

North Carolina Sheriffs' Association

Proudly Serving the Sheriffs and Citizens of North Carolina since 1922



Weekly Legislative Report

June 28, 2019

The end of this year's General Assembly Session appears to be "right around the corner."

On Thursday, the House and Senate both approved this year's State budget bill and sent it to Governor Roy Cooper for his consideration. The Governor announced today in a press conference that he will veto the bill. Therefore, the General Assembly can either override the veto if they have enough votes, continue budget negotiations with the Governor, or they could let State government continue to function at the same levels that were funded in last year's budget. If a new budget is not enacted into law, the pay raises for teachers and state employees would not go into effect and the other "new" funding provided in this year's proposed budget would not occur either.

Early in the Session, the House scheduled a break for all of next week and they are now scheduled to return on July 8th to deal with any final business before adjournment of the Session. The Senate is meeting next Monday and Tuesday before adjourning for the remainder of the holiday week and they will also return on Monday, July 8th.

It has been reported that so far there is no agreement between the House and Senate on exactly when the Session will end, but it clearly appears that it will not be much longer before it does so. The Senate adjourned on Friday and will return on Monday afternoon. The House adjourned on Friday and will return on Monday, July 8th.

Independence Day

As the General Assembly continues its work, including negotiations with the Governor over the budget and other matters, we could be tempted to remember a quotation from a very old court case that said,

"No man's life, liberty or property
are safe while the legislature is in session."
1 Tucker 248, N.Y. Surr.18

As tempting as it is to repeat this court case quotation, the week of Independence Day is a good time for all of us to remember how fortunate we are to live in a country where citizens of our State can govern our affairs through a General Assembly. While observers of the General Assembly might agree that it is not an efficient process, we should all agree that the form of government that we enjoy in the United States of America is undoubtedly the best form of government in the entire world.

So, we should all be thankful for our country's ancestors who took historic action 243 years ago on July 4, 1776 which resulted in our form of government being the envy of people all around the world.

BILL STATUS

[HOUSE BILL 67](#), Road Barrier Prohibition, which is summarized in the February 15, 2019 Weekly Legislative Report, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature.

[HOUSE BILL 82](#), Railroad Crossings/On-Track Equipment, which is summarized in the February 15, 2019 Weekly Legislative Report, has been approved by the General Assembly and has been signed into law by Governor Roy Cooper with an effective date of December 1, 2019.

[HOUSE BILL 135](#), Government Immigration Compliance, which is summarized in the February 22, 2019 Weekly Legislative Report, has passed the House with amendment and has been sent to the Senate for consideration. The bill, as amended, would clarify that any county or city policy, ordinance, or procedure that limits or restricts the enforcement of federal immigration laws would be null and void.

[HOUSE BILL 179](#), Mini-Truck Classification, which is summarized in the March 1, 2019 Weekly Legislative Report, has been approved by the General Assembly and has been signed into law by Governor Roy Cooper with an effective date of June 21, 2019.

[HOUSE BILL 217](#), DIT Changes.-AB, which is summarized in the April 26, 2019 Weekly Legislative Report, has been amended to clarify that telecommunicator staffing and training requirements established by the North Carolina 911 Board would not apply to persons employed as telecommunicators who are required to obtain telecommunicator certification through the North Carolina Sheriffs' Education and Training Standards Commission, such as sheriffs' office telecommunicators.

[HOUSE BILL 224](#), Assault w/Firearm on LEO/Increase Punishment, which is summarized in the March 1, 2019 Weekly Legislative Report, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature. **The North Carolina Sheriffs' Association SUPPORTS – HIGH PRIORITY this bill.**

[HOUSE BILL 257](#), Motorcycles/Face Masks, which is summarized in the March 8, 2019 Weekly Legislative Report, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature. **The North Carolina Sheriffs' Association SUPPORTS this bill.**

[HOUSE BILL 325](#), Opioid Epidemic Response Act, has been amended to make changes to our State's drug paraphernalia laws. The bill, as amended, would allow a person that is using an unlawful controlled substance, or that intends to use one, to lawfully possess drug paraphernalia

to test the strength, effectiveness or purity of the controlled substance in question. The bill would also allow a governmental or nongovernmental organization that promotes reducing health risks associated with drug use to possess drug paraphernalia testing equipment without it being a crime. Currently, it is a Class 1 misdemeanor to possess drug paraphernalia testing equipment and a Class 3 misdemeanor if the drug paraphernalia testing equipment is used to test marijuana.

[HOUSE BILL 370](#), [Require Sheriff Cooperation with ICE](#), which is summarized in the March 15, 2019 Weekly Legislative Report, has passed the House, passed the Senate with amendment and has been sent back to the House for consideration of the Senate amendment. **The North Carolina Sheriffs' Association SUPPORTS – HIGH PRIORITY this bill.**

[HOUSE BILL 389](#), [ABC/Univ Athletic Facility](#), which is summarized in the March 22, 2019 Weekly Legislative Report, has been approved by the General Assembly and has been signed into law by Governor Roy Cooper with an effective date of June 26, 2019.

[HOUSE BILL 391](#), [Passenger Protection Act](#), which is summarized in the June 7, 2019 Weekly Legislative Report, has passed the House and has been sent to the Senate for consideration.

[HOUSE BILL 415](#), [Photos of Juveniles/Show-ups](#), which is summarized in the March 22, 2019 Weekly Legislative Report, has been approved by the General Assembly and has been signed into law by Governor Roy Cooper with an effective date of June 26, 2019. **The North Carolina Sheriffs' Association SUPPORTS this bill.**

[HOUSE BILL 463](#), [Education/Job Readiness in Prisons & Jails](#), which is summarized in the March 29, 2019 Weekly Legislative Report, has passed the House and has been sent to the Senate for consideration.

[HOUSE BILL 474](#), [Death by Distribution/Unlawful Transaction](#), which is summarized in the March 29, 2019 Weekly Legislative Report, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature. **The North Carolina Sheriffs' Association SUPPORTS – HIGH PRIORITY this bill.**

[HOUSE BILL 511](#), [North Carolina First Step Act](#), has been amended to completely remove the contents of the original bill. The bill, as amended, would now make changes to the State's drug trafficking laws. Among those, the bill would allow a judge in a drug trafficking case to reduce fines, to impose a sentence lower than the applicable minimum prison term provided by statute and to suspend the sentence altogether if the judge finds there are substantial and compelling reasons for doing so based upon the nature of the crime, the history and character of the defendant and the defendant's chances of rehabilitation.

[HOUSE BILL 633](#), [Strengthen Criminal Gang Laws](#), which is summarized in the April 12, 2019 Weekly Legislative Report, has been amended to remove from the bill the provisions that created two new criminal offenses for possessing a firearm or weapon of mass death and destruction during the commission of certain felonies and 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.

As amended, the bill would create the new criminal offense of “possession of a firearm during criminal gang activity.” It would be a class Class F felony for a person participating in criminal gang activity to purchase, own, possess, or have in the person's custody, care, or control any firearm. A firearm would be defined as any weapon, including a starter gun, that will or is designed to or may readily be converted to expel a projectile by the action of an explosive, or any firearm muffler or firearm silencer.

An antique firearm would be excluded from this definition. Currently, an antique firearm is defined as one that was manufactured on or before 1898, any replica of a firearm manufactured on or before 1898 that is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol which is designed to use black powder substitute and which cannot use fixed ammunition. **The North Carolina Sheriffs' Association SUPPORTS this bill.**

[HOUSE BILL 747](#), [NC Missing Person Information Sharing](#), which is summarized in the April 18, 2019 Weekly Legislative Report, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature. **The North Carolina Sheriffs' Association SUPPORTS this bill.**

[HOUSE BILL 760](#), [Expand Loss Prevention Investigations](#), which is summarized in the April 18, 2019 Weekly Legislative Report, has been amended to make changes to the criminal offense of “obtaining property by false pretenses.” The bill, as amended, would clarify that the prosecution is not required to establish that all of the acts constituting the crime of obtaining property by false pretenses occurred in this State or within a single city, county, or local jurisdiction of this State.

[HOUSE BILL 966](#), [2019 Appropriations Act](#), which is summarized in the May 3, 2019 and May 31, 2019 Weekly Legislative Report, has been amended to include the House and Senate joint version of the proposed budget for the 2019-2021 fiscal biennium. Now that a joint version is agreed upon by the House and Senate, the bill has been sent to Governor Roy Cooper for his consideration. The Governor announced on Friday, June 28, 2019 that he will veto the bill.

Those items of interest to the criminal justice community in the joint version of the budget bill that are new include:

1. The North Carolina State Board of Community Colleges would be authorized to provide waiver of tuition and registration fees for students who are employed by campus police agencies at private colleges and universities. Currently, the Board of Community Colleges is authorized to provide waiver of tuition and registration fees for students employed by municipal, county, or State law enforcement agencies.
2. The bill would clarify that any course of instruction offered at State expense to inmates in a local jail must be tied to clearly identifiable job skills or transition needs, such as how to successfully reenter the community once released.

3. The North Carolina Department of Health and Human Services (DHHS) would be required to launch a "Firearm Safe Storage Initiative" that would be a two-year long initiative with the purpose of educating the public about the importance of safely storing firearms.

DHHS would be required to create a Website and Toolkit for dissemination to the public that would contain the following information: (1) the importance of safely storing firearms; (2) the methods for safely storing firearms; (3) the contact information for obtaining free gun locks, if available; (4) information on our State laws related to the safe storage of firearms; (5) links to Internet resources related to firearm safety, such as resources addressing domestic violence, hunter education, and suicide prevention; and (6) access to a toolkit of information that local communities may use to launch firearm safe storage initiatives at the local level.

4. The bill would reallocate previous grant funds that were appropriated for the development of a new sex offender database that would link all 100 North Carolina counties. These grant funds would be reallocated to the North Carolina State Bureau of Investigation (SBI) to use for costs associated with upgrading the State's current sex offender registry that is maintained by the SBI.
5. The North Carolina Department of Public Safety (DPS) would be required to develop a long-term plan to address the operating capacity of our State prisons. The DPS plan would have to analyze the required staffing needed to meet standard operating capacity in State prisons and would also have to contain recommendations relating to reopening closed prison facilities, constructing new prison facilities and on reducing overall prison populations.

[SENATE BILL 11, ABC Regulation and Reform](#), which is summarized in the February 1, 2019 Weekly Legislative Report, has been approved by the General Assembly and has been signed into law by Governor Roy Cooper with an effective date of June 26, 2019. The provisions in the bill relating to new ABC administrative penalties are effective October 1, 2019.

[SENATE BILL 29, Move Over Law/Increase Penalties](#), which is summarized in the February 8, 2019 Weekly Legislative Report, has been amended to remove the provisions in the bill that would increase the punishment from an infraction to a Class 3 misdemeanor for anyone who fails to slow their vehicle, or move the vehicle into another lane of travel, when approaching an emergency vehicle or public service vehicle operating its emergency lights.

[SENATE BILL 148, Public Records/Release of LEO Recordings](#), which is summarized in the March 1, 2019 Weekly Legislative Report, has been approved by the General Assembly and has been signed into law by Governor Roy Cooper with an effective date of June 26, 2019.

[SENATE BILL 151, Break or Enter Pharmacy/Increase Penalty](#), which is summarized in the March 1, 2019 Weekly Legislative Report, has been approved by the General Assembly and has been signed into law by Governor Roy Cooper with an effective date of December 1, 2019. **The North Carolina Sheriffs' Association SUPPORTS – HIGH PRIORITY this bill.**

[SENATE BILL 191](#), Out-of-State Law Enforcement/2020 Rep Convtn, which is summarized in the March 8, 2019 Weekly Legislative Report, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature.

[SENATE BILL 220](#), Removal of Political Signs by Citizens, which is summarized in the March 15, 2019 Weekly Legislative Report, has been amended to require a county board of elections to ensure that candidates are allowed at least 36 hours before the opening of a voting place and at least 36 hours after it closes to place and retrieve political advertising. The bill has been approved by the General Assembly and sent to Governor Roy Cooper for his signature.

[SENATE BILL 262](#), Union/Prohibit Certain Hunting Acts, which is summarized in the March 15, 2019 Weekly Legislative Report, has been amended to remove Granville County from the scope of the bill and now applies only to Union County. The bill has been approved by the General Assembly and becomes effective October 1, 2019.

Since the bill applies to fewer than 15 counties, it is considered a local bill and therefore does not require the signature of the Governor to become law. Rather, this local bill became law when it was approved by the General Assembly and applies only to Union County.

[SENATE BILL 290](#), Distiller Regulatory Reform Bill, which is summarized in the March 22, 2019 Weekly Legislative Report, has passed the Senate and has been sent to the House for consideration.

[SENATE BILL 362](#), Annual Report Standardization, which is summarized in the March 29, 2019 Weekly Legislative Report, has passed the Senate and has been sent to the House for consideration.

[SENATE BILL 381](#), Reconstitute/Clarify Boards and Commissions, which is summarized in the May 31, 2019 Weekly Legislative Report, has been approved by the General Assembly and has been signed into law by Governor Roy Cooper with an effective date of July 1, 2019.

[SENATE BILL 553](#), Regulatory Reform Act of 2019, has been amended to define an “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, as amended, would exclude electric standup scooters from the definitions of motor vehicle and moped but would include it in the definition of a vehicle. Therefore, riders of electric standup scooters would be subject to vehicle offenses such as driving while impaired but would not be subject to registration and title requirements.

[SENATE BILL 562](#), The Second Chance Act, which is summarized in the April 5, 2019 Weekly Legislative Report, has been withdrawn from the Committee on Rules, Calendar and Operations of the House and has been reassigned to the House Committee on Judiciary.

The bill would allow for the expunction of a misdemeanor or Class H or I felony conviction if the crime was committed by a person after their sixteenth birthday but before the person’s eighteenth birthday. The bill would also require the automatic expunction of any dismissal or finding of not

guilty occurring on or after July 1, 2020 for any misdemeanor or felony charges, excluding motor vehicle offenses under Chapter 20 of our General Statutes. Therefore, the bill would provide for an unlimited number of expungements based on the charges being dismissed or the defendant being found not guilty.

SENATE BILL 682, Implement Crime Victim Rights Amendment, would enact into law additional statutory protections for victims of crime. This bill would further implement the North Carolina constitutional amendment that was enacted by voters in November 2018, commonly known as “Marsy’s Law,” which amended Article I, Section 37 of the North Carolina Constitution to expand the rights of victims of certain crimes.

The bill would enact a new statute that would clarify a “victim’s rights,” and would require the following:

1. Require, upon request of the victim, “reasonable, accurate and timely notice” of court proceedings of the accused.
2. Provide the victim with the right, upon request, to be present at court proceedings of the accused.
3. Provide the victim with the right to be “reasonably heard” at any hearing regarding the release, plea, conviction, or sentencing of the accused. Currently, a victim can only be heard during sentencing.
4. Provide the victim with the right to receive payment of restitution in a “reasonably timely” manner, when ordered by the court.
5. Provide the victim with the right to be given information about the crime or act of delinquency committed against the victim.
6. Provide the victim with the right, upon request, to be given information about the conviction or final disposition and the sentence of the accused.
7. Provide the victim with the right, upon request, to be given notice of the escape, release or proposed parole or pardon of the accused.
8. Provide the victim with the right to confer with the prosecution.
9. Provide the victim with the right to present the victim’s views in writing to the Governor or to an agency considering the release of the accused, such as a parole board, prior to releasing the accused.

In addition, the bill would enact new provisions in our State’s juvenile laws to extend these same “victim’s rights” to victims of crime that have been perpetrated by individuals subject to juvenile court jurisdiction. Finally, the bill would require the North Carolina Conference of District Attorneys to develop a form that would list a victim’s rights. A law enforcement agency that is

investigating a crime would be required to provide the victim with a copy of this form within 72 hours after identifying the victim. **Introduced by Senators Daniel, J. Davis and Britt, and assigned to the Committee on Rules and Operations of the Senate.**

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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