

North Carolina Sheriffs' Association

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Weekly Legislative Report

February 19, 2021

Not even the General Assembly is immune from North Carolina's temperamental winter weather. What would have likely been a normal day of business on Thursday for both the House and the Senate was mostly cancelled or postponed late Wednesday afternoon because of an impending ice storm expected to impact almost two-thirds of the State. With most legislators in town, many would likely have been stuck in Raleigh and unable to return to their homes if the worst of the weather came to town.

However, before the conclusion of business, Speaker Tim Moore did recognize special guest United States Senator Thom Tillis who visited the chamber during Wednesday's session. Senator Tillis is a former member of the North Carolina House of Representatives and former two-term Speaker of the House during his tenure representing North Carolina House District 98. Senator Tillis was recently re-elected to a second term in the United States Senate.

The House did not hold session on Thursday but will hold a skeletal session on Friday where no votes will be taken. The Senate convened at Noon Thursday for a short session before adjourning for the week.

While both chambers held multiple committee meetings this week, the main discussion on the floors of both chambers revolved around a bill to return children to school across the State. The bill passed the Senate on Tuesday by a vote of 31-16 and passed the House on Wednesday by a vote of 77 - 42. The bill will be sent to Governor Roy Cooper for his signature. The Governor could sign the bill into law or allow the bill to become law after 10 days without his signature. If the Governor vetoes the bill, both chambers would appear to have the supermajority necessary to override the Governor's veto.

The Senate adjourned on Thursday and the House adjourned on Friday. The Senate will return on Monday, February 22, 2021 and the House will return on Tuesday, February 23, 2021.

BILLS OF INTEREST

[HOUSE BILL 84](#), Sex Offender Premises Restrictions, would add a new category of individuals who are subject to the sex offender premises restrictions that prevent certain registered sex offenders from being at places where minors are known to congregate. Convicted sex offenders who are required to register as a sex offender under Chapter 14, Article 27A of our General Statutes who have committed first, second, or third degree sexual exploitation of a minor (or substantially similar federal offenses or substantially similar offenses in another state) would also be subject to

the premises restrictions of G.S. 14-208.18(a) even if the victim in the case was not a minor (such as an undercover law enforcement officer posing as a minor).

Currently, a sex offender required to register for a sexual exploitation offense is not subject to the premise's restrictions if the victim of the crime was not under the age of 18 at the time of the offense. **Introduced by Representatives Warren, McNeill, Riddell and Stevens, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 100](#), Highway Cleanup Act of 2021, would increase the monetary fines associated with littering to discourage this conduct. The bill would increase littering fines as follows:

1. The fine for intentionally or recklessly littering in an amount that does not exceed 15 pounds would be not less than \$500 and no more than \$2,000 for a first offense. A second or subsequent offense, within 3 years of the date of the prior violation, would result in a fine not less than \$1,000 and no more than \$4000 dollars.

The fine for littering in an amount not exceeding 15 pounds when the conduct is not intentional or reckless (such as accidentally leaving or discarding litter) would be not more than \$200 for a first offense and no more than \$400 for a second and subsequent offense within 3 years of the date of the prior violation.

Currently, the range of potential fines for littering not exceeding 15 pounds are half the amounts stated above.

2. The fine for intentionally or recklessly littering in an amount exceeding 15 pounds but not more than 500 pounds would be not less than \$1,000 and no more than \$4,000.

The fine for littering in an amount exceeding 15 pounds but not more than 500 pounds when the conduct is not intentional or reckless (such as accidentally leaving or discarding litter) would be not more than \$400.

Currently, the range of potential fines for littering in an amount exceeding 15 pounds but not more than 500 pounds are half the amounts stated above.

3. The fine for littering in an amount exceeding 500 pounds where the conduct was not intentional or reckless would be not more than \$600. Currently, the fine that may be imposed is not more than \$300.

Finally, the bill would establish the "COPS Clean NC" grant program for rural counties. The bill would require the North Carolina Department of Transportation (DOT) to utilize \$500,000 in funds previously appropriated to DOT for the COPS Clean NC program. A rural county would be defined as a county with a population of less than 150,000.

The bill would require DOT to award grants to sheriffs' offices in rural counties to provide "officers" with overtime pay for "litter cleanup efforts." The bill does not specify whether officers would be required to engage in litter cleanup as opposed to supervising inmates with litter cleanup

to qualify for this overtime pay. The bill would allow each eligible sheriff's office to receive up to \$10,000 in grant funds. The bill does not define "officers," so it is unclear whether overtime pay through grant funds would be limited to deputy sheriffs or whether detention officers and other sheriffs' personnel could benefit from the program. **Introduced by Representative Bell.**

[HOUSE BILL 104](#), [Judicial Discretion of FTA Release Conditions](#), would provide judicial officials with the discretion to decide whether or not to require the execution of a secured appearance bond when imposing conditions of pretrial release on a defendant who has failed to appear on one or more of the charges for which the defendant is being held.

Currently, judicial officials must require the execution of a secured appearance bond in an amount that is at least double the previous secured or unsecured bond where the defendant has failed to appear on one or more of the charges for which the defendant is being held.

Finally, the bill would no longer require judicial officials to mandate the execution of a secured appearance bond when imposing house arrest with electronic monitoring as a condition of pretrial release. Currently, a secured appearance bond is required when imposing house arrest with electronic monitoring as a condition of pretrial release. **Introduced by Representative John.**

[HOUSE BILL 105](#), [Superseding Orders/Domestic Violence](#), would clarify that any subsequent order entered by a court related to child custody, child and spousal support, and 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. **Introduced by Representative John.**

[HOUSE BILL 109](#), [Create Pretrial Release Study Committee](#), would create a Joint Legislative Study Committee on Uniform Pretrial Release Procedures. The Committee would be tasked with studying and providing recommendations on standards and procedures for pretrial release programs, the treatment of defendants who fail to appear in court or who failed to pay moneys owed pursuant to court order, the standards and procedures for pretrial release for crimes that would not result in jail time for a particular arrestee, and on a uniform, statewide program that would be funded by the State for house arrest and electronic monitoring of defendants.

The Committee would consist of 23 members, which would include professionals within the criminal justice system, such as judges and prosecutors, as well as two members of the public. Among these members, the bill would require the President Pro Tempore of the Senate to appoint one sheriff to serve on the Committee. **Introduced by Representative John.**

[HOUSE BILL 115](#), [Add Member to NC Training Standards Commiss.](#), would increase the number of members of the North Carolina Criminal Justice Education and Training Standards Commission from 34 to 35 members. The bill would allow the North Carolina Fraternal Order of Police to appoint one full-time sworn law enforcement officer to the Commission.

This bill is similar to [HOUSE BILL 21](#), Add Member to NC Training Standards Commiss., which was summarized in the January 29, 2021 Weekly Legislative Report. House Bill 21 would allow the North Carolina Police Benevolent Association to appoint one full-time sworn law enforcement officer to the Commission. **Introduced by Representative Potts.**

[SENATE BILL 96](#), Local LEO Weapon Purchase, would authorize a city or county to offer to their active sworn law enforcement officers the option to purchase their duty weapon (firearm) when the law enforcement officer's duty weapon is being replaced by the agency. Currently, this option to purchase a replaced duty weapon is authorized for active State law enforcement officers. **Introduced by Senators Davis, Daniel and Alexander, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 99](#), Clarify Law on Theft of Catalytic Converters, would make theft of catalytic converters a Class I felony. Currently, there is no provision in the law specifically pertaining to the theft of catalytic converters. In addition, the bill would create a presumption of felony larceny of a catalytic converter when a person is in possession of a catalytic converter that has been removed from a motor vehicle, unless the person is any of the following:

1. An employee or agent of a company that is in the business of installing, replacing, maintaining, or removing catalytic converters, and the employee or agent is in possession of the catalytic converter as part of the person's official duties.
2. A contractor that is in the business of installing, replacing, maintaining, or removing catalytic converters, and the contractor is in possession of the catalytic converter as part of the person's official duties.
3. An individual that is in the business of installing, replacing, maintaining, or removing catalytic converters, and the individual is in possession of the catalytic converter as part of the person's official duties.
4. An individual who removed the catalytic converter from a motor vehicle for purposes of repairing the motor vehicle and (i) is intending to reattach the catalytic converter to the motor vehicle or (ii) is intending to lawfully dispose of the catalytic converter.

The bill would also require secondary metals recyclers to maintain an electronic record of all purchase transactions of regulated metals, and it would expand the kind of information the record must contain. Currently, the law requires secondary metals recyclers to maintain a purchase and transaction record, but it does not specify the format of that record.

Finally, the bill would make violations of the law governing the sale and purchase of catalytic converters punishable by a mandatory \$1,000 fine per violation. **Introduced by Senators McInnis, Burgin and Craven, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 100](#), Police Funding Protection Act, would provide that a city or county would lose certain State shared revenue (such as revenue from malt beverage and wine taxes and from

sales tax on video programming and telecommunications services) if the city or county governing body reduces funds for law enforcement officers or law enforcement agencies by any amount that exceeds 1% of the funds appropriated in any fiscal year for all other city or county employees or departments. The city or county's share of funds would be reduced in proportion to the amount over 1% that it reduced funding for law enforcement.

The bill would also provide that if a city eliminates or reallocates 100% of the funds appropriated in its annual budget for law enforcement officers or law enforcement agencies, then the city would be ineligible to receive its share of funds allocated by the North Carolina Department of Transportation and distributed from various taxes such as electricity, telecommunications service, and piped natural gas.

Finally, the bill would require the North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission to make recommendations to the General Assembly regarding minimum equipment inventory and maintenance for law enforcement agencies under their jurisdiction no later than October 1, 2021. **Introduced by Senators Edwards, Sanderson and Britt, and assigned to the Committee on Rules and Operations of the Senate.**

SENATE BILL 101, Require Cooperation with ICE 2.0, would require the person in charge of a local confinement facility (such as a county jail or district confinement facility) that is unable to determine the residence status of a prisoner entering the facility charged with a felony or impaired driving offense to make a query with Immigration and Customs Enforcement (ICE) of the United States Department of Homeland Security to determine if the prisoner is a legal resident of the United States.

Currently, if the person in charge of a local confinement facility is unable to determine the residence status of a prisoner charged with these offenses, the person must, "where possible," query ICE to determine residence status of the prisoner.

The bill further requires that upon a confinement facility receiving notice that an ICE detainer request has been issued following the query described above, the person must be held by the facility for 48 hours from the time of the receipt of the ICE detainer request, even if the prisoner is otherwise able to satisfy bond conditions. This would apply to any prisoner that has been charged with any State law drug offense, murder or manslaughter, rape and other sex offenses, offenses involving assault, human trafficking, or State law offenses involving criminal gang activity.

In addition, the bill would allow for the release of the prisoner during this 48-hour hold, assuming other bond conditions are met, if the prisoner or another person acting on the prisoner's behalf (such as the prisoner's attorney, guardian, or family member) is able to provide proof to the local confinement facility that the prisoner is a legal resident or citizen of the United States.

The bill would provide that if the administrator or other person in charge of a local confinement facility willfully fails to make an ICE query or willfully fails to hold a prisoner for 48 hours as required above, that person would be guilty of a Class 1 misdemeanor.

Finally, the bill would require the administrator or other person in charge of a local confinement facility to report the following information annually to the Joint Legislative Oversight Committee on Justice and Public Safety, beginning October 1, 2022: (1) the number of ICE queries made by the facility; (2) the number of times ICE responded to a query; (3) the number of times ICE sent a detainer request for a prisoner; (4) the number of times a prisoner was held for the full 48 hours; (5) the number of times a prisoner subject to a 48-hour hold was released for providing proof of legal residence or citizenship; (6) the number of times a prisoner was held who would have otherwise been eligible for release from custody; and (7) the number of times ICE took custody of a prisoner after notification by the local confinement facility.

During the 2019-2020 session of the General Assembly, [House Bill 370, Require Cooperation with ICE Detainers](#), was approved by the General Assembly but was later vetoed by Governor Roy Cooper. A major distinction with [House Bill 370](#) from the current bill is that [House Bill 370](#) required a prisoner subject to an ICE detainer request and administrative warrant to be taken before a State judicial official before the prisoner could be held for 48 hours. [House Bill 370](#) provided that if the judicial official determined that the prisoner is the same person as the person subject to the detainer and administrative warrant, the judicial official shall order the prisoner held until: (1) 48 hours passes from receipt of the detainer and administrative warrant; (2) ICE takes custody of the prisoner; or (3) the detainer is rescinded by ICE.

Finally, [House Bill 370](#) authorized the removal of a sheriff from office for failing or refusing to comply with any of the provisions contained in the bill. **Introduced by Senators Edwards, Sanderson and Britt, and assigned to the Senate Committee on Judiciary.**

[SENATE BILL 102, REACT/Plates/Siren](#), would authorize the North Carolina Division of Motor Vehicles to issue permanent registration plates for motor vehicles owned by an incorporated Radio Emergency Associated Communications Team (REACT) that provides its services pursuant to a contract with a county or municipality. This bill would operate to reenact G.S. 20-84(b)(7), which was repealed in 2012. Previously, this provision did not limit issuance of permanent registration plates to vehicles owned by REACT teams that had entered into contract with a county or municipality.

REACT teams generally consist of volunteers who monitor the citizens' band emergency radio channel and, more recently, provide assistance such as helping motorists with traffic and parking control, search and rescue support, assistance with large public events, and assistance to their local emergency management offices and law enforcement.

The bill would also require every vehicle owned or operated by an incorporated REACT team that provides its services pursuant to a contract with a county or municipality to be equipped with special lights, bells, sirens, horns, or exhaust whistles approved by the Commissioner of Motor Vehicles. **Introduced by Senator Daniel, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 109, Law Enforcement Recordings/Winston-Salem](#), would allow law enforcement recordings by the City of Winston-Salem Police Department (such as dashboard camera recordings

and body-worn camera recordings) to be disclosed or released, in the discretion of the law enforcement agency, to the following:

1. Local agencies that partner with the law enforcement agency, such as a municipal fire department, for any internal investigations, administrative decisions or training purposes.
2. School resource officers to disclose the recording to a juvenile or their parent, or to a principal or other school administrator, if the juvenile's image or voice was captured in the recording.
3. A citizen review board provided board members have executed a confidentiality agreement.
4. The public for identifying or locating a criminal suspect, victim or missing person.
5. A city or county manager provided the manager has executed a confidentiality agreement.
6. The city or town council in closed session provided the council members have executed a confidentiality agreement.

The bill would prohibit release of a law enforcement recording to the public by a citizen review board, a city or county manager, or a city or town council unless a court order for the release of the recording is obtained.

Finally, it would be a Class 3 misdemeanor to release the law enforcement recording in violation of these stated exceptions. Currently, a law enforcement agency may not release a law enforcement recording to the groups listed above without a court order to release the recording.

This bill applies **ONLY** to the city of Winston-Salem. **Introduced by Senator Lowe, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 118](#), Modernization of Drug Court Program, would make various changes to the North Carolina Drug Treatment Court Act (more commonly known as drug treatment court). The bill would rename the Drug Treatment Court Act the "Judicially Managed Accountability and Recovery Court Act of 2021." In doing so, local drug courts would become known as "recovery courts." In addition, the bill would remove all references in the statutes governing the Act that refer to "drug" use, abuse or dependency and replace that with the word "substance."

The bill would provide that the North Carolina Administrative Office of the Courts would administer funding received for the administration of the Act. Currently, the Director of the Administrative Office of the Courts administers funding for the Act in consultation with the State Drug Treatment Court Advisory Committee.

Finally, the bill would require a sheriff or sheriff's designee to serve on a local "recovery court committee" (currently known as a drug treatment court management committee) if the judicial district in which the sheriff serves has created such a committee. The bill would maintain the

current requirement that a “local law enforcement officer” must serve on these local committees, in addition to other criminal justice professionals designated in the statute. **Introduced by Senators Britt, Corbin and Perry.**

BILL STATUS

[SENATE BILL 52](#), [Sex Offender Residence Restriction/Clarify](#), which is summarized in the February 5, 2021 Weekly Legislative Report, has been amended to clarify that a registered sex offender is prohibited from knowingly residing “at any location” that is within 1,000 feet of any “property line” on which any public or nonpublic school or childcare center is located. This would prevent, for example, the scenario where a registered sex offender was residing in a tent or some other transient location that is within the 1000-foot protective buffer zone established by the statute.

The bill, as amended, would also clarify that a registered sex offender is prohibited from residing in “any structure, any portion of which is within 1000 feet of any property line” on which any public or nonpublic school or childcare center is located. This would prevent, for example, the scenario where a registered sex offender resides in a room that is not within the 1000-foot protective buffer zone established by the statute, but the remainder of the structure (such as an apartment building, house, hotel, etc.) is within the 1000-foot protective buffer zone established by the statute.

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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