

# North Carolina Sheriffs' Association

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Weekly Legislative Report

April 12, 2019

The House and Senate leadership have agreed to have a “spring break” this year that is designed to coincide with some of the days off that school children will have, most likely so the legislators can spend some time with their families. Whether intentionally or coincidentally, the break also coincides with the Good Friday holiday and the Easter weekend.

The House will be off beginning Wednesday, April 17 and will resume activity the following Wednesday, April 24. The Senate will meet through Thursday, April 18 and then be off the entire week of April 22, returning on Monday, April 29.

This “spring break” will no doubt be welcome by the legislative members, legislative staff and lobbyists. Once the spring break is over, the legislators will be faced with the May 9 crossover deadline for getting non-financial bills out of one chamber and into the other chamber and increased activity on preparing this year’s State budget bill.

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

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## BILLS OF INTEREST

[HOUSE BILL 629](#), Law-Enforcement Mutual Aid, would allow a North Carolina municipal or county police department or a sheriff’s office to provide assistance to, or receive assistance from, an out-of-state municipal or county law enforcement agency if the laws of the other state allow for such mutual assistance between law enforcement agencies. Currently, North Carolina law enforcement agencies can provide mutual assistance to other North Carolina law enforcement agencies but not to an out-of-state law enforcement agency. **Introduced by Representatives McNeill and C. Smith, and assigned to the House Committee on Judiciary. The North Carolina Sheriffs’ Association SUPPORTS – HIGH PRIORITY this bill.**

[HOUSE BILL 630](#), Private Protective Services Changes, would make numerous changes to law related to the authority and functioning of the Private Protective Services Board (Board). The bill would require any person, firm, association or corporation that offers protection services for a fee to a public official, business executive or celebrity to first become licensed by the North Carolina Private Protective Services Board.

The bill would also require any person, firm, association or corporation that offers digital forensics analysis for a fee to become licensed by the Board. Currently, the provision of digital forensics

analysis for a fee is exempt from the licensure requirements of the Board. **Introduced by Representatives McNeill, Hardister and Faircloth, and assigned to the House Committee on Judiciary.**

[HOUSE BILL 633](#), Strengthen Criminal Gang Laws, would create a new criminal offense to make it unlawful for a person to possess a firearm or weapon of mass death and destruction during the commission of a certain felonies. The punishment for this new offense would vary based on whether the weapon was discharged, brandished or possessed, and would range from a Class H felony to a Class D felony.

The bill would also create a new criminal offense to make it a Class G felony for a person to sell, deliver, transfer or give any firearm or weapon of mass death and destruction to someone who they know or reasonably should know is participating in criminal gang activity. **Introduced by Representatives Davis, Faircloth, McNeill and Richardson, and assigned to the House Committee on Judiciary.**

[HOUSE BILL 641](#), Modification to Various DPS Provisions, would expand the jurisdiction of probation officers employed by the North Carolina Department of Public Safety to allow probation officers to arrest or take any enforcement action the probation officer deems necessary for any criminal law violation or civil disturbance throughout the State. Currently, probation officers are authorized to make warrantless searches and arrests of criminal offenders they supervise. **Introduced by Representatives Boles, Pierce, Speciale and R. Turner, and assigned to the House Committee on Judiciary.**

[HOUSE BILL 649](#), Grand Jury if LEO Charged Performing Duties, is identical to [Senate Bill 415](#), which is summarized in the March 29, 2019 Weekly Legislative Report. The bill would require the district attorney to notify a law enforcement officer 10 days prior to the district attorney submitting a presentment or indictment to a grand jury against that law enforcement officer for actions arising out of the performance of the officer's duties. The officer would be allowed to voluntarily appear before the grand jury and testify or present evidence. **Introduced by Representatives D. Hall, Rogers, McGrady and Richardson, and assigned to the House Committee on Judiciary.**

[HOUSE BILL 681](#), U.S. Army Special Forces Reg Plate/Fees, would require the North Carolina Division of Motor Vehicles to produce a "United States Army Special Forces" registration plate that would be issued to a member or veteran of the United States Army Special Forces. This registration plate would be issued at no additional cost to the Special Forces member or veteran. **Introduced by Representative Rogers, and assigned to the House Committee on Transportation.**

[HOUSE BILL 682](#), Capital Procedure/Severe Disability, is identical to [Senate Bill 668](#), which is summarized in the April 5, 2019 Weekly Legislative Report. The bill would provide that the defense of insanity would not be available as a defense to a criminal charge if prior alcohol or drug use is the sole cause of the defendant's psychosis or if voluntary use of alcohol or drugs is the sole basis of the insanity defense. **Introduced by Representative Rogers, and assigned to the House Committee on Judiciary.**

[HOUSE BILL 685](#), Clarify DVPO Expiration and Firearm Surrender, would clarify that a domestic violence protective order (DVPO) issued under Chapter 50B of our General Statutes would expire at 11:59 P.M. on the date indicated on the DVPO, unless the court specifies a different time within the order. The bill would also clarify that a court could order a person that is subject to a DVPO issued after notice to surrender to the sheriff all firearms, permits to purchase firearms and permits to carry a concealed firearm. **Introduced by Representatives Stevens, McNeill and Hurley, and assigned to the House Committee on Judiciary.**

[HOUSE BILL 688](#), ENOUGH/Gaming Machines, would modify the State's illegal video gaming machine laws to further clarify it is illegal to operate or place into operation any video game or video sweepstakes system that emits or displays a token, print out, receipt, paper, coupon or any other record that is capable of being redeemed, exchanged or repurchased for cash, prizes, free replays, or an opportunity to obtain anything of value. It would not matter if the gaming machine or video sweepstakes system has an element of skill incorporated into the machine, such as a dexterity test. Currently, these gaming machines and sweepstakes systems are illegal if the element of chance in the game predominates over skill.

Finally, the bill would increase the criminal penalties for violating the State's illegal video gaming machine laws. This bill would have no impact on video gaming machines that are currently lawful on Tribal lands within the State. **Introduced by Representatives Hurley, McNeill, Brisson and Conrad, and assigned to the House Committee on Judiciary.**

[HOUSE BILL 702](#), Modify Juvenile Crime Prevention Councils, would allow a chief of police to appoint a designee to serve as a member of the county's Juvenile Crime Prevention Council (JCPC). A county must create a JCPC in order for the county to qualify for juvenile court services funding. Currently, a chief of police must serve as a member of the JCPC and does not have the ability to designate an individual to serve in his/her place. Many of the other members of the JCPC, including the sheriff and district attorney, are already allowed to be represented by a designee. **Introduced by Representatives R. Turner, Jarvis and Pierce, and assigned to the House Committee on Judiciary.**

[HOUSE BILL 706](#), Body-Worn Camera Recordings, would repeal the current North Carolina statutes regulating the use of law enforcement recordings, such as body-worn camera recordings and dashboard camera recordings.

The bill would create a new process for the use and release of body-worn camera and dashboard camera recordings. The bill would apply to all law enforcement agencies except for those law enforcement agencies located in a county with a population of less than 200,000 people and would also apply to State correctional officers.

A law enforcement officer would be required to wear an activated body-worn camera during any "recordable interaction." A recordable interaction would be any interaction between law enforcement officers in their official capacity and a member of the public, including inmates at a State correctional facility. Examples of recordable interactions would be traffic stops, arrests, searches, interrogations and interviews with victims and witnesses.

A law enforcement officer would not be able to deactivate a body-worn camera until: (1) the

conclusion of the recordable event; (2) the law enforcement officer has left the scene; or (3) a supervisor authorizes the law enforcement officer to deactivate the camera. However, a law enforcement officer would not be required to activate a body-worn camera during interactions with confidential informants and undercover officers, personal conversations, restroom breaks or when conducting strip searches.

In addition, if a law enforcement vehicle is equipped with a dashboard camera, the bill would require a law enforcement officer to activate the camera when the officer is engaged in a traffic stop, vehicle pursuit, vehicle search or other interaction with the public. A law enforcement officer would not be allowed to deactivate the camera until: (1) the law enforcement incident is concluded; (2) the officer has left the scene; or (3) a supervisor has authorized the camera to be deactivated.

The bill would also allow, but not require, a law enforcement agency to show or provide a copy of the recording to any person upon request. A person denied access to a recording would be able to seek a court order for the recording. A law enforcement agency would also be required to disclose a recording to a citizen review board upon request.

Finally, the North Carolina Department of Justice would be required to develop a model policy for law enforcement agencies on the use of body-worn and dashboard cameras. The policy would have to include information on disciplinary action against an officer for failing to activate a body-worn camera. **Introduced by Representatives Brockman, Quick, Alexander and Hawkins, and assigned to the House Committee on Appropriations, Justice and Public Safety.**

[HOUSE BILL 710](#), [Repeal Ban/G.S. 95-98](#), would repeal the prohibition on public employee collective bargaining. Consequently, it would allow public employees to form labor unions. **Introduced by Representative Hawkins. The North Carolina Sheriffs' Association is OPPOSED – HIGH PRIORITY to a repeal of the prohibition on public employee collective bargaining.**

[HOUSE BILL 712](#), [Disposition of Unclaimed or Seized Firearms](#), would allow a court to order a seized or unclaimed firearm to be destroyed by a law enforcement agency if the firearm is determined by a federally licensed firearm dealer to have negligible value as a trade-in for a replacement firearm for use by the law enforcement agency. This would not apply if the firearm meets the State's statutory definition of an "antique firearm," which is generally a firearm manufactured on or before 1898. Currently, a court can order the destruction of a seized or unclaimed firearm if the firearm does not have a legible identification number or if the firearm is unsafe because of wear, damage or age. **Introduced by Representative Faircloth.**

[HOUSE BILL 715](#), [SHRA/Stronger Whistleblower Protection](#), would increase the whistleblower protections for State employees to include immunity from civil liability for any employee that in good faith reports to their department head fraud, a violation of law, misappropriation of State resources, a danger to public health and safety, gross mismanagement of funds or the abuse of authority. The bill would also clarify that a reporting employee may report this information directly to the North Carolina State Auditor. The bill defines good faith as honesty in fact with the goal of complying with the duties to report. This bill would only apply to State employees. **Introduced by Representatives Cleveland, Stevens, Warren, and Riddell.**

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[HOUSE BILL 725](#), Strengthen Youth Tobacco Prevention/Funds, would establish the Tobacco Use Prevention Fund (Fund), which would be administered by the North Carolina Department of Health and Human Services, Division of Public Health, Chronic Disease and Injury Section. The bill would appropriate \$17 million each year to the Fund to help prevent youth access to tobacco products. The use of these funds would include education and enforcement of our State youth tobacco laws. Currently, North Carolina Alcohol Law Enforcement is tasked with unlawful youth tobacco enforcement. **Introduced by Representatives Adcock, Lambeth, Martin, and White.**

[HOUSE BILL 739](#), Protect State Employee & Contractor Rights, would authorize the North Carolina State Human Resources Commission (Commission) to establish a new “Ombud’s Office” and would authorize the Commission to set the policies and rules governing this new Office. The Ombud would be authorized to conduct independent reviews of State employee workplace complaints and would also be authorized to help State employees resolve “workplace issues.” It is unclear what type of employee information the Ombud would be entitled to review pursuant to its independent review of a workplace complaint. Finally, the Ombud would be authorized to establish programs to educate State employees about their rights and to train State employees in dispute resolution techniques. **Introduced by Representatives Logan, Montgomery and K. Smith.**

[HOUSE BILL 740](#), Ending NC’s Involvement in Torture, would create a new criminal offense of “enforced disappearance.” It would be a Class F felony for an elected or appointed public official, such as a law enforcement officer or head of a law enforcement agency, to arrest, detain or abduct a person with the authorization or support of a governmental body or political organization, and to then refuse to “acknowledge that deprivation of freedom or give information on the fate or whereabouts of the person.” It is unclear from this bill whether this new criminal offense would apply to lawful arrests and lawful detainers.

The bill would also create a new Class E felony offense of “torture,” which would prohibit a public official from inflicting either mental or physical pain or suffering that is inflicted in an attempt to obtain information or a confession from a person, to punish a person for an act they committed or are suspected of committing, for the purpose of intimidating or coercing the person, or for any other reason based on discrimination. **Introduced by Representatives Insko, Harrison and Meyer.**

### BILL STATUS

[HOUSE BILL 108](#), PED/Safekeeper Health Care Cost Recov. Pract., which is summarized in the February 22, 2019 Weekly Legislative Report has been amended to require the North Carolina Department of Public Safety to notify the sheriff of the potential Medicaid eligibility of a safekeeper that has been transferred from a local confinement facility, such as a county jail, to a State prison facility because of safety concerns or for medical reasons. **The North Carolina Sheriffs’ Association SUPPORTS – HIGH PRIORITY this bill.**

[HOUSE BILL 415](#), Photos of Juveniles/Show-ups, which is summarized in the March 22, 2019 Weekly Legislative Report, has passed the House and has been sent to the Senate for consideration.

[SENATE BILL 148](#), Public Records/Release of LEO Recordings, which is summarized in the March 1, 2019 Weekly Legislative Report, has been amended to also allow law enforcement recordings such as body-worn camera or dashboard camera recordings to be released to the public for the additional purpose of locating a missing or abducted person.

[SENATE BILL 168](#), Expand Allowable Medical Uses of CBD Oil, which is summarized in the March 1, 2019 Weekly Legislative Report, has passed the Senate and has been sent to the House for consideration.

[SENATE BILL 199](#), Child Sex Abuse/Strengthen Laws, which is summarized in the March 8, 2019 Weekly Legislative Report, has passed the Senate and has been sent to the House for consideration. **The North Carolina Sheriffs' Association SUPPORTS this bill.**

[SENATE BILL 375](#), Death by Distribution, which is summarized in the March 29, 2019 Weekly Legislative Report, has been amended to require as an element of the new criminal offenses of "death by distribution" and "aggravated death by distribution" the unlawful sale and delivery, rather than the distribution, of a specified controlled substance to the victim. **The North Carolina Sheriffs' Association SUPPORTS – HIGH PRIORITY this bill.**

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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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