

North Carolina Sheriffs' Association

Proudly Serving the Sheriffs and Citizens of North Carolina since 1922



Weekly Legislative Report

March 1, 2019

On Monday evening, Governor Roy A. Cooper delivered his “State of the State” address to a joint session of the House and Senate held in the House Chamber. In addition to members of the General Assembly in attendance, members of the Supreme Court, Court of Appeals, and the Governor’s Cabinet were in attendance. Sheriff James Clemmons, President of the North Carolina Sheriffs’ Association, attended along with other dignitaries.

New legislation continues to be introduced. Various House and Senate committees have been meeting and some legislation has been approved. The pace seems to be a little faster at the beginning of this legislative session than in the past, however, there are still several weeks prior to the bill filing deadlines, and there will no doubt be many more legislative bills introduced.

The bulk of the work this week and for the remainder of March has been and will be on the appropriations process. The House and Senate appropriations subcommittees are meeting jointly to review their specific areas of interest. The appropriations subcommittees on Justice and Public Safety deal with most of the issues relevant to sheriffs, law-enforcement agencies and other criminal justice professionals.

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

BILLS OF INTEREST

[HOUSE BILL 157](#), DMV/Registration of Bicycles, would require any bicycle used by someone 16 years of age or older on a public street or highway to be registered with the North Carolina Division of Motor Vehicles (DMV). The fee for registration would be \$10 annually and the DMV would issue a registration card and a registration plate to affix to the bicycle. Failure to register a bicycle would be an infraction and would be punishable by a fine up to \$25. Currently, bicycles are not required to be registered. **Introduced by Representative Elmore, and assigned to the House Committee on Transportation.**

[HOUSE BILL 159](#), State Search and Rescue Funding, would appropriate \$2.3 million dollars to the North Carolina Department of Public Safety (DPS), Division of Emergency Management, for the 2019-2020 fiscal year and \$2.3 million in recurring funds for the 2020-2021 fiscal year to be used to support the State Search and Rescue Program.

These funds would be used to help local governments supplement the cost of purchasing and maintaining search and rescue equipment and to provide other items necessary to ensure statewide

search and rescue services. The bill would authorize the Secretary of DPS to establish match requirements for local agencies to receive funds, such as by the local agency matching their award with either cash payments or in-kind contributions. **Introduced by Representative Davis, and assigned to the House Committee on State and Local Government.**

[HOUSE BILL 179, Mini-Truck Classification](#), would create a new definition for “mini-truck” in our motor vehicle laws. A mini-truck would be a four-wheel motor vehicle with an engine displacement of 660 cubic centimeters or less that is designed primarily for the transportation of property, has an overall length of 130 inches (10 feet) or less, has an overall width of 60 inches (5 feet) or less, and has an overall height of 78 inches (6 ½ feet) or less. Mini-trucks are small light trucks, also known as micro-trucks, that are often used for low tonnage delivery services in urban areas.

The bill would limit the use of mini-trucks to streets and highways where the posted speed limit is 55 miles per hour or less. Mini-trucks would need to be insured and registered with the North Carolina Division of Motor Vehicles and would have to be equipped with the common safety features associated with a motor vehicle, such as headlamps, stop lamps, turn signal lamps, tail lamps, windshield wipers, speedometer and seat belts. **Introduced by Representative Davis, and assigned to the House Committee on Transportation.**

[HOUSE BILL 188, Retirement Administrative Changes 2019](#), makes various administrative changes to the laws related to the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System. Among those, the bill would make permanent the option of sheriffs to transfer their sick leave accrued under the Local Governmental Employees' Retirement System to the Sheriffs' Supplemental Pension Fund, so that the sick leave would count towards the sheriffs' eligible service under the Sheriffs' Supplemental Pension Fund. Currently, this option must be exercised prior to July 1, 2022. The bill would remove this time deadline and allow eligible sheriffs to exercise this option at any time in the future. **Introduced by Representatives Ross and McNeill, and assigned to the Committee on Rules, Calendar and Operations of the House.**

[HOUSE BILL 198, Human Trafficking Commission Recommendations](#), would clarify that the criminal offense of sexual servitude also includes a person who obtains another for the purpose of sexual servitude. Currently, the offense is limited to those persons who knowingly or recklessly subjects or maintains a person for sexual servitude.

The bill would also create the new criminal offense of “promoting travel for unlawful sexual conduct.” It would be a Class G felony to sell or offer to sell any travel services, such as a travel package, that the person knows would include conduct such as prostitution, sexual exploitation of a minor, or indecent liberties with a minor.

The bill would create a new civil claim for a victim of human trafficking that would allow the victim to collect from a person who violated the State's human trafficking laws, money damages, attorneys' fees, and compensation for things such as loss of income and costs associated with medical care and psychological treatment. The bill would allow a victim to file the civil claim within 10 years of the abuse occurring, or if the victim was a minor, within 10 years after reaching

the age of 18.

In addition, the bill would expand the ability of a human trafficking victim to obtain an expunction of a nonviolent misdemeanor or felony convictions so long as the court finds that the victim was “coerced or deceived” into committing the offense(s) as a result of being the victim of human trafficking. However, Class A through G felony offenses and certain serious misdemeanor offenses, such as those involving assault, stalking, or that would require registration under our sex offender registry laws, would not qualify for expunction. Currently, a human trafficking victim could obtain an expunction of a prostitution offense if they otherwise qualify for an expungement.

Finally, the bill would appropriate \$250,000 in recurring funds to the North Carolina Administrative Office of the Courts to support the North Carolina Human Trafficking Commission. **Introduced by Representatives Davis, Stevens, Jarvis and Carter, and assigned to the House Committee on Judiciary.**

[HOUSE BILL 202](#), Amend Expunction, would allow an individual to have all of their convictions for non-violent felonies and non-violent misdemeanors expunged from their record so long as the individual does not have another misdemeanor or felony conviction that is excluded from expunction, such as a violent felony conviction. Also, an individual would be allowed to have their convictions for non-violent felonies and non-violent misdemeanors combined for purposes of having them expunged from their record. Currently, an individual is limited to have one non-violent felony conviction expunged or one non-violent misdemeanor conviction expunged. **Introduced by Representatives Floyd, Beasley, Hardister and Lucas, and assigned to the House Committee on Judiciary.**

[HOUSE BILL 211](#), Various DMV Changes, would modify the definition of “fuel cell electric vehicle” and “plug-in electric vehicle” to clarify that these vehicles do not have the ability to also run on gasoline, such as a hybrid vehicle that has the ability to switch between gasoline operation and fuel cell operation. **Introduced by Representative Shephard, and assigned to the House Committee on Transportation.**

[HOUSE BILL 212](#), Break or Enter Pharmacy/Increase Penalty, is identical to [Senate Bill 151](#), which is listed below in this Weekly Legislative report. The bill would create the new criminal offense of breaking or entering a pharmacy. The bill would make it a Class D felony for a person to break into or enter a pharmacy with the intent to steal opioids.

The bill would also make it a Class F felony for a person to receive or possess any property that was stolen from a pharmacy resulting from this breaking or entering offense if the person receiving the property knew or should have known it was stolen. This would include, for example, someone who purchased opioids illegally knowing the drugs were stolen from a pharmacy. **Introduced by Representatives Sasser, C. Smith, Murphy and Horn, and assigned to the House Committee on Judiciary.**

[HOUSE BILL 216](#), School Self-Defense Act, would allow either a part-time or full-time member of the faculty or staff of a school to possess a handgun on school grounds if the member obtains a valid North Carolina concealed handgun permit and meets the criteria to become a “volunteer

school faculty guardian” (VSFG).

The VSFG would be required to provide their employer with: (1) annual proof of a valid North Carolina concealed handgun permit; (2) annual proof of proficiency with the type of handgun and retention system (holster) used; (3) annual proof of taking a drug test; and (4) proof of completion of 16 hours of active shooter training, in order to qualify to possess a handgun on school grounds.

The VSFG would only be allowed to possess the handgun on school grounds while engaged in employment activities and would be required to keep the handgun concealed unless responding to an imminent threat of violence, which would be an act that a reasonable person believes would lead to injury or death.

The North Carolina Criminal Justice Education and Training Standards Commission would be required to develop and administer the active shooter training necessary for the VSFG to carry a concealed handgun on school grounds. **Introduced by Representative Pittman, and assigned to the Committee on Rules, Calendar and Operations of the House.**

[HOUSE BILL 224](#), Assault w/Firearm on LEO/Increase Punishment, would increase the penalty from a Class E felony to a Class D felony for any person to commit an assault with a firearm upon a law enforcement officer, probation officer or parole officer while the person is in the performance of their official duties. **Introduced by Representatives Moore, Hastings, C. Smith and Barnes, and assigned to the House Committee on Judiciary.**

[HOUSE BILL 227](#), Funds for Highway Cameras Storage, would appropriate to the North Carolina Department of Transportation (DOT) \$1.5 million in recurring funds for the 2019-2020 fiscal year to record and store images on DOT highway cameras. **Introduced by Representative Logan.**

[HOUSE BILL 228](#), Modernize Laws Pertaining to NC Medical Board, would create the new criminal offense of sexual contact or penetration under pretext of medical treatment. It would be a class C felony for any person to provide medical treatment, such as a medical examination or medical procedure, and to engage in any form of sexual touching or penetration of a patient for the purpose of sexual arousal or gratification, or if done for any sexual purpose or in a sexual manner. **Introduced by Representative Murphy.**

[HOUSE BILL 231](#), The Harrison Kowiak Act, would make various changes to our laws related to hazing. Of interest to the criminal justice community, the bill would increase the penalty for hazing from a Class 2 misdemeanor to a Class H felony. The punishment would be a Class D felony if the hazing resulted in serious bodily injury or death of the victim or involved forced or coerced alcohol consumption where the victim had a blood alcohol concentration of .30 or higher.

The bill would also make it a Class A1 misdemeanor if a representative or officer of an organization knew that a member was hazed, or was hazing another member, and failed to report the activity to law enforcement. The fact that a person consented or acquiesced to the hazing would not be a defense for any of these offenses.

The definition of hazing would be expanded to include subjecting individuals to acts that may

result in physical injury, severe emotional distress, or involve the commission of a crime. Currently, only physical injury is included in the definition of hazing. **Introduced by Representative Setzer.**

[SENATE BILL 129](#), Advanced Cert. Service Purchase Option/LEOs, is identical to [Senate Bill 85](#), which is summarized in the February 22, 2019 Weekly Legislative Report. **Introduced by Senator Steinburg, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 137](#), Economic Security Act, makes various changes to the State's employment laws. Among those, the bill would prohibit a public employer, such as the State of North Carolina or any city or county, from asking about or considering an applicant's criminal history until after a conditional offer of employment has been made to the applicant. Therefore, no initial application for employment with a public employer would be able to contain a question or inquiry regarding the applicant's criminal history.

This bill would also provide that a public employer could not deny employment to an applicant based on the person's criminal history unless the crimes are "substantially related" to the qualifications, functions or duties of the position. Criminal history would be defined to not include a record of arrest not resulting in conviction. An arrest not resulting in a conviction could not form the basis of denying a person public employment, even if the offense was "substantially related" to the employment.

In addition, the bill would require a public employer who denies employment due to a criminal history to notify the applicant of the denial and allow the applicant the opportunity to contest the accuracy of the criminal record.

It is not clear whether these restrictions would apply to positions for which a hiring authority is required by law to consider the criminal record of the applicant, which presently would include law enforcement agencies.

Finally, the bill would repeal the prohibition on public employee collective bargaining. Consequently, it would allow public employees to form labor unions. **The portions of this bill that would repeal the prohibition on public employee collective bargaining are OPPOSED by the North Carolina Sheriffs' Association.** **Introduced by Senators Smith, Foushee and Van Duyn, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 148](#), Public Records/Release of LEO Recordings, would expand the circumstances when a law enforcement agency could release, without a court order, law enforcement recordings such as body-worn camera or dashboard camera recordings. The bill would allow these recordings to be released to the public, in the sole discretion of the agency, for purposes of suspect identification or apprehension or for noncriminal investigative purposes such as community goodwill. Currently, a law enforcement agency may not release these recordings to the public without a court order but can release the recordings to another law enforcement agency for law enforcement purposes or for training purposes. **Introduced by Senator D. Davis, and assigned to the Senate Committee on Judiciary.**

[SENATE BILL 151](#), Break or Enter Pharmacy/Increase Penalty, is identical to [House Bill 212](#), which is summarized above in this Weekly Legislative Report. **Introduced by Senators McInnis, Britt and J. Davis, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 155](#), Assess Costs of Local LEO Crime Lab Analysis, would clarify that the \$600 crime laboratory fee that can be assessed upon a defendant's conviction in a case involving laboratory analysis would be extended to all laboratories, including private laboratories used by law enforcement agencies. Currently, the fee is limited to those laboratory facilities operated by a local government or group of local governments. **Introduced by Senators J. Jackson, Bishop and Daniel, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 156](#), Conditions of Pretrial Detention, would clarify that any conditions of release placed on a defendant, such as the condition to not contact the victim, would apply even while the defendant remains in custody awaiting trial or pretrial release. **Introduced by Senators J. Jackson, Bishop and Daniel, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 165](#), Off-Track Pari-Mutuel Betting, would give the North Carolina State Lottery Commission (Commission) the exclusive authority to regulate and issue licenses for off-track "pari-mutuel" horse race wagering in North Carolina. It would be unlawful to hold off-track pari-mutuel horse race wagering in North Carolina without a license issued by the Commission.

Pari-mutuel wagering would be defined as a form of betting on the outcome of horse races where all the wagers for each horse race are pooled and held by a licensed organization for distribution to the winning betters. Counties and cities would not be allowed to enact any ordinances or regulations relating to pari-mutuel horse race wagering.

It would be a Class 1 misdemeanor to allow a person under the age of 18 to participate in pari-mutuel wagering or for a person under the age of 18 to participate in pari-mutuel wagering. **Introduced by Senator Fitch, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 167](#), Healthy Mother Healthy Child, 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 restraints are necessary to prevent the woman from injuring herself or others and the woman cannot be reasonably restrained by using other methods, such as by having additional personnel assist in restraining the woman.

No leg or waist restraints would be able to be used on any prisoner or detainee who is in labor, regardless of the circumstances. If restraints are used, 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 what the extraordinary circumstances were that required the use of restraints. This bill would apply to any State prison, local confinement facility (jail) and juvenile detention facility.

Introduced by Senators Smith and Foushee, and assigned to the Committee on Rules and Operations of the Senate.

[SENATE BILL 168](#), Expand Allowable Medical Uses of CBD Oil, would expand the medical use of “hemp extract” and allow hemp extract to be possessed and used to treat autism, multiple sclerosis, Crohn’s disease and Mitochondrial disease under certain conditions. Hemp extract is derived from a cannabis plant and has less than .9% tetrahydrocannabinol (THC), at least 5% cannabidiol, and contains no other psychoactive substance. A patient would have to be referred by a physician to use the hemp extract. Currently, this hemp extract use and possession is limited to treat epilepsy. **Introduced by Senators McKissick and Hise, and assigned to the Committee on Rules and Operations of the Senate.**

BILL STATUS

[HOUSE BILL 67](#), Road Barrier Prohibition, would clarify that the Class 1 misdemeanor offense of driving onto roadways that have been closed by the North Carolina Department of Transportation due to construction or hazardous conditions would not apply to law enforcement, first responders, emergency management personnel, or Department of Transportation personnel when they are acting within the scope of their official duties.

The bill has been amended to include in the list of persons exempt from this offense, those individuals who are working on the installation, restoration or maintenance of utility services so long as the work is being conducted in coordination with the North Carolina Department of Transportation.

[HOUSE BILL 77](#), Electric Standup Scooters, would define “electric standup scooter” as a device with no more than three (3) twelve-inch or smaller wheels with handlebars that is designed to be ridden while standing, and that is powered by an electric motor that cannot go faster than 20 miles per hour on a paved, level surface. The bill would exclude electric standup scooters from the definitions of motor vehicle and moped but would include it in the definition of a vehicle.

The bill has been amended to remove the provisions of the original bill allowing an electric standup scooter to be operated on public highways with speed limits of 35 miles per hour or less, and on sidewalks and bicycle paths. Also removed from the bill are the provisions allowing a municipality to regulate by ordinance the time, place and manner in which standup scooters could be used on sidewalks, alleys, bridges and other ways of passage within the municipality.

[HOUSE BILL 122](#), Criminal Information Network/Revise Fee, has been amended to correctly name the entity that maintains the Criminal Information Network (Network) as the North Carolina State Bureau of Investigation (SBI) instead of the North Carolina Department of Public Safety.

The bill would also change the fee structure for agency use of the Network. The SBI would be allowed to charge up to \$21 per month for each user of the Network. Currently, agencies are required to pay a \$300 monthly fee plus a \$25 monthly fee for each desktop device that is used to access the Network and a \$12 monthly fee for each mobile device used to access the Network.

[HOUSE BILL 130](#), Allow Game Nights, has been amended to require game night vendors to obtain permits to operate and register their gaming equipment with the Alcohol Law Enforcement (ALE) Branch of the Department of Public Safety. This would be in addition to the requirement that nonprofit organizations receive permits from ALE to operate a game night. The amendment would also remove the ability for ALE to approve games other than roulette, blackjack, poker, craps, simulated horse race, and merchandise wheel of fortune.

[SENATE BILL 29](#), Move Over Law/Increase Penalties, has passed the Senate and has been sent to the House for their consideration. The bill would increase the penalties for drivers who fail to slow their vehicle or move their vehicle over in response to a parked or standing public service vehicle, such as a patrol car, when the vehicle is operating its emergency lights by increasing the punishment from an infraction to a Class 3 misdemeanor.

If the failure of a driver to move over caused serious injury or death to a law enforcement officer, firefighter, emergency vehicle operator, incident management assistance patrol member, public service vehicle operator, or any other emergency response person the punishment would be increased from a Class I to a Class F felony.

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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