative Report

June 8, 2018

The pace at the General Assembly this week has been hectic, but it has not yet become frantic. While some members are still introducing new legislative bills, most members are working diligently to get their priority bills passed anticipating that adjournment is just around the corner.

Another sign that adjournment is just around the corner is movement on legislation that would authorize the voters in November to consider various amendments to the North Carolina Constitution. A bill has been filed this week that will allow the voters to decide whether or not to amend the Constitution to require photo identification in order to be allowed to vote in North Carolina elections. A lot of work is also being done on constitutional amendment legislation related to the Crime Victims Rights Act. Another constitutional amendment bill around which there is speculation would include the North Carolina "right to hunt, fish, and harvest wildlife." Between now and adjournment, legislative leaders will decide which constitutional amendments will be on the ballot in November for consideration by the voters.

The least surprising events that occurred this week were Governor Roy Cooper's veto of the General Assembly's State budget bill and the Senate's immediate vote to override the veto. It is likely that the least surprising event next week will be a vote in the House to override the Governor's veto, allowing the State budget bill previously enacted by the General Assembly to go into effect. While most legislative activities are not very predictable, this year's action on the budget was not a surprise to anyone.

The House and Senate adjourned on Thursday and will reconvene on Monday.

BILLS OF INTEREST

[HOUSE BILL 1045](#), Health-Local Confinement/Prison HealthConnex., is identical to [Senate Bill 750](#), which was summarized in the May 25, 2018 Weekly Legislative Report. **Introduced by Representatives Dobson, Lambeth and R. Turner, and assigned to the House Committee on Health.**

[HOUSE BILL 1059](#), Healthy Mother & Child/Shackling Prohibition, is identical to [Senate Bill 786](#), which is listed below in this Weekly Legislative Report. This bill is also substantially similar to [House Bill 1038](#), Healthy Mother & Child/Shackling Prohibition, which was summarized in the May 31, 2018 Weekly Legislative Report.

The bill would prohibit the use of physical or mechanical restraints on a pregnant prisoner or

detainee during labor, delivery, transport to a medical facility or during postpartum recovery, unless there are “extraordinary circumstances.” Extraordinary circumstances would be defined as circumstances showing that restraints are necessary to prevent the prisoner from injuring herself or others and that the prisoner cannot be reasonably restrained by some other means, such as by using additional personnel.

No leg or waist restraints would be able to be used on any prisoner or detainee who is in labor or delivery, regardless of the circumstances. If restraints are used, the type of restraints would have to be used in the least restrictive manner necessary, and the officer would have to make written findings within 10 days as to the extraordinary circumstances that required the use of restraints. These written findings would have to be maintained by the correctional institution for a period of five years. A correctional institution would be any State prison, juvenile detention facility, local confinement facility (including a county jail), or any State or local law enforcement agency that has the authority to detain or restrain a person under State law. **Introduced by Representatives Cunningham and B. Richardson, and assigned to the House Committee on Appropriations.**

[HOUSE BILL 1060](#), Ensure Safe Handguns, would require the North Carolina Department of Public Safety (DPS) to develop a roster of handguns deemed to be safe for sale or possession in North Carolina using the standards of the California Roster of Handguns Certified for Sale.

This bill would make it a Class 3 misdemeanor for any person or company to possess, manufacture, sell, or otherwise transfer a handgun that is not approved as safe by DPS. Any person in possession of a handgun deemed to be unsafe by DPS would only be allowed to sell or transfer the handgun to a federally licensed firearms dealer or the sheriff of the county where the person resides. The sheriff would have the authority to destroy or dispose of any such handgun in the same manner as a firearm seized as evidence of a crime.

Certain handguns would be exempt from these restrictions, such as antique firearms and firearms used in motion picture or television productions. **Introduced by Representatives Insko, Harrison and Morey, and assigned to the Committee on Rules, Calendar, and Operations of the House.**

[HOUSE BILL 1064](#), Req. Implementation of Text/SMS 911 for PSAPs, would require all Public Safety Answering Points (PSAPs) with the capability of receiving text messaging or short message service (SMS) to provide text messaging or SMS as an option for a person to contact the PSAP for emergency (911) assistance. The bill would also appropriate \$65,000 in recurring funds to the North Carolina Department of Information and Technology (Department) to fund a full-time position within the Department to implement and educate the public on 911 service via text messaging and SMS. **Introduced by Representatives John, Quick, B. Richardson and W. Richardson, and assigned to the House Committee on Appropriations.**

[HOUSE BILL 1065](#), Digital Communications in Elections, would make changes to the State elections laws to clarify that any “digital communication” made relating to a candidate for political office must comply with the State disclosure requirements for political activity. A “digital communication” would be any communication relating to a candidate for political office that is placed in an online platform that is a public Web site or Web application, including social

networking sites, search engines, or advertising Web sites that sell political advertisements or sponsorships.

The bill would require disclosure statements to appear in all political advertisements appearing in a digital communication. The disclosure statement would need to be clearly legible and would have to disclose that the advertisement was paid for by a candidate or political party. Current law requires such a disclosure statement only for political advertisements appearing in print media, radio or television.

Finally, the bill would require political information that is sent electronically to a large group of people, such as via email or text messaging, to also include disclosure statements. **Introduced by Representatives Harrison, Lewis, G. Martin and Hardister, and assigned to the House Committee on Elections and Ethics Law.**

[HOUSE BILL 1070](#), Safer Schools, Healthier Kids Act, is identical to [Senate Bill 737](#), which was summarized in the May 25, 2017 Weekly Legislative Report. **Introduced by Representatives G. Martin and Morey, and assigned to the Committee on Rules, Calendar and Operations of the House.**

[HOUSE BILL 1077](#), State Highway Patrol/Salary Increases/Funds, would appropriate to the North Carolina Department of Public Safety \$16 million in recurring funds for the 2018-2019 fiscal year to increase the salaries of North Carolina State Troopers serving in the North Carolina State Highway Patrol. **Introduced by Representative Burr, and assigned to the House Committee on Appropriations.**

[HOUSE BILL 1081](#), Transfer of School Support Personnel Funds, would prohibit a local board of education from transferring funds to another purpose that have been set aside for School Resource Officers (SROs). The bill would, however, allow a local board of education to transfer SRO funds to another local board of education, provided the funds are only used for SROs. **Introduced by Representatives Cunningham and Earle, and assigned to the House Committee on Appropriations.**

[HOUSE BILL 1083](#), Speaker's Appointments 2018, would make various appointments to the 911 Board. Among those, the bill would appoint Sheriff J.D. Hartman of Davie County to the 911 Board effective January 1, 2018. **Introduced by Representative Lewis, and assigned to the Committee on Rules, Calendar and Operations of the House.**

[HOUSE BILL 1085](#), Greensboro Criminal Justice Advisory Comm., would allow the City of Greensboro to release personnel information related to the disposition of internal disciplinary charges against a Greensboro Police Department officer to any board or committee designated by the Greensboro City Council to provide citizen review of the Greensboro Police Department disciplinary process. Currently, this information may only be released to the Greensboro Human Relations Commission Complaint Subcommittee. This bill would only apply to the City of Greensboro. **Introduced by Representatives Harrison, Faircloth, Hardister and Quick, and assigned to the Committee on Rules, Calendar and Operations of the House.**

[HOUSE BILL 1087](#), [Asheville/Body-Worn Cameras](#), would allow the Asheville Police Department to release to the Asheville City Council law enforcement recordings, such as body-worn camera recordings, if City Council members execute a confidentiality statement and review the recordings in closed session. Current law does not specifically state that a municipal law enforcement agency possessing the recording may release the recording to a city council without a court order. This bill would only apply to the City of Asheville. **Introduced by Representatives Fisher, Ager and B. Turner, and assigned to the House Committee on Judiciary I.**

[HOUSE BILL 1089](#), [Change Burden of Proof/Candidacy Challenge](#), would change the burden of proof in a challenge to a candidate seeking elective office, such as a candidate running for sheriff. This bill would require the challenger to carry the burden of proof unless the challenge is based on residency. In a residency challenge, the candidate would still have the burden of proving residency. Currently, once any type of challenge is filed, the candidate has the burden of proof to prove the allegation is false. **Introduced by Representative Clampitt.**

[SENATE BILL 786](#), [Healthy Mother & Child/Shackling Prohibition](#), is identical to [House Bill 1059](#), which is summarized above in this Weekly Legislative Report. **Introduced by Senators Smith, Foushee and Van Duyn, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 791](#), [Revise Marijuana Laws](#), is identical to [House Bill 994](#), which was summarized in the May 25, 2018 Weekly Legislative Report. **Introduced by Senators Lowe, Fitch, Foushee and Waddell, and referred to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 794](#), [Hate Crimes Prevention Act](#), would increase the punishment from a Class 2 or 3 misdemeanor to a Class 1 misdemeanor and the punishment from a Class 1 misdemeanor to a Class H felony when a crime is committed because of a victim's ethnicity, gender, gender identification, gender expression, disability or sexual orientation. Currently, this increase in punishment only occurs when the crime is committed because of the victim's, race, color, religion, nationality or country of origin.

This bill would also create the new crime of "felonious assault as a hate crime," which would be classified as a Class F felony. Felonious assault as a hate crime would be the attempted assault or assault of a person because of the actual or perceived race, ethnicity, color, religion, nationality, country of origin, gender, gender identity, gender expression, disability or sexual orientation of that person, and which results in serious bodily injury to the victim, such as disfigurement. It would be a Class E felony if death results from the offense or the offense involves kidnapping or certain sexual assaults.

The bill would also require the North Carolina State Bureau of Investigation (SBI) to collect data on the commission of offenses punishable as hate crimes. Local law enforcement agencies would be required to submit information related to hate crimes to the SBI monthly.

Finally, the bill would require the North Carolina Sheriffs' Education and Training Standards

Commission and the North Carolina Criminal Justice Education and Training Standards Commission to establish statewide law enforcement training on how to identify, respond to and report hate crimes. The training would be developed and provided by the North Carolina Justice Academy. **Introduced by Senators Chaudhuri and Foushee, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 801](#), Revoke Consent/Intercourse & Sexual Acts, would provide that a person could withdraw consent to vaginal intercourse or other sexual act, even after initially consenting to the vaginal intercourse or other sexual act. The withdrawal of consent must be clearly communicated so that a person knows or should reasonably know consent has been withdrawn. Once consent is clearly withdrawn and vaginal intercourse or other sexual act continues, then the crime of second-degree forcible rape or second-degree forcible sex offense would be committed. **Introduced by Senator J. Jackson, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 808](#), Buncombe County Task Force, would allow the Buncombe County Board of Commissioners to create, by resolution, a Domestic Violence Task Force to combat domestic violence in Buncombe County. The Board of Commissioners would decide the criteria for membership on the Task Force and would select its members. If created, the Task Force would work on domestic violence prevention and intervention and would provide support to victims of domestic violence to ensure victims have access to counselors, legal resources and medical care.

The Task Force would also work with governmental and nongovernmental agencies within Buncombe County to assist in information sharing and to increase services for domestic violence victims. This would include working with law enforcement agencies in Buncombe County to share information necessary to prevent domestic violence. This bill would only apply to Buncombe County. **Introduced by Senator Edwards.**

BILL STATUS

[HOUSE BILL 28](#), DOT/Access of Motorcycles, was summarized in the February 3, 2017 Weekly Legislative Report. This bill was amended in the House and passed the House on March 28, 2017. The bill has been referred to the Senate Committee on Transportation.

The bill, as amended, would prohibit the Department of Transportation (DOT) from taking any action that applies only to a motorcyclist, and that prohibits or limits a motorcyclist's access to a transportation facility such as a bridge, highway, tunnel or parking deck. The bill would also require the DOT and any State or locally funded parking deck to provide space for motorcycle parking at these parking decks.

[HOUSE BILL 223](#), Disabled Veteran Plate for Motorcycles, has passed the House and passed the Senate with an amendment. The bill will be sent back to the House for consideration of the Senate amendment. The bill would allow a disabled veteran or a partially disabled veteran to obtain a special registration plate for a motor vehicle or motorcycle that displays their disabled veteran status. The special registration plate would be provided free of charge.

[HOUSE BILL 613](#), Transfer Certain State Property, as amended, would transfer 109 acres of State-owned land in Bladen County from the State of North Carolina to the Bladen County Board of Commissioners for use as a first responders driver training facility.

[HOUSE BILL 1029](#), DOT/DMV Legislative Requests, as amended, would clarify when operators of firefighting or emergency equipment used for governmental functions would be exempt from having a Commercial Drivers License (CDL). Currently, large vehicles may be used without a CDL for the purpose of “preserving life or property or to execute governmental functions.” This bill would clarify that governmental functions includes training or other official use by the governmental entity.

This bill would also allow the sale of alcoholic beverages on passenger-only ferries. Currently the sale of alcoholic beverages on ferries is prohibited.

Finally, the bill would allow the North Carolina Division of Motor Vehicles 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.

[SENATE BILL 99](#), Appropriations Act of 2018, which was summarized in the May 31, 2018 Weekly Legislative Report, previously passed the General Assembly and was sent to Governor Roy Cooper on June 1 for consideration. The budget bill was vetoed by Governor Cooper on June 6. The bill was sent back to the Senate where Governor Cooper’s veto was overridden by the Senate on June 7. The bill is scheduled on June 12 in the House for a vote on whether to override Governor Cooper’s veto.

[SENATE BILL 711](#), NC Farm Act of 2018, as amended, would clarify the type of seeds an industrial hemp farmer could use. The bill would require hemp farmers to use “verified propagules” to cultivate industrial hemp. Verified propagule would be defined as a seed or clone from an industrial hemp plant that has been tested and confirmed to have tetrahydrocannabinol (THC) levels less than that prohibited by federal law. Under current law, industrial hemp growers must utilize a “certified seed,” which is a certified industrial hemp seed that has a low THC concentration. Current law does not have a testing requirement for the industrial hemp seeds.

The bill would also allow a North Carolina law enforcement agency, such as a sheriff’s office or police department, to enter into an “intergovernmental law enforcement mutual aid agreement” with out-of-state law enforcement agencies or officers for assistance in maintaining security and safety at international equestrian events. Currently, a North Carolina law enforcement agency does not have the authority to enter into a mutual aid agreement with an out-of-state law enforcement agency or officer for any reason.

The intergovernmental mutual aid agreement would allow out-of-state agencies or officers to provide a North Carolina law enforcement agency with temporary assistance at international equestrian events by furnishing supplies, equipment, facilities, personnel or other services as might be needed by the requesting North Carolina law enforcement agency.

The intergovernmental mutual aid agreement would specify standards of conduct for the out-of-state officers, including use of force standards, training requirements, standards for reimbursement of costs for supplies, personnel and equipment, and protocols for processing any claims that may be made against the out-of-state officer as a result of rendering assistance.

An out-of-state law enforcement officer would be a full-time officer of a governmental agency in another state, in good standing, with powers of arrest and whose primary function is the prevention and detection of crime or the enforcement of criminal laws. Out-of-state officers would be deemed to have satisfied the certification standards of the North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission while rendering temporary assistance under the intergovernmental mutual aid agreement.

The out-of-state law enforcement officer providing assistance would also have the same authority, jurisdiction, powers, privileges and immunities as the officers of the requesting North Carolina law enforcement agency, and would be under the operational command of the requesting agency while rendering assistance.

Finally, the bill would require the intergovernmental mutual aid agreement to be approved by the local governing body of the agency making the request, such as the county board of commissioners in the case of a sheriff entering into such an agreement.

If enacted into law, these provisions allowing intergovernmental mutual aid agreements would expire October 1, 2018.

[SENATE BILL 750](#), Health-Local Confinement/Prison HealthConnex, has been referred to the House Committee on Health Care.

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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