

North Carolina Sheriffs' Association

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Weekly Legislative Report

June 15, 2018

There has been a lot of activity on law enforcement related legislation this week. This has resulted in several priority bills for the North Carolina Sheriffs' Association being approved by the General Assembly and sent to Governor Roy Cooper for his signature. Those priority bills, which are also discussed in this Weekly Legislative Report, include:

- [House Bill 284](#), 25 Year Law Enforcement Officer Retirement Option
- [House Bill 388](#), Modernize Mutual Assistance Statutes
- [Senate Bill 616](#), Heroin & Opioid Prevention & Enforcement Act (HOPE Act)

As the legislative session winds down, the House and Senate have put in some unusually long hours this week. Both of them have had longer daily sessions than usual, often meeting until late in the evening.

On Thursday, the House adjourned their marathon session at approximately 11:58 PM. Several days this week, both the House and Senate would meet for a while, recess to allow committees to handle some bills, and then reconvene, repeating this process throughout the day. Both the House and Senate met on Friday, which they normally do not do.

We have been told that the legislative objective is to get all bills necessary to Governor Roy Cooper today, and then shut down most if not all committee meetings. Once the Governor receives the bills sent to him today, he will have 10 days within which to (1) sign them into law, (2) allow them to go into law without his signature, or (3) veto them. We understand that over the next 10 days the legislature will be considering local bills and bills proposing Constitutional amendments, since neither of these types of bills must go to the Governor for his signature. Adjournment of this year's legislative session is expected to occur shortly after that 10 day period expires.

The House and Senate adjourned on Friday and will reconvene early next week.

BILLS OF INTEREST

[SENATE BILL 809](#), [Greensboro Criminal Justice Advisory Comm.](#), is identical to [House Bill 1085](#), which was summarized in the June 8, 2018 Weekly Legislative Report. The bill 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 Senator Robinson and assigned to the Committee on Rules and Operations of the Senate.**

BILL STATUS

[HOUSE BILL 9](#), [Allow Election Day Service – Retired LEOs](#), has been approved by the General Assembly and sent to Governor Roy Cooper for his signature. The bill would allow retired law enforcement officers to be employed by a county board of elections on election day without suspension of the retired officer's special separation allowance benefit, so long as that employment is not within the same month immediately following the officer's day of retirement and does not interfere with the officer's retirement benefits under the Local Governmental Employees' Retirement System.

[HOUSE BILL 284](#), [25-Year LEO Retirement Option](#), has been approved by the General Assembly and sent to Governor Roy Cooper for his signature. The bill would give law enforcement officers who are members of the Teachers' and State Employees' Retirement System or 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 325](#), Amend Arson Law, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature. This bill would make it a Class D felony to knowingly damage, or assist or pay someone else to cause damage to any structure, dwelling or conveyance (such as an automobile or bus) using fire or an explosive during the commission of a felony, and the fire or explosion causes damages valued at \$10,000 or more.

The current Class E felony of committing arson that results in serious bodily injury to a firefighter or emergency medical technician would be expanded to also include fire investigators and law enforcement officers who are injured while carrying out their duties.

[HOUSE BILL 388](#), Modernize Mutual Assistance Statutes, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature. The bill would create a presumption that a law enforcement agency is authorized to lend assistance to another law enforcement agency upon request and would allow a law enforcement agency to provide temporary assistance to another law enforcement agency, upon request by the head of the requesting agency, without the necessity of the governing body of the city or county adopting a resolution allowing for the law enforcement assistance.

Currently, a city council or board of county commissioners must pass a resolution authorizing the head of a law enforcement agency to enter into an agreement with the head of another law enforcement agency before the assisting agency is authorized to provide assistance to the requesting agency. Under this bill, a governing body can still prohibit the assistance by enacting an ordinance to that effect. **The North Carolina Sheriffs' Association SUPPORTS – HIGH PRIORITY this bill.**

[HOUSE BILL 500](#), ABC Omnibus Legislation, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature.

The bill, as amended, would allow agents or employees of a commercial permittee, such as a brewery or distillery, to sample alcoholic beverages on the premises of the permittee or at a special event where the permittee is participating for purposes of quality control, education or sensory analysis. Currently this sampling is only allowed on the premises of the permittee.

The bill would also allow “sports and entertainment venues” to be issued on-premises malt beverage and wine permits. A sports and entertainment venue would be defined as a stadium, ballpark, or similar facility with a seating capacity of 3,000 or more people and which is not located on the campus of a school, college or university.

The bill would increase the value of cash prizes or merchandise that could be raffled off by a nonprofit organization from \$125,000 to \$250,000 in any calendar year. The maximum number of raffles a nonprofit could hold in a one year period would be increased from two to four.

Additionally, the current prohibition on the sale or consumption of alcoholic beverages in any room where a raffle or bingo game is being conducted would be modified to remove raffles from this prohibition. Currently, alcoholic beverages cannot be sold or consumed in any room where either a raffle or bingo game is being conducted. Finally, this bill would allow nonprofit organizations to offer alcoholic beverages as a prize in a raffle or sell alcoholic beverages at a nonprofit organization auction. Currently, alcoholic beverages may not be sold at auction or raffled off by a nonprofit organization.

[HOUSE BILL 670](#), [Protect Educational Property](#), has been approved by the General Assembly and will be sent to Governor Roy Cooper for his signature. This bill would make it a Class H felony for any person, by any means of communication to any person or groups of persons, to threaten to commit an act of mass violence on educational property, at a school activity, or at a place of religious worship.

A person arrested for either of these felonies would be able to be held in custody for up to 48 hours from the time of arrest without having conditions of release set by a judge, similar to the process currently available for defendants arrested on domestic violence charges.

If a person pleads guilty to or is found guilty of communicating a threat of mass violence on educational property or at a place of religious worship and the person committed the crime while less than 20 years of age, the court would be required, if the defendant and the District Attorney consent, to defer the court proceedings and place the defendant on probation for not less than one year. If the person satisfactorily completes the period of probation, the charge would be dismissed, and the person would be eligible to have the charge expunged from his or her record. **The North Carolina Sheriffs' Association SUPPORTS this bill.**

[HOUSE BILL 945](#), [Rape Evidence Collection Kit Tracking Act](#), has been approved by the General Assembly and will be sent to Governor Roy Cooper for his signature. The bill would establish the Statewide Sexual Assault Evidence Collection Kit Tracking System (System) within the North Carolina State Crime Laboratory. The Secretary of the North Carolina Department of Public Safety would be required to adopt rules and guidelines for agencies required to participate in the System, including the imposition of sanctions for agencies that are not in compliance with the rules.

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. The Director of the State Crime Laboratory would also create protocols for agencies to follow under this System.

[HOUSE BILL 960](#), [Local Law Enforcement/Citizens Academies](#), summarized in the May 18, 2018 Weekly Legislative Report, has passed the House with amendment and has been sent to the Senate for consideration. The bill, as amended, would allow sheriffs and chiefs of police to establish a citizens academy to educate members of the public on operations of their agencies and to prepare them to provide volunteer services. Participants would be required to undergo background checks before being able to participate and may be excluded from participating based upon certain prior criminal convictions and pending charges.

This bill would allow an agency to use graduates of the citizens academy to provide volunteer services to increase safety and security within the community. No volunteer would be able to be armed while providing volunteer services unless they have successfully completed Basic Law Enforcement Training (BLET) and are authorized, in writing, to be armed by the sheriff or chief of police.

[HOUSE BILL 969](#), Enhance Prison Security, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature. The bill would:

1. Require the North Carolina Department of Public Safety, the Conference of District Attorneys, and the Administrative Office of the Courts to each make reports to the Joint Legislative Oversight Committee on Justice and Public Safety by March 15th of each year on the number of incidents, criminal charges, and their dispositions, for offenses involving assaults on employees or contractors of detention facilities, which would include local jails.
2. Modify the Class F felony offense of "malicious conduct by prisoner." This bill would more specifically define what conduct would constitute malicious conduct by a prisoner by providing that an inmate would be guilty of this crime if an inmate throws or emits bodily fluids, excrement, or any unknown substance at an employee of the State or local government. An inmate would be punished as a Class I felony if the inmate knowingly and willfully exposes their genitalia to an employee of the State or local government while the employee is in the performance of their duties. Currently, the crime only covers an inmate's act of throwing or emitting "bodily fluids or excrement" at a State or local government employee.
3. Modify the offense of "conveying messages and weapons to or trading with convicts and other prisoners." This bill would make it a Class H felony for any person to sell, trade, convey, or provide any of the following items to an inmate in the custody of either a State prison, a law enforcement officer, or a local confinement facility:
 - (1) Any article forbidden by prison or jail rules.
 - (2) A letter, oral message, weapon, tool, good, clothing, device, or instrument, to effect an escape, or to aid in an assault or insurrection.

If any of these items are sold, traded or conveyed to a prisoner and an escape, assault, or insurrection occurs, the offense would be punished as a Class F felony. Any prisoner that possesses a letter, weapon, tool, good, article of clothing, device, or instrument in order to effect an escape or aid in an assault or insurrection would be guilty of a Class H felony. Currently the crime prohibits the conveying of "letters, oral messages, weapons, instruments, clothing, and stolen goods" to prisoners. The current law also prohibits the selling of an item forbidden to prisoners by prison rules.

4. Authorize the Information Sharing and Analysis Center (ISAAC) of the North Carolina State Bureau of Investigation (SBI) to analyze data related to threats of violence to the safety of any individual associated with educational property or places of worship. If the

threat is deemed to be creditable and the location of the threatened property or the person suspected of making the threat are determined, ISAAC would notify the sheriff and local law enforcement agencies with jurisdiction about the threat. The SBI would be authorized to then give assistance to sheriffs and police officers upon the request of the sheriff or police officers.

[HOUSE BILL 977](#), [Admin. Changes Ret. System/Treasurer – 2018.-AB](#), summarized in the May 25, 2018 Weekly Legislative Report, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature. 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 the Teachers' and State Employees' Retirement System (TSERS) or the Local Governmental Employees' Retirement System (LGERs) if convicted: embezzlement of property received by virtue of office or employment; embezzlement of State property by public officers or employees; embezzlement of funds by public officers and trustees; embezzlement of taxes by officers; accessing government computers; damaging computer resources; and denial of government computer services to an authorized user.

[House Bill 991](#), [Fox Trapping Local Omnibus](#), summarized in the May 25, 2018 Weekly Legislative Report, has been amended in the Senate and 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 would apply to the counties of Cabarrus, Davie, Gaston, Madison, McDowell, Mitchell, Montgomery, Rowan, Rutherford, Stokes, and to those portions of Forsyth County outside the city limits of Winston-Salem.

[HOUSE BILL 1029](#), [DOT/DMV Legislative Requests](#), summarized in the June 18, 2018 Weekly Legislative Report, has passed the House and passed the Senate with amendment. The bill has been sent back to the House for consideration of the Senate amendment.

The bill, 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.

[HOUSE BILL 1089](#), [Candidacy Challenge/Expunged Felony/Sheriff](#), has passed the House with

amendment and was sent to the Senate for consideration. The bill, as amended, would clarify that a candidate for the Office of Sheriff, or a person appointed to this Office, would not be qualified to hold the Office of Sheriff if the person has previously had a felony conviction expunged.

The bill would also 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.

Finally, the bill would amend the felony offense of unlawful voting by a felon to require a showing that a convicted felon had the “intent to commit fraud” when voting. Currently, to be guilty of the crime, the law only requires a showing that the person voted and that they were convicted of a felony and have not had their citizenship rights restored. **The North Carolina Sheriffs' Association SUPPORTS – PRIORITY the portions of this bill related to no felon, even with the felony expunged, serving in the Office of Sheriff.**

[SENATE BILL 99](#), Appropriations Act of 2018, summarized in the May 31, 2018 Weekly Legislative Report, was approved by the General Assembly and was vetoed by Governor Roy Cooper on June 6, 2018. The General Assembly has overridden Governor Cooper's veto and the bill has been enacted into law.

[SENATE BILL 124](#), LEO Managed CBD Oil Drop Box, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature. The bill would require anyone who can lawfully use or possess “hemp extract” (seizure patients, for example) to dispose of any residual hemp extract or hemp oil at a secure collection box managed by a law enforcement agency, and would be effective December 1, 2018.

[SENATE BILL 162](#), Human Trafficking Restorative Justice, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature. The bill would make the name, address and other information that could lead to the identity of a human trafficking victim, such as a telephone number, confidential and not subject to disclosure under the State's public records Law. This protection would also apply to the immediate family members of the human trafficking victim, such as a sibling, parent or spouse. This confidential information could, however, be disclosed for law enforcement purposes, for the provision of medical care or housing, or based upon a court order. It would be a Class 3 misdemeanor to knowingly disclose the private information of a human trafficking victim.

[SENATE BILL 168](#), AOC Omnibus Changes, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature. The bill would modify the criteria considered by a judicial official when deciding to issue a warrant for arrest instead of a criminal summons. This bill would provide that judicial officials could consider factors such as the accused's failure to appear when previously summoned, other facts indicating that the person will fail to appear, facts indicating there is a danger that the accused will escape, or facts indicating the accused may injure another person or damage property. Currently, there is a presumption a judicial official will issue a criminal summons instead of a warrant for arrest, unless certain specific criteria are met. This

bill would remove this presumption.

[SENATE BILL 335](#), [Budget Technical Corrections & Study](#), has been amended to make various changes to [Senate Bill 99](#), which is the budget for 2018 – 2019 that was enacted into law this week. Those technical changes to the budget bill of interest to the criminal justice community include:

1. The North Carolina Human Trafficking Commission would be transferred from the North Carolina Department of Justice to the Administrative Office of the Courts (AOC). The bill would require AOC to staff and fund the Commission. The bill would appropriate to AOC \$1.5 million for the 2018-2019 fiscal year, which would be allocated for use by the Commission to support victim services.
2. The bill would eliminate the “Trooper Training Reimbursement Program” that was enacted into law this week as part of the budget bill. The bill would instead authorize the Secretary of the North Carolina Department of Public Safety to administer “reimbursement agreements” that would require a State Trooper to reimburse to the State a portion of the \$36,000 cost of training if the State Trooper failed to remain with the North Carolina State Highway Patrol (SHP) for three years following training.

The bill would also require a local law enforcement agency, such as a sheriff’s office or police department, to pay the State \$36,000 if the local law enforcement agency hires a State Trooper within six months of the State Trooper leaving the SHP. This would apply if the State Trooper was with the SHP for less than three years at the time of separation from the SHP.

3. Case Managers and Correctional Programs personnel employed by the Division of Adult Correction and Juvenile Justice within DPS that have been certified by the North Carolina Criminal Justice Education and Training Standards Commission would receive a salary increase of 4%, effective July 1, 2018.
4. [Senate Bill 99](#) provides for \$7.2 million to be allocated to the North Carolina State Highway Patrol to increase the annual starting salary of State Troopers to \$44,000. The funds would also be used to increase the salary of State Troopers over a six year period by 6.5% annually, so that State Troopers would receive an annual salary of \$64,202 after six years of service. These salary increases could not be denied based upon a prior disciplinary action or infraction unless the employee has an active disciplinary action related to grossly inefficient job performance that resulted in 10 or more days of unpaid suspension.

[Senate Bill 616](#), [Heroin & Opioid Prevention & Enforcement Act](#), summarized in the May 31, 2018 Weekly Legislative Report, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature. The bill would make numerous changes to our Controlled Substances Act and criminal drug laws and would provide drug investigators with local law enforcement agencies who meet certain criteria access to the Controlled Substances Reporting System (CSRS). **The North Carolina Sheriffs' Association SUPPORTS this bill.**

[SENATE BILL 630](#), Revise IVC Laws to Improve Behavioral Health, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature. The bill would make numerous changes to the involuntary commitment process. Those changes of interest to the criminal justice community are:

1. Each local management entity/managed care organization (LME/MCO) would be required to adopt a Community Crisis Services Plan (“Plan”). The Plan would be made up of separate “local area crisis services plans” (“Local Plan”) which would be developed by the LME/MCO, local law enforcement agencies, hospitals, magistrates, and area facilities. No Local Plan would be effective unless all participants agree to the Local Plan in writing, including local law enforcement.
2. Among other responsibilities, the Local Plan would designate the facilities that respondents under an involuntary commitment (IVC) order would be taken to for a first examination. This first examination would also include a health screening. The first examination and health screening would occur at the same facility and would not require additional transportation of the respondent by law enforcement.
3. The Local Plan would identify transportation and custody training courses for law enforcement officers and other designated persons. Law enforcement would not be required to participate in the training but may request to attend. Persons other than law enforcement officers who are designated in the Local Plan to provide custody and transportation of respondents would be required to participate in the training. The training would address use of de-escalation strategies and techniques, the use of restraints, the rights of respondents and the proper completion of custody orders.
4. The Local Plan would contain an involuntary commitment transportation agreement adopted by the city or county governing body, which would allow the city or county to designate individuals other than law enforcement officers to provide all or part of the custody and transportation requirements for an IVC.
5. Law enforcement would be required to transport respondents to an emergency department if the respondent has a medical emergency. The transporting officer would need to evaluate each respondent to determine whether transport to a facility or emergency department is warranted.
6. The bill would require a law enforcement officer to use every effort to avoid restraining a child under 10 years of age. The officer would be authorized to use restraints when the child’s behavior or other circumstances make restraint necessary. Law enforcement officers would still be authorized to use reasonable force to restrain all other respondents if necessary to protect the officer, the respondent or others.
7. The bill would require law enforcement officers to answer questions from a facility concerning the use of restraints during an IVC transport, unless that information is confidential or would compromise an investigation, such as an internal investigation or criminal investigation.

8. The bill would also allow, but not require, the sharing of confidential information between a sheriff and a facility regarding an inmate confined in the county jail who is in need of treatment for mental illness, developmental disabilities or substance abuse.
9. If a respondent is required to be transported to a 24-hour facility, law enforcement officers or other designated persons would be required to commence the transport within six hours of receiving a request for transportation, to the extent that is feasible.

The North Carolina Sheriffs' Association opposed this bill as drafted in 2017 but it was amended in 2018 to satisfactorily address concerns with the bill.

[SENATE BILL 655](#), Change Date When Primary Elections Held, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature. The bill would change the date on which primary elections are held, including primary elections for sheriff and all other county offices, from the current month of May to March. An individual who files a notice of candidacy with the State Board of Elections or a county board of elections would be required to do so no later than 12:00 noon on the third Friday in December preceding the primary. Currently, the notice of candidacy must be filed by the last business day in February.

This bill would become effective January 1, 2019 and would apply to even-year elections held on or after that date. Therefore, this legislation would have no effect on the schedule for the 2018 elections for the Office of Sheriff.

[SENATE BILL 711](#), NC Farm Act of 2018, summarized in the June 8, 2018 Weekly Legislative Report, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature.

[SENATE BILL 721](#), Required Training Police Communicators, summarized in the May 18, 2018 Weekly Legislative Report, has passed the Senate, has been sent to the House for consideration and has been referred to the Committee on Rules, Calendar and Operations of the House.

[SENATE BILL 750](#), Health-Local Confinement/Vet. Controlled Sub., has been approved by the General Assembly and sent to Governor Roy Cooper for his signature. The bill has a provision that was added at the request of the North Carolina Sheriffs' Association that would require a transporting officer of an involuntary commitment respondent to immediately seek medical assistance if the respondent has a medical emergency. [Senate Bill 630](#), summarized above, requires the transporting officer to take the respondent to an emergency department. This bill would give the transporting officer more flexibility in seeking medical assistance for respondents, such as by taking the respondent to a local fire department if the circumstances necessitate this action.

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.

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