

North Carolina Sheriffs' Association

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Weekly Legislative Report

March 8, 2019

This week Governor Roy Cooper released his recommended budget for 2019 - 2021 that totals \$25.2 billion. Soon, the General Assembly Appropriations Committees will begin going through the Governor's recommended budget and identifying those recommendations that they agree with, and those recommendations of the Governor that the legislature does not agree with. As the budget process unfolds over the next several months, there will certainly be new budget priorities from the General Assembly considered that were not included in the Governor's recommended budget.

This year, the House prepares their proposed budget first and then sends it to the Senate. The Senate will then prepare their own version of the budget, send it back to the House, and then the House and Senate will meet to reconcile the differences between their two versions of the budget.

On Thursday, Associate Justice Cheri Beasley of the Supreme Court of North Carolina was formally installed as Chief Justice of the Supreme Court. The courtroom of the Supreme Court was full, and overflow seating was provided in the State Capitol building as well as in the First Baptist Church. Hundreds of court officials and other dignitaries from across the State attended the ceremony, including over 40 North Carolina sheriffs. Now that Justice Beasley has been elevated to Chief Justice, Governor Roy Cooper will appoint a replacement to fill the seat on the Supreme Court that Chief Justice Beasley previously held.

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

BILLS OF INTEREST

[HOUSE BILL 257](#), [Motorcycles/Face Masks](#), would allow the operator of a motorcycle on a public road or highway to use a "facemask" to protect the operator's head or face. Currently, it is unlawful to wear a mask in public to conceal the identity of a person, unless certain exceptions apply, such as on the Halloween holiday. **Introduced by Representative Bumgardner, and assigned to the House Committee on Transportation.**

[HOUSE BILL 267](#), [Require Safety Helmets/Under 21](#), would allow a person to operate a motorcycle on a public road or highway without a safety helmet if the person has held a motorcycle license or motorcycle endorsement for more than 12 months or if the person has completed a safety course offered by the Motorcycle Safety Instruction Program.

The bill would also allow a person who meets the above criteria to also ride as a passenger on a motorcycle without a safety helmet. Currently, any person operating or riding on a motorcycle must wear a safety helmet. **Introduced by Representative Torbett, and assigned to the House Committee on Transportation.**

[HOUSE BILL 273](#), [Add Member to NC Training Standards Commiss.](#), is identical to [Senate Bill 185](#), which is listed below in this Weekly Legislative Report. The bill would increase the members of the North Carolina Criminal Justice Education and Training Standards Commission from 34 to 35 members. The bill would allow the North Carolina Police Benevolent Association to appoint one full-time sworn law enforcement officer to the Commission. **Introduced by Representatives Riddell, Ross, Hardister and Cunningham, and assigned to the House Committee on State and Local Government.**

[HOUSE BILL 283](#), [Conner's Law](#), would increase the penalty for an assault with a firearm upon a law enforcement officer, probation officer or parole officer while in the performance of their duties from a Class E felony to a Class D felony.

The bill would also create an additional \$100,000 death benefit for the spouse or dependents of a law enforcement officer who is "murdered in the line of duty." This would apply to State and local law enforcement officers and would also apply to detention officers working for a sheriff, custodial employees of the North Carolina Department of Public Safety (DPS), to probation and parole officers employed by DPS and to various other covered persons.

Murdered in the line of duty would be defined as a covered person that is killed in the line of duty in a manner reasonably determined by the North Carolina Industrial Commission to be directly caused by the intentional harmful act of another person.

Currently, a \$100,000 regular death benefit is available to the spouse or dependents of a covered person that is killed in the line of duty. This \$100,000 death benefit for a law enforcement officer that is murdered in the line of duty would be in addition to any other death benefit the family may be entitled to receive through a claim filed with the North Carolina Industrial Commission. **Introduced by Representatives Jones, Bell, Moore and Hastings, and assigned to the House Committee on Judiciary.**

[HOUSE BILL 284](#), [Expunction Law Revisions](#), would allow an individual convicted of a violent felony or a violent misdemeanor to have the conviction expunged after eight years has passed from the date of conviction or the completion of the sentence, whichever is later. A violent felony or violent misdemeanor would be defined as any felony or misdemeanor not listed in particular categories of crimes. An example of a violent felony or violent misdemeanor would be the felony offense of impersonating a law enforcement officer and the misdemeanor offense of communicating threats.

The bill would also reduce the waiting time for petitioning for an expunction of nonviolent felony or nonviolent misdemeanor convictions from 10 years to five years. **Introduced by Representatives Alexander, Hunter, Harrison and Logan, and assigned to the House Committee on Judiciary.**

[HOUSE BILL 288](#), First Aid and Safety Training in Schools, would require each local board of education to place in public schools under the control of the North Carolina State Board of Education at least one “trauma kit” at an appropriate and easily accessible location in each classroom of every public school. The bill would require a local board of education to coordinate with local law enforcement and emergency management on the placement of these trauma kits.

A trauma kit would be defined as a first aid response kit that contains, among other things, wound dressings, a tourniquet, trauma shears, nitrile gloves, compressed gauze and instructional documents developed by the North Carolina Department of Public Instruction.

Finally, the bill would require biannual training on the appropriate use of a trauma kit for all school personnel who are reasonably expected to use the kit, as determined by the superintendent or equivalent administrator of the public school unit. The training would be provided or contracted for by the North Carolina Department of Public Instruction and the North Carolina Center for Safer Schools, in consultation with the North Carolina Department of Public Safety. The training would include, among other topics, instruction on best practices for active shooter preparedness and response. **Introduced by Representatives Henson, Torbett, Lewis and Murphy, and assigned to the House Committee on Education K-12.**

[HOUSE BILL 289](#), POW/MIA Special Registration Plate, would require the North Carolina Division of Motor Vehicles to produce a “POW/MIA Bring Them Home” registration plate. The POW/MIA Bring Them Home registration plate would cost an additional \$10 above the regular motor vehicle registration fees. **Introduced by Representatives Cleveland, Shepard, Torbett and Speciale, and assigned to the House Committee on Transportation.**

[HOUSE BILL 293](#), Amend Funeral Procession Law, would clarify that funeral processions have the right-of-way at intersections regardless of traffic control signs or signals. The bill would provide that when the lead vehicle in a funeral procession has lawfully passed through an intersection, then all vehicles in the procession could proceed through the intersection without stopping. The driver of any funeral procession vehicle would have to exercise reasonable care toward any other vehicle or pedestrian on the highway when participating in a funeral procession. **Introduced by Representatives Alexander, Hunter and Boles, and assigned to the House Committee on Transportation.**

[HOUSE BILL 296](#), Respect for Families of Law Enforcement, would allow the clerk of superior court to waive any costs and fees for special proceedings, such as incompetency and guardianship proceedings, when those proceedings arise from injuries sustained by a sworn law enforcement officer in the line of duty. **Introduced by Representatives Ball, McNeill, Reives and C. Smith, and assigned to the House Committee on Judiciary.**

[HOUSE BILL 307](#), Right-of-Way for Left-Turning Farm Equipment, would clarify that it would be an infraction for a driver of a vehicle to overtake and pass, in the same direction of travel, self-propelled farm equipment (such as a tractor) when the farm equipment is making a left turn or is signaling that it intends to make a left turn. **Introduced by Representatives Dixon, Brisson, Humphrey and R. Turner.**

[HOUSE BILL 312](#), [Hate Crimes Prevention Act](#), is identical to [Senate Bill 209](#), which is listed below in this Weekly Legislative Report. The bill would expand the categories under which a crime would be increased to a higher-level offense as a hate crime. In addition to the categories of race, color, religion, nationality or country of origin, the bill would include crimes committed because of the victim's ethnicity, gender, gender identity, gender expression, disability, or sexual orientation. The bill would increase Class 2 or Class 3 misdemeanors committed for these reasons to a Class 1 misdemeanor and would increase Class A1 or Class 1 misdemeanors committed for these reasons to a Class H felony.

The bill would expand the categories covering the crime of ethnic intimidation to include ethnicity, gender, gender identity, gender expression, disability, and sexual orientation. Currently, this offense is committed if an offender assaults another person or damages or defaces the property of another person because of their race, color, religion, nationality or country of origin.

The bill would also create the new criminal offense of "felonious assault as a hate crime." It would be a Class F felony to assault someone and inflict serious bodily injury on the person because of the victim's race, ethnicity, color, religion, nationality, country of origin, disability, gender, gender identity, or sexual orientation. The bill would make it a Class E felony if the victim dies because of the assault, or if the crime involved kidnapping, forcible rape or a forcible sex offense.

The bill would require the North Carolina State Bureau of Investigation (SBI) to establish a Hate Crimes Statistics Database (HCSD) to collect, analyze and disseminate information related to the commission of hate crimes. The type of information collected would include but not be limited to the total number of offenses committed, the characteristics of the person who committed the offense (such as the age and sex of the offender) and the disposition of each criminal case. State and local law enforcement agencies would be required to report this information to the SBI monthly for offenses committed during the preceding month. The bill would allow the SBI to share information contained in the HCSD with a local law enforcement agency, a unit of local government or a State agency.

In addition, the bill would require law enforcement training to be developed by the North Carolina Justice Academy on how to identify, respond to and report on a hate crime. The bill would also include hate crime training as part of the in-service training and minimum training standards through the North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission.

Finally, the bill would appropriate to the SBI \$1.8 million in nonrecurring funds for the 2020-2021 fiscal year for the establishment of the HCSD. The bill would also appropriate to the SBI \$530,000 in recurring funds for the 2020-2021 fiscal year to hire an additional employee to manage the HCSD. **Introduced by Representatives Majeed, Harrison, Meyer and Martin.**

[SENATE BILL 178](#), [Modernize Laws Pertaining to NC Medical Board](#), is identical to [House Bill 228](#), which was summarized in the March 1, 2019 Weekly Legislative Report. The bill 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 Senator Bishop, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 185](#), Add Member to NC Training Standards Commis., is identical to [House Bill 273](#), which is summarized above in this Weekly Legislative Report. **Introduced by Senators Sanderson, Krawiec and Johnson, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 191](#), Out-of-State Law Enforcement/2020 Rep Convtn, would allow the head of a municipal police department within a municipality that has a population exceeding 500,000 people to enter into an “intergovernmental law enforcement agreement” with out-of-state law enforcement agencies or officers for assistance in maintaining security and safety at “the National Convention.” 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 bill does not define what is meant by the National Convention, but this would presumably refer to the Republican National Convention taking place in Charlotte, North Carolina on August 24-27, 2020.

The intergovernmental law enforcement agreement would allow out-of-state agencies or officers to provide a North Carolina municipal police department in a municipality that has a population exceeding 500,000 with temporary assistance at the National Convention by furnishing supplies, equipment, and personnel as might be needed by the requesting North Carolina law enforcement agency.

The intergovernmental law enforcement 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 personnel and protocols for processing any claims that may be made against the out-of-state officer resulting from 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 law enforcement 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, any intergovernmental law enforcement agreement would have to be in compliance with any rules, policies or guidelines that have been adopted by the local governing body of the agency

making the request, such as a local city council.

If enacted into law, these provisions allowing intergovernmental law enforcement agreements would expire October 1, 2020. **Introduced by Senators Waddell and Bishop, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 192](#), [School Security Act of 2019](#), would create the position of Teacher Resource Officer (TRO) in public schools. A TRO would be a teacher who has completed Basic Law Enforcement Training (BLET) and is certified as a sworn law enforcement officer through either the North Carolina Sheriffs' Education and Training Standards Commission or the North Carolina Criminal Justice Education and Training Standards Commission. A TRO would be entitled to a salary supplement each month amounting to 5% of their monthly salary.

Individuals selected by a public school to become a TRO would be required to apply for certification through either the sheriff's office or city or county police department that has jurisdiction over their particular school. If the sheriff or police chief declines to allow certification of the teacher, the public school would be required to pursue certification on behalf of the teacher through the North Carolina Criminal Justice Education and Training Standards Commission. This bill would make an employing public school a criminal justice agency for purposes of seeking certification of TROs through the North Carolina Criminal Justice Education and Training Standards Commission.

A TRO would have subject matter jurisdiction to arrest for all felonies and misdemeanors and to charge for infractions. A TRO's territorial jurisdiction would include: (1) real property owned by or in the possession of the employing public school; (2) any portion of any public road or highway passing through the real property of the school; and (3) other real property while in continuous and immediate pursuit. Additionally, the employing public school would have the authority, with certain limitations, to enter into extraterritorial agreements with local law enforcement agencies to expand the territorial jurisdiction of the TRO.

The North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission would both be authorized to establish active shooter training for TROs.

A TRO who is certified through a sheriff's office or a police department would report to the sheriff or chief of police, as appropriate, and would work under their direction and supervision when carrying out duties related to their role as a law enforcement officer. All other aspects of the TRO's job would be managed by the employing public school.

The bill would also make changes regarding firearms on private schools and private church schools. Private church schools would be encouraged to adopt a School Risk Management Plan (SRMP) relating to school violence and to provide schematic diagrams and keys to the school facilities to local law enforcement agencies. The private church school board of trustees or school administrative director would be authorized to allow a person with a valid concealed handgun permit to possess and carry a handgun on the private church school property.

Other private schools would also be encouraged to adopt SRMPs related to school violence and to provide schematic diagrams and keys to school facilities to local law enforcement. The private school board of trustees or school administrative director, with the consent of the local sheriff, would be able to authorize a person with a concealed handgun permit to possess and carry a handgun on the private educational property.

Finally, any person with a valid concealed handgun permit would be authorized to possess and carry certain weapons in a place of religious worship that is located on educational property when students are not attending class. This authority would allow the individual to carry a handgun while the person is attending worship services and other functions at the place of religious worship. **Introduced by Senators Daniel, Hise and Tillman, and assigned to the Committee on Rules and Operations of the Senate.**

SENATE BILL 199, Child Sex Abuse/Strengthen Laws, would create the new criminal offense of “failure to report crimes against juveniles.” It would be a Class 1 misdemeanor for any person or institution suspecting that a juvenile has been the victim of a crime to fail to immediately report the matter to a local law enforcement agency in the county where the child resides or is found.

The report would have to contain the name and address of the juvenile and the juvenile’s parent(s), guardian or custodian, in addition to the location of the juvenile and the nature and extent of the injury or condition of the juvenile that forms the basis of the abuse.

The bill would increase the statute of limitations from two years to 10 years for certain misdemeanor “crimes of abuse” committed against a victim under the age of 18. A crime of abuse would include offenses such as misdemeanor child abuse, concealing the birth of a child, indecent liberties between children, stalking and communicating threats.

This bill would also make it unlawful for a “high-risk” sex offender to go on a Web site that prohibits sex offenders from being on the site, such as Facebook, and would prohibit high-risk sex offenders from using a “commercial social networking Web site” to contact a person under the age of 16 or pose as someone under that age, to access the 16 year old’s profile page, or to join an online group containing someone under the age of 16.

A commercial social networking website would be defined to include any Web site, application, or other means of accessing the internet that has a membership fee or advertising, allows personal Web pages, and provides communication between visitors. Specifically excluded from this definition are Web sites of the news media, sites used for professional networking, or those operated by a government agency.

A high-risk sex offender would be defined as a person required to register as a sex offender and who has a conviction of a sexually violent offense against a person under the age of 18, any offense against a minor, or is classified as an aggravated offender, sexually violent predator, or recidivist and the victim is under the age of 18, as these terms are defined in North Carolina’s Sex Offender and Public Protection Registration Programs.

The bill would require the North Carolina Department of Public Safety to provide each sheriff’s

office with forms for collecting internet protocol (IP) addresses at the registrant's residence or place of work, or otherwise under the registrant's control. It would be a Class F felony if any person required to register as a sex offender fails to provide these IP addresses. In addition, a violation of the restrictions on the use of commercial social networking Web sites set out above would be a Class G felony.

Currently, there is no prohibition of sex offenders being on social networking Web sites because the Supreme Court of the United States held in Packingham v. North Carolina, 137 S. Ct. 1730 (2017), that North Carolina's previous law restricting registered sex offenders from being on social networking Web sites was unconstitutional as written.

Finally, the bill would increase the statute of limitations for the filing of a civil lawsuit by a victim of child sex abuse to allow the victim until the age of 50 to file the lawsuit. Currently, the lawsuit must be filed within 10 years of the victim turning the age of 18. **Introduced by Senators Britt, Harrington and Chaudhuri, and assigned to the Committee on Rules and Operations of the Senate.**

SENATE BILL 200, Human Trafficking Commission Recommendations, is identical to House Bill 198, which was summarized in the March 1, 2019 Weekly Legislative Report. The bill 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 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 also 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 expunction.

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 Senator Britt, and assigned to the Committee on Rules and**

Operations of the Senate.

[SENATE BILL 202](#), [DMV/High-Risk Driving Behaviors](#), would require the North Carolina Division of Motor Vehicles (DMV) to develop, in consultation with the North Carolina Department of Public Safety, a program to educate the public on: (1) the dangers of texting while driving; (2) the requirements to move a vehicle over for a first responder displaying emergency lights; and (3) on speed limits and other restrictions in school zones and construction zones.

The bill would also require the DMV to develop and execute an advertising campaign to educate the public on the risks associated with high-risk driving behaviors. Finally, the bill would require the DMV to incorporate high-risk driving behavior testing into the written, traffic sign and driving skills tests administered by DMV. **Introduced by Senators Britt, McInnis and McKissick, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 209](#), [Hate Crimes Prevention Act](#), is identical to [House Bill 312](#), which is summarized above in this Weekly Legislative Report. **Introduced by Senators Chaudhuri, Foushee and Mohammed.**

BILL STATUS

[HOUSE BILL 76](#), [School Safety Omnibus](#), which is summarized in the February 15, 2019 Weekly Legislative Report, would make numerous changes to the laws concerning school safety in North Carolina. The bill has passed the House with amendment and has been sent to the Senate for their consideration. As amended, the bill would clarify that the primary duties of a school resource officer (SRO) would be to assist with school safety, school security, emergency preparedness, emergency response and any other responsibilities related to school safety that are assigned to the SRO by his/her employer, such as a sheriff.

[HOUSE BILL 104](#), [Litter Definition Clarification](#), which is summarized in the February 22, 2019 Weekly Legislative Report, would clarify that disposing of “yard waste” is not littering so long as the yard waste is placed on or near a curbside for the purpose of having the yard waste collected by a collection service, and the placement of the yard waste is in compliance with any local ordinance governing the collection of yard waste.

The bill has been amended to clarify that the accidental blowing, scattering or spilling of an insignificant amount of yard waste is not littering if this occurs during the automated loading or unloading of the yard waste by a vehicle that is designed and constructed to transport yard waste.

The bill would define “yard waste” to be grass clippings, leaves, shrubbery trimmings and any other plant material resulting from lawn maintenance or any other horticultural gardening or landscaping activities, and would include yard waste as a potential source of littering. Currently, biodegradable agricultural or garden products, including mulch, tree bark and wood chips, are not included in the definition of litter.

[HOUSE BILL 123](#), [Raise Vehicle Safety Inspection Fee](#), which is summarized in the February 22, 2019 Weekly Legislative Report, would make changes to vehicle safety inspection fees in this

State. The bill has been amended to raise the vehicle safety inspection fee from \$12.75 to \$13.75. The bill would not modify the combined vehicle safety and emissions fee, which currently is \$23.75. [HOUSE BILL 138](#), Damage Jail & Prison Fire Sprinkler/Penalty, which is summarized in the February 22, 2019 Weekly Legislative Report, would make it a felony for an inmate of a prison or local confinement facility to tamper with or damage fire safety equipment or systems. The bill has been amended to make it a Class H felony for an inmate of a prison or local confinement facility, such as a city or county jail, to intentionally damage, deface or interfere with a fire-alarm, fire-detection system, smoke-detection system or a fire-extinguishing system. This includes damage to a sprinkler head.

[HOUSE BILL 224](#), Assault w/Firearm on LEO/Increase Punishment, which is summarized in the March 1, 2019 Weekly Legislative Report, has been amended to 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, or upon any person that is employed at a detention facility operated by the State or a local government (such as a jail), while the employee is discharging their duties.

[SENATE BILL 61](#), Guardian/Parent Authorized Plate, which is summarized in the February 15, 2019 Weekly Legislative Report, has passed the Senate and has been sent to the House for consideration.

[SENATE BILL 66](#), Allow Game Nights, which is summarized in the February 15, 2019 Weekly Legislative Report, has been amended to clarify that when an employer or trade association holds game nights for their employees and members, participants would not be able to win cash playing these games. Instead, the chips or markers won from playing these games would be exchanged for raffle tickets and prizes would be won through raffles.

[SENATE BILL 155](#), Assess Costs of Local LEO Crime Lab Analysis, which is summarized in the March 1, 2019 Weekly Legislative Report, has passed the Senate and will be sent to the House for their consideration.

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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