

North Carolina Sheriffs' Association

Proudly Serving the Sheriffs and Citizens of North Carolina since 1922



Weekly Legislative Report

June 26, 2020

Independence Day

As the General Assembly continues its work, 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, next week as we celebrate 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 244 years ago on July 4, 1776 which resulted in our form of government being the envy of people all around the world.

Adjournment Status of the General Assembly

Just after 3:00 a.m. this morning (Friday), the headlights of most legislators’ vehicles were pointed towards their homes as they were leaving Raleigh near the end of a busy short session. Legislative work for the session is largely concluded and there will likely only be skeleton sessions every three days through July 11 with no action taken. Continuing these skeleton sessions until July 11 allows the Governor only 10 days to veto bills sent to his desk before they become law. If the Governor chooses to exercise his veto power within 10 days, then the legislature would have time to muster members to return to Raleigh to attempt a veto override before July 11.

The intent of the General Assembly is to recess between July 11 and September 2, and return on that date to take up a limited number of issues such as the allocation of any additional COVID-19 federal or State relief funds and any necessary appointments, nominations, and filling of vacancies. The General Assembly only intends to be in session until September 3 when they will adjourn sine die (i.e. for good), until the next session in 2021.

BILLS OF INTEREST

[SENATE BILL 866](#), [Additions to 2020 Appointments Bill](#), has passed the General Assembly. The bill makes numerous appointments to State commissions and boards. Among those of interest to the criminal justice community are:

The President Pro Tempore of the Senate appoints:

1. Effective September 1, 2020, Sheriff Larry M. Pierce of Wayne County is appointed to the Domestic Violence Commission for a term expiring on August 31, 2022.
2. Effective January 1, 2021, Chief Jeffrey H. Ledford of Cleveland County is appointed to the 911 Board for a term expiring on December 31, 2024.

The Speaker of the House of Representatives appoints:

1. Effective September 1, 2020, Sheriff Hans Miller of Onslow County is appointed to the Domestic Violence Commission for a term expiring on August 31, 2022.

BILL STATUS

[HOUSE BILL 308](#), [Expand Agricultural Outdoor Advertising](#), which was filed on March 7, 2019, has been amended in the House to change the entire content of the bill and to rename the bill "Regulatory Reform Act of 2020." The bill has been approved by the General Assembly and sent to Governor Roy Cooper for his signature.

The bill, as amended, would clarify that a sheriff or other person in charge of a local confinement facility may authorize inmates to use a mobile telephone or other wireless communications device (such as a tablet) that has been approved for use by inmates by the sheriff or other person in charge of the local confinement facility.

Currently, the Division of Adult Correction and Juvenile Justice of the North Carolina Department of Public Safety is authorized to approve the use of a mobile telephone or other wireless communications device by inmates in our State prisons.

The bill, as amended, would also provide jurisdiction to campus law enforcement agencies that are part of a teaching hospital to enforce the criminal laws on the premises of any other facility owned or leased by the teaching hospital that is within the hospital's health network. The bill would not expand the jurisdiction of the campus law enforcement officers beyond the premises of the teaching hospital's remote facility, whether a hospital facility or a doctor's office. Therefore, the jurisdiction of campus police in this remote facility scenario would not include public roads or highways passing through the facility or to any property immediately adjoining the facility or doctor's office.

These provisions were requested by Vidant Health, which owns and operates numerous doctors' offices and health care facilities in Eastern North Carolina.

Nothing in this amendment would change the authority of campus law enforcement agencies now operating on the premises of a teaching hospital. Currently, those agencies are authorized to enforce the criminal laws on the premises of the teaching hospital and on public roads or highways passing through the premises of the hospital.

[HOUSE BILL 425](#), Implement Conner's law, which is summarized in the June 19, 2020 Weekly Legislative Report, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature.

[HOUSE BILL 511](#), North Carolina First Step Act, which is summarized in the June 19, 2020 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, 2020, unless noted otherwise in the bill.

[HOUSE BILL 593](#), JCPC/Detention/CAA and Other Fees, which is summarized in the June 19, 2020 Weekly Legislative Report, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature.

The bill, as previously summarized, would:

1. Ensure juveniles under the age of 18 are not housed in a county jail unless agreed to by the sheriff, pursuant to an agreement with the Division of Adult Correction and Juvenile Justice of the North Carolina Department of Public Safety.
2. Ensure "safekeepers" [and their medical bills, if any] transferred under the Statewide Misdemeanant Confinement Program (SMCP) are processed the same as safekeepers sent from county jails that are not part of SMCP.
3. Provide funding from an increase in court costs from \$2.00 to \$3.00 to the North Carolina Criminal Justice Education and Training Standards Commission.

The bill has been amended in the Senate to include changes to our State's laws to ensure certain registered sex offenders remain on the North Carolina Sex Offender Registry (SOR).

In a case filed in the United States District Court for the Eastern District of North Carolina against Attorney General Josh Stein in his official capacity (*Grabarczyk v. Stein, et al.* No. 5:19-CV-48-BO), the federal judge entered an Order holding that registered sex offenders in North Carolina who are registered in this State due to an out-of-state conviction or a federal conviction that is substantially similar to a North Carolina crime that would require registration on the SOR must be given an opportunity to seek judicial review of the determination to remain on the registry.

Therefore, registered sex offenders who are class members in the lawsuit with substantially similar out-of-state or federal convictions for sex crimes requiring registration in North Carolina will be removed from the SOR unless legislative action is taken.

The bill would modify State law to ensure the following sex offenders are required to register in

North Carolina if their out-of-state or federal crime is substantially similar to a North Carolina crime requiring registration:

1. Those sex offenders who are members of the class identified in *Grabarczyk v. Stein*.
2. Those sex offenders who are not party to *Grabarczyk v. Stein* but are on the SOR as of August 1, 2020 because they have a substantially similar out-of-state conviction or federal conviction requiring registration.
3. Those sex offenders who will come on the SOR after August 1, 2020 because they have a substantially similar out-of-state conviction or federal conviction requiring registration.

The bill, as amended, would provide the following review and notice requirements for these sex offenders:

1. The bill would require the North Carolina State Bureau of Investigation, in consultation with the North Carolina Attorney General, to provide all district attorneys with a list of sex offenders who are members of the class identified in *Grabarczyk v. Stein* that reside in a county in that district attorney's district.

The bill would require the district attorney, or the Attorney General if requested by the district attorney, to review the files of these sex offenders for a preliminary determination of substantial similarity. If the reviewing agency determines substantial similarity exists, the agency would be required to notify the offender and the sheriff of the county where the offender resides. The agency may then petition the court for judicial review of the registration.

2. The bill would also require the North Carolina Department of Public Safety to notify every sex offender that is on the SOR on August 1, 2020 based upon a substantially similar out-of-state or federal conviction of their right to seek judicial review of their registration requirement.

The bill would require the sex offender to request judicial review within 30 days in the county where the sex offender resides and the sex offender would be required to give notice of the petition to the sheriff and the district attorney within three days of filing the petition.

3. For sex offenders coming on the SOR that are not a part of the above-referenced lawsuit and are not already on the SOR as of August 1, 2020, the bill would require the sheriff to notify the sex offender of their right to seek judicial review if the sheriff determines the person must register based upon a substantially similar out-of-state conviction or federal conviction that requires registration in North Carolina. Methods of acceptable notice by the sheriff would include in-person notice or notice by registered or certified mail (among others).

Once notified, the sex offender would have the option to file a petition for judicial review within 30 days in the county where the sex offender resides. If the sex offender filed a

petition for judicial review, the sex offender would be required to give notice of the petition to the sheriff and the district attorney within three days of filing the petition.

Finally, the bill would require the petition to be calendared at the next regularly scheduled term of superior court and at that first setting, the sex offender would be advised of the right to have counsel present or appointed if he or she cannot afford an attorney.

4. In all cases involving the judicial review of sex offenders required to register based upon a substantially similar out-of-state or federal conviction, the judicial review would be by a superior court judge presiding in the district where the sex offender resides and would be limited to a determination of whether or not the person's out-of-state conviction or federal conviction is substantially similar to a North Carolina crime that requires registration.
5. Finally, the State would have the burden of showing that the out-of-state or federal conviction is for a crime that is substantially similar to a North Carolina crime that requires registration.

The North Carolina Sheriffs' Association SUPPORTS this bill.

[HOUSE BILL 635](#), [Purchase & Contracts Benchmarks/Property](#), which was filed on April 9, 2019, has been amended in the House to change the entire content of the bill and to rename the bill "P&C Changes/Glob. Tranp./Prison Pilot."

The bill, as amended, would appropriate \$1.8 million in nonrecurring funds from the Statewide Misdemeanant Confinement Fund to the North Carolina Department of Public Safety for the 2020-2021 fiscal year for the administration of a Prison Software Management Pilot Program (Pilot Program). The Pilot Program would identify a technology vendor to upgrade software and hardware of the current State Prison Management Information Systems.

The Statewide Misdemeanant Confinement Fund is a fund that supports the housing of certain prison inmates in sheriffs' jails to alleviate overcrowding in our State prison system. These funds would be appropriated from reserves contained in the Statewide Misdemeanant Confinement Fund and should not impact the operation of the Statewide Misdemeanant Confinement Program.

[HOUSE BILL 652](#), [Clearing Vehicle Registration Stops](#), has been amended in the Senate to change the entire content of the bill and to rename the bill "2nd Amendment Protection Act." The bill has been approved by the General Assembly and sent to Governor Roy Cooper for his signature.

The bill, as amended, would make the following changes to our State's firearms laws:

1. The bill would allow anyone with a concealed handgun permit to carry a concealed handgun on the premises of a place of religious worship when the place of worship is also located on school grounds. However, the bill would allow for the carrying of a concealed handgun on the premises of the school grounds only when the premises is NOT being used for curricular, extracurricular or any school-sponsored activities (such as on weekends or during holidays).

Finally, the bill would prohibit the carrying of a concealed handgun on the premises of the school grounds, even with a valid concealed handgun permit, if the owner or person in legal control of the property has posted that firearms are prohibited on the premises.

2. The bill, as amended, would require a sheriff to waive the requirement to take a firearms safety and training course upon the renewal of a concealed handgun permit if the person applies to renew the permit within 60 days of the permit expiring. Currently, a sheriff has the discretion to waive the firearms safety and training course if the person applies for a renewal within 60 days of the expiration date of the concealed handgun permit.

In addition, if the permittee applies to renew a concealed handgun permit between 61 days and 180 days after expiration, the bill would also require the sheriff to waive the requirement of taking another full firearms safety and training course if the permittee completes a “refresher” course.

Note: The bill does not create a grace period for an expired concealed handgun permit. Therefore, a person would still be prohibited from carrying a concealed handgun once the permit has expired, and until such time as the sheriff renews the permit.

3. The bill would allow a civilian employee of a law enforcement agency with a concealed handgun permit to carry a concealed handgun in a law enforcement facility or correctional facility so long as the person has been designated in writing by the agency head to carry the handgun. The agency head would be allowed to rescind this authorization at any time.

Currently, civilian employees may not carry a concealed handgun inside a law enforcement facility or a correctional facility, even with a valid concealed handgun permit.

4. Finally, the bill would allow emergency medical personnel to carry a concealed handgun while on duty if they are being deployed to provide tactical medical support for law enforcement during an emergency situation, such as a SWAT operation.

The bill would require the emergency medical personnel to first obtain specialized training before carrying a concealed handgun in this scenario, which would include training on firearms safety, use of firearms systems and use of deadly force.

The North Carolina Sheriffs' Association SUPPORTS the provisions in this bill related to concealed handgun permit renewals and to the carrying of a concealed handgun by certain employees of law enforcement facilities and correctional facilities.

[HOUSE BILL 686](#), Automatic Renewal of Contracts, has been amended in the Senate to change the entire content of the bill and to rename the bill “Freedom to Celebrate the Fourth of July.” The bill has been approved by the General Assembly and sent to Governor Roy Cooper for his signature.

The bill, as amended, would allow properly permitted parades and firework displays to take place between July 1 and July 10 in celebration of the Independence Day holiday. The bill would clarify that any Executive Order issued by the Governor or any local emergency order issued in response to the COVID-19 pandemic could not prohibit a parade or fireworks display from occurring during this period. Therefore, mass gathering limitations that are in place through the Governor's Executive Orders would not apply.

The bill would also prevent any municipality or county from denying a parade or firework display permit if a permit was issued in 2019 that is substantially the same as the permit being requested this year.

Finally, the bill would prohibit criminal prosecution for attending or participating in any parade or firework display in celebration of the Independence Day holiday. Currently, it is a Class 2 misdemeanor to violate an Executive Order.

[HOUSE BILL 795](#), [HMMWV/Upfitter](#), which was filed on April 16, 2019, has been amended in the Senate to change the entire content of the bill and to rename the bill "Open Amusement Parks/Arcades/Playgrounds."

The bill, as amended, would authorize the opening of any amusement park, gaming and business establishment with video games and arcade games, or any public park so long as various criteria are met, as set out in the amended bill. Currently, Governor Roy Cooper's Executive Orders require amusement parks, gaming establishments and public parks to remain closed because of the COVID-19 pandemic.

These provisions related to amusement parks, gaming establishments and public parks are temporary and would automatically expire when Governor Cooper's Executive Order No. 141 is repealed, replaced or rescinded.

[HOUSE BILL 806](#), [HOA/Condo Crime & Fidelity Insurance Policies](#), which was filed on April 16, 2019, has been amended to change the entire content of the bill and to rename the bill "Open Exercise & Fitness Facilities." The bill has been approved by the General Assembly and sent to Governor Roy Cooper for his signature.

The bill, as amended, would authorize indoor and outdoor exercise or fitness facilities, gyms, health clubs and fitness centers to resume operations so long as fifteen criteria are met, as set out in the amended bill. Currently, Governor Roy Cooper's Executive Orders require these businesses to remain closed because of the COVID-19 pandemic.

These provisions related to indoor and outdoor exercise or fitness facilities, gyms, health clubs and fitness centers are temporary and would automatically expire when Governor Cooper's Executive Order No. 147 is repealed, replaced or rescinded.

[SENATE BILL 156](#), [Conditions of Pretrial Detention](#), which was filed on February 27, 2019, has been amended in the House to change the entire content of the bill and to rename the bill "Superseding Orders/Domestic Violence/ALE."

The bill, as amended, would clarify that any subsequent order entered by a court related to child custody, child and spousal support, or possession of property that contains similar provisions to a previous Domestic Violence Protective Order would supersede (i.e. override) the similar provisions in the earlier DVPO order.

This could occur, for example, in divorce and alimony proceedings or in child welfare proceedings where a judge later modifies similar provisions from an earlier DVPO.

Finally, the bill would authorize the North Carolina Department of Public Safety to begin the relocation of Alcohol Law Enforcement Division (ALE) Headquarters and regional offices as State-owned space or recurring funding becomes available. In 2019, ALE was transferred from the North Carolina State Bureau of Investigation to the North Carolina Department of Public Safety.

[SENATE BILL 231](#), [Study Military Economic Zones](#), which was filed on March 12, 2019, has been amended in the House to change the entire content of the bill and to rename the bill “Agency Policy Directives/2019-2021.”

The bill, as amended, changes the definition of “eligible county” as it applies to the Criminal Justice Fellows Program. The amendment would allow individuals from counties with a population of less than 125,000 to apply for the Program. Currently, only those applicants from counties with less than 75,000 people qualify to receive loan forgiveness through the Program.

The Criminal Justice Fellows Program was created to increase the recruitment of criminal justice professionals by providing loan forgiveness to qualified individuals that earn an Applied Associate Degree in Criminal Justice. The Program is administered by the North Carolina Criminal Justice Standards Division.

[SENATE BILL 379](#), [Retirement Systems Admin. Changes](#), which is summarized in the June 5, 2020 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 October 1, 2020.

The bill makes 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 counts towards the sheriffs' eligible service under the Sheriffs' Supplemental Pension Fund.

Previously, this option would have to be exercised prior to July 1, 2022. This change to the law removes this time deadline and now allows eligible sheriffs to exercise this option at any time in the future.

[SENATE BILL 380](#), [Clarify Felony Possession Sweepstakes Machine](#), which is summarized in the June 12, 2020 Weekly Legislative Report, was considered extensively Wednesday in the House Rules Committee and was defeated on a tied vote in this Committee. Therefore, this bill was not enacted into law. **The North Carolina Sheriffs' Association SUPPORTS this bill.**

[SENATE BILL 562](#), The Second Chance Act, which is summarized in the June 12, 2020 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 25, 2020, unless noted otherwise in the bill.

[SENATE BILL 599](#), Open Skating Rinks/Bowling Alleys, which is summarized in the June 12, 2020 Weekly Legislative Report, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature.

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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