

# North Carolina Sheriffs' Association

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Weekly Legislative Report

March 19, 2021

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With anticipated turbulent weather, possibly including tornados, in the forecast for the Raleigh area and much of North Carolina on Thursday, many legislators made their way out of town Wednesday evening. Those who stayed until Thursday morning quickly left and headed back to their home counties as soon as committee meetings and brief House and Senate sessions concluded. By late morning on Thursday, both legislative buildings were sparsely populated.

However, as the committee calendars are published for next week, it is clear that no time will be wasted in continuing to move bills along in the legislative process. So far this Session, House members have filed 338 bills and Senate members have filed 326 for a total of 664 bills between the two chambers.

On this same date during 2019's long Session, the House had filed 377 bills and the Senate had filed 293 bills for a total of 670 bills. Based on these numbers, the 2021 General Assembly seems to be on track to file at least as many bills as those filed in 2019.

The House and Senate adjourned on Thursday and will reconvene Monday, March 22, 2021.

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## BILLS OF INTEREST

[HOUSE BILL 290](#), Make Certain Drug Offenses Infractions, would make the misdemeanor possession of marijuana and the misdemeanor possession of hashish an infraction. Currently, it is a misdemeanor to possess 1.5 ounces of marijuana or less, or three-twentieths of an ounce of hashish or less, and is currently a Class I felony to possess greater than 1.5 ounces of marijuana or more than three-twentieths of an ounce of hashish.

Finally, the bill would make the misdemeanor possession of marijuana drug paraphernalia (such as a water bong or a hashish pipe) an infraction. Currently, it is a Class 3 misdemeanor to possess marijuana drug paraphernalia. **Introduced by Representatives Alexander, Morey, Cunningham and Carney, and assigned to the Committee on Rules, Calendar, and Operations of the House.**

[HOUSE BILL 292](#), Howard Hunter, Jr., Eastern Crime Lab, would require the North Carolina Department of Justice (DOJ) to plan an Eastern Regional Crime Laboratory that would be located on the campus of Elizabeth City State University. The bill would require DOJ to report on the plan to the Chairs of the House of Representatives and Senate Appropriations Committees, to the

Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, and to the Fiscal Research Division no later than February 1, 2022.

The bill would require the DOJ plan to include: (1) the plans developed for the establishment of the crime laboratory; (2) the estimated cost of completing the crime laboratory; (3) the estimated cost of operating the crime laboratory during its first five years of operation; (4) an estimated timeline for completion of the crime laboratory; and (5) any other information DOJ deems relevant. **Introduced by Representatives Bell, Hunter, Saine and D. Hall, and assigned to the House Committee on Appropriations.**

[HOUSE BILL 296](#), [EV Charging Station/Parking](#), would make it unlawful to park a vehicle in an electric vehicle charging station located on public or private property if the vehicle is not connected to the charging equipment. The bill would define an electric vehicle charging station as a public or private parking space that is served by charging equipment that has as its primary purpose the transfer of electric energy to a battery or other energy storage device in an electric vehicle.

In addition, the bill would require that a space designated as an electric vehicle charging station be indicated by vertical signage identifying the station as an electric vehicle charging station and indicating that it is only for electric vehicle charging. The bill would also require the signage to be consistent with the Manual on Uniform Traffic Control Devices for Streets and Highways, published by the United States Department of Transportation, and any supplement to that Manual adopted by the North Carolina Department of Transportation.

Finally, the bill would make any violation of the parking provisions an infraction punishable by a \$100 fine and these provisions would be enforceable by State, county, city, and other municipal authorities in their respective jurisdictions in the same manner as enforcement of other parking laws and ordinances. **Introduced by Representative Warren, and assigned to the House Committee on Energy and Public Utilities.**

[HOUSE BILL 299](#), [Emissions/Exempt Lincoln County](#), would remove Lincoln County from the list of counties in which motor vehicle emissions inspections are required. Currently, motor vehicle emissions inspections are required only in the following counties: Alamance, Buncombe, Cabarrus, Cumberland, Davidson, Durham, Forsyth, Franklin, Gaston, Guilford, Iredell, Johnston, Lee, Lincoln, Mecklenburg, New Hanover, Onslow, Randolph, Rockingham, Rowan, Union and Wake. **Introduced by Representative Saine, and assigned to the House Committee on Transportation.**

[HOUSE BILL 303](#), [Greensboro SBE/Residential Streets Speed](#), would allow the City of Greensboro to pass an ordinance making it unlawful to operate a vehicle in excess of 25 miles per hour on residential streets in the City of Greensboro. The bill specifies that any speed restriction authorized by ordinance would not take effect until signs are erected on the affected streets giving notice of those restrictions.

This bill would apply only to the City of Greensboro. 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 would become law when approved by the General Assembly.

**Introduced by Representatives Clemmons, Faircloth, Hardister and Quick, and assigned to the House Committee on Local Government.**

[HOUSE BILL 304](#), Protect Personal Info/LEOS, Judges, DAs, would require every city and county to develop a process by which the following public officials could request that their personal information, such as telephone number and address, be removed from any website accessible by the public that is maintained by a city or county: (1) a federal, State, or local law enforcement officer; (2) a State judge, justice, or magistrate; (3) a district attorney or assistant district attorney; (4) a prosecutor employed by the North Carolina Department of Justice; (5) a United States Attorney or Assistant United States Attorney; or (6) a federal judge.

The bill would also authorize these public officials to make the request on behalf of their spouse so the spouse's personal information can be removed from the same websites.

The bill would require the public official to make the request in writing and include the name of the individual making the request, information indicating the individual is eligible to make the request (such as work credentials) and the specific information to be removed from the public website.

Once a written request has been made that meets the criteria above, the city or county would be required to remove the information from their public website and would be prohibited from making the information available to the public on the website unless the city or county receives a written revocation of the request from the public official who submitted the request.

Finally, the bill provides that any written request, or the revocation of a request, would be confidential, would not be public record and could not be released by a city or county pursuant to a public records request. In addition, any city or county officers, officials, employees, or agents acting in good faith in carrying out the duties required by the bill would be immune from liability.

If enacted into law, the public officials listed above could, for example, request that address information be removed from tax records or land records that are commonly maintained by cities and counties in a format that is available online that is accessible to the general public. Therefore, cities and counties would either have to redact the personal information from tax and land records available online or completely remove those records from the public website. **Introduced by Representatives McNeill, Hardister, Faircloth and Miller, and assigned to the House Committee on State Government.**

[HOUSE BILL 311](#), Safer Roads and Communities Act of 2021, would allow an immigrant or illegal alien that does not possess a valid Social Security number to apply for and receive a restricted drivers license from the North Carolina Division of Motor Vehicles (DMV). The applicant for the restricted drivers license would be required to provide one of the following forms of identification to the DMV: (1) a valid Individual Taxpayer Identification Number; (2) a current passport issued by the United States or a foreign government; (3) a valid, unexpired consular identification document issued from the applicant's country of citizenship, or (4) a "community identification card" issued by FaithAction International House or a member of the FaithAction ID network.

The bill would also require the applicant to live in North Carolina for at least one year prior to applying for the restricted drivers license and would require proof of motor vehicle liability insurance. In addition, the applicant would have to show that during the 12 months preceding the application that they either filed a North Carolina income tax return, were claimed as a dependent on a North Carolina income tax return, or that their gross income in the preceding 12 months did not exceed the standard deduction amount provided in our General Statutes.

In addition, the bill would require the applicant to complete the ordinary tests administered by the DMV, such as the road sign test, vision test and written knowledge test. Applicants for the restricted drivers license would also have to complete a special driver training course at least one hour in length that would provide the person with an “overview of the social systems and resources available” to North Carolina residents and an overview of “laws applicable” to North Carolina residents. This bill would allow the course to be conducted remotely.

The restricted license would cost no more than \$53 and would expire on the birthday of the licensee in the second year after the restricted license was issued. However, the bill would allow the person to renew the restricted license for additional two-year periods. The restricted license would be of a unique design or color making it distinguishable from a REAL ID compliant drivers license.

Finally, any information provided by the applicant to the DMV would not be admissible in any criminal or civil trial or in any immigration proceeding, action or trial. In addition, the possession of a restricted drivers license alone could not be used as a basis for a criminal investigation, arrest, or detention in circumstances in which a person who possesses some other form of identification would not be criminally investigated, arrested, or detained. **Introduced by Representative Hurtado, and assigned to the Committee on Rules, Calendar, and Operations of the House.**

[HOUSE BILL 312, Qualifications for Sheriff/Expunction](#), would further clarify the qualifications for the Office of Sheriff to ensure that the candidate or appointee may not have a felony conviction, even if that conviction has been expunged.

The bill would require any person intending to file a notice of candidacy for election to the Office of Sheriff to first receive a disclosure statement from the North Carolina Sheriffs' Education and Training Standards Commission (Commission) verifying that the individual has no prior felony convictions or expungements of felony convictions. This disclosure statement would be valid for 90 days and would have to be filed along with the notice of candidacy at the county board of elections.

The Commission would be authorized to conduct a criminal history record check on these individuals and to receive information from the North Carolina Administrative Office of the Courts about any expungements. The Commission could also charge a fee to cover the cost of the criminal history check.

Finally, this bill would also require this same process to be completed by an individual prior to their appointment by the board of county commissioners to fill a vacancy in the Office of Sheriff, such as when a sheriff retires mid-term and a board of county commissioners appoints a new

sheriff. **Introduced by Representative McNeill, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 315](#), Arson Law Revisions, would make various changes to North Carolina's arson statutes as follows:

1. The bill would repeal G.S. § 14-60, which currently makes the burning of schoolhouses or buildings of educational institutions a Class F felony.
2. The bill would create a new provision in the arson statutes that would encompass the burning of a commercial structure or its contents. The bill would define a commercial structure as any building or structure that is not designed principally for residential purposes. The offense of wantonly and willfully setting fire to or burning or aiding, counseling, or procuring the burning of any commercial structure or its contents would be a Class D felony if the building was occupied at the time of the burning. If the building was unoccupied at the time of the burning, the offense would be a Class E felony.
3. The bill would amend the punishment language for the offenses of: (1) burning of certain bridges and buildings; (2) burning of certain buildings; (3) burning of building or structure in process of construction; (4) burning of churches and other religious buildings; and (5) burning of ginhouses and tobacco houses. These offenses would be punishable as stated in the applicable statute unless the conduct is covered under some other provision of law that provides for greater punishment.
4. The bill would add definitions for ginhouse and tobacco house within the offense of burning of ginhouses and tobacco houses. The bill would define ginhouse as any building or structure where cotton is ginned, and tobacco house would be defined as any barn, building, or other structure used for curing and aging tobacco.
5. The bill would provide that a person would be guilty of a Class F felony for committing a felony under Chapter 14, Article 15 of the General Statutes where a firefighter, law enforcement officer, fire investigator, or emergency medical technician suffers physical injury while discharging or attempting to discharge their official duties on the property, or proximate to the property, that is the subject of the individual's discharge of their duties. The person would be guilty of a Class E felony in this scenario if the individuals listed above suffer serious injury. Currently, the statute requires proof of serious bodily injury to rise to the level of a Class E felony.
6. Finally, the bill would authorize the Commissioner of Insurance, through the Office of the State Fire Marshal, to investigate the cause, origin, and circumstances of fires in addition to the North Carolina State Bureau of Investigation (SBI) and local fire departments and authorities. Currently, the Director of the SBI, through the SBI, the Office of the State Fire Marshal and local fire departments and authorities are authorized conduct these investigations. The bill would transfer the SBI Director's various other duties and

authorities regarding fire investigations to the Commissioner of Insurance, except the SBI Director's power to make arrests.

**Introduced by Representatives McNeill, Boles, Saine and Carter, and assigned to the House Committee on Judiciary 3.**

[HOUSE BILL 321](#), Restoration of Law and Order Act, would create the new criminal offense of "Interference with law enforcement officers by public officials." A public official would be defined as any person holding a State or local appointed or elective office.

It would be unlawful for a public official to interfere with a law enforcement officer in the performance of the officer's duties by causing or attempting to cause, in any way, a law enforcement officer to refrain from: (1) enforcing the laws of this State; (2) defending the citizens of this State against criminal activity; (3) defending the property of citizens of this State against criminal activity; or (4) defending the property of this State against criminal activity.

Any violation would be punishable by a fine up to \$10,000 per incident and a period of confinement of no less than 7 days and up to 30 days, at the discretion of the court. The bill does not specify whether this crime would be a felony offense or a misdemeanor.

These provisions would not apply to sheriffs, chiefs of police or to other law enforcement officers whose regular duties include the direct supervision, direction, and deployment of law enforcement officers so long as their decisions were made for tactical, law enforcement related reasons.

In addition, the bill would allow for civil liability (money damages) for any public official that violates this law. However, the bill would provide civil and criminal immunity to any law enforcement officer using reasonable force under the circumstances and acting in good faith to enforce the laws of this State, to defend the citizens of this State against criminal activity, to defend the property of citizens of this State against criminal activity, and to defend the property of this State against criminal activity. Currently, law enforcement officers are immune from civil and criminal liability when lawfully discharging their duties of office.

Any public official convicted of violating these provisions would be subject to removal from office. This would also apply to any person refusing to charge, prosecute or otherwise hold liable a person violating these provisions. Therefore, a district attorney or judge could also be subject to removal for failing to enforce these provisions.

Finally, the bill would make it a Class 1 misdemeanor under our State law governing public monuments for a person to willfully and knowingly remove, relocate, or alter in any way a State owned memorial, monument or work of art without the approval of the North Carolina Historical Commission. This provision, if enacted into law, would not prevent a law enforcement officer from charging a person with trespass or a property crime for damaging State owned property (including a monument), such as during a protest. **Introduced by Representative Pittman, and assigned to the House Committee on Judiciary 1.**

[HOUSE BILL 326](#), 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 machine or device 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 machine or device has an element of skill incorporated into the machine or device, such as a dexterity test. Currently, these video gaming machines and video sweepstakes machines and devices are illegal if the element of chance in the game predominates over skill.

The bill would require the court to order the owner of any illegal video gaming machine or illegal video sweepstakes machine or device to pay the reasonable costs of storage and disposal fees incurred by the seizing law enforcement agency. In addition, the bill would authorize a law enforcement agency to seize any vehicle that was used to transport any illegal video gaming machine or illegal video sweepstakes machine or device.

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 Representative Hurley, and assigned to the House Committee on Commerce.**

[HOUSE BILL 328](#), Allow Trade or Exchange of Spirituous Liquor, would allow for the trade or exchange of lawfully purchased spirituous liquor so long as: (1) the transaction only involves the trade or exchange of lawfully purchased spirituous liquor; (2) the trade or exchange is only between individuals, for personal use only, and not for resale; and (3) the spirituous liquor to be traded or exchanged is or has been approved by the North Carolina Alcoholic Beverage Control Commission (ABC Commission) for sale in North Carolina and is not unfit for human consumption. Finally, the bill would require the ABC Commission to adopt temporary rules to implement these provisions. **Introduced by Representatives Moffitt, Bradford, Dahle and Hardister, and assigned to the House Committee on Judiciary 1.**

[SENATE BILL 239](#), Durham/Electronic School Zones, would authorize the City of Durham to implement a pilot program for the use of electronic speed-measuring systems to detect speed limit violations in school zones. When an electronic speed-measuring system captures a speeding violation in a school zone, a notice of violation containing the photograph of the vehicle speeding and the vehicle's registration plate would be sent by the City of Durham to the registered owner of the vehicle.

The bill specifies that photographs recorded by an electronic speed-measuring system that capture a speeding violation in a school zone must be provided to the investigating law enforcement agency for use as evidence in any proceeding alleging a violation of speeding in a school zone.

The bill would provide that non-law enforcement, City of Durham issued violations would be noncriminal violations that could result in the imposition of civil penalties only (fines). A City issued violation would not result in the imposition of insurance points or of drivers license points. However, the bill would not prevent a law enforcement officer, including a Durham Police Department police officer, from issuing a citation for violating school zone speed restrictions or

any other motor vehicle or criminal law violation.

Finally, the bill provides that if a law enforcement officer cites or arrests an owner or operator of a vehicle in an area where an electronic speed-measuring system is in use for detecting violations of the speed limit in a school zone, the officer must notify the City of Durham within 48 hours of the citation or arrest, and the City of Durham would be prohibited from issuing a notice of violation for the same offense or occurrence.

This bill would apply only to the City of Durham. 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 would become law when approved by the General Assembly. **Introduced by Senators Woodard and Murdock, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 240, Durham/Reduce Speed Limits](#), would make it unlawful to operate a vehicle in excess of 25 miles per hour on residential streets experiencing congestion in the city of Durham. Whether a residential street is experiencing congestion would be determined by the City of Durham's Transportation Department. The bill does not specify how the City of Durham would notify motorists that a residential street has been classified by the City as experiencing congestion (such as by erecting a speed limit sign or some other posted notification). Currently, North Carolina law sets speed limits within municipal limits at 35 miles per hour.

This bill would apply only to the City of Durham. 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 would become law when approved by the General Assembly. **Introduced by Senators Woodard and Murdock, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 267, Lake Norman Watercraft Safety](#), would require individuals towed behind a watercraft on Lake Norman to wear a personal flotation device and either of the following must be true: (1) an individual in the watercraft other than the operator must be in a position to monitor the towed individual; or (2) the towing watercraft must have a mirror capable of showing a wide area behind it. Currently, individuals are not required to wear a personal flotation device while being towed as long as either the watercraft has a rearview mirror or a non-operator within the watercraft is in a position to monitor the towed individual.

In addition, the bill would only allow individuals to be towed behind a watercraft between sunrise and sunset. Currently, individuals may be towed behind a watercraft beginning one hour before sunrise and ending one hour after sunset. Violation of any of these provisions would be punishable as a Class 3 misdemeanor.

This bill would apply only to the waters of Lake Norman in Catawba, Iredell, Lincoln, and Mecklenburg Counties. 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 would become law when approved by the General Assembly. **Introduced by Senator Sawyer, and assigned to the Committee on Rules and Operations of the Senate.**



[SENATE BILL 282](#), Modify Wilmington Civilian Crash Investigator, would allow Civilian Traffic Investigators to issue citations for infractions under Chapter 20 of the General Statutes related to the traffic crashes they investigate. Currently, Civilian Traffic Investigators are only permitted to investigate crashes and cannot issue citations.

This bill would apply only to the City of Wilmington. 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 would become law when approved by the General Assembly. **Introduced by Senator Lee, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 284](#), Greensboro/School Zone Elec. Enforc., is substantially similar to [Senate Bill 239](#), which is summarized above in this Weekly Legislative Report and that would be applicable to school zones in the City of Durham. [Senate Bill 284](#) would authorize the City of Greensboro to implement the same pilot program for the use of electronic speed-measuring systems to detect speed limit violations in school zones in the City of Greensboro.

This bill would apply only to the City of Greensboro. 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 would become law when approved by the General Assembly. **Introduced by Senators Garrett and Robinson, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 286](#), Greensboro/Local Speed Limit, would allow the City of Greensboro to pass an ordinance making it unlawful to operate a vehicle in excess of 25 miles per hour on residential streets in the City of Greensboro. The bill specifies that any speed restriction authorized by ordinance would not take effect until signs are erected on the affected streets giving notice of those restrictions.

This bill would apply only to the City of Greensboro. 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 would become law when approved by the General Assembly. **Introduced by Senators Garrett and Robinson, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 291](#), Citizens Review Board/Special Legislation, would authorize the City of Fayetteville to establish by ordinance a Citizens Review Board (Board) to review appeals of disciplinary actions involving allegations of misconduct by police officers employed by the City of Fayetteville. The ordinance must require the head of the law enforcement agency employing the law enforcement officer alleged to have committed misconduct to make available to the Board: (1) the personnel file of that law enforcement officer; and (2) any other material deemed necessary for the citizens review board to complete its investigation or review.

The ordinance must also require members of the Board to sign a confidentiality agreement prior to appointment, and any breach of the confidentiality agreement would be punishable as a Class 1

misdemeanor with up to a \$1,000 fine.

Under current law, only a limited amount of information from an employee's personnel file is public record, such as the name, age, current position, current salary, and the date and type of each promotion, demotion, transfer, suspension, or separation of the employee. Therefore, any information from an employee's personnel file aside from what is public record could only be disclosed to a citizen review board or any other person pursuant to a court order.

This bill would apply only to the City of Fayetteville. 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 would become law when approved by the General Assembly. **Introduced by Senators deViere and Clark, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 300, Criminal Justice Reform](#), would make various changes to State law that would impact the criminal justice system as follows:

1. The bill would require the North Carolina Department of Justice (DOJ), in consultation with the North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission (the Commissions), to develop and maintain a statewide database for law enforcement agencies to use to track all disciplinary actions and decertification of law enforcement officers in the State.

The bill would further require all North Carolina law enforcement agencies, including the North Carolina State Highway Patrol, North Carolina State Bureau of Investigation, company police agencies, campus police agencies, and all county and city law enforcement agencies, to provide DOJ with information requested to maintain the database on disciplinary actions and decertification.

Information provided to DOJ for the database that is confidential under State or federal law would remain confidential and would not be subject to disclosure without a court order.

2. The bill would require the North Carolina Department of Public Safety (DPS) to provide the Commissions with information from the State and National Repositories of Criminal Histories concerning the criminal history of anyone applying to a position that requires certification with either Commission. The bill would further require the Commissions to provide the applicant's fingerprints and other requested identifying information to the North Carolina State Bureau of Investigation (SBI).

The SBI would then be required to search the State's criminal history record file and forward a set of fingerprints to the Federal Bureau of Investigation (FBI) for a national criminal history record check. In addition, the bill would require the SBI to enroll each person whose fingerprints it receives into the FBI's Record of Arrest and Prosecution

Background (“Rap Back”) Service. Rap Back compares those fingerprints with arrest records nationwide on a regular basis and reports back to the submitting agency on arrest records located for an individual.

3. The bill would require DOJ, in consultation with the Commissions, to develop and maintain a statewide database for law enforcement agencies that tracks all critical incident data of law enforcement officers in the State. The bill would define “critical incident” as an incident involving any use of force by a law enforcement officer resulting in death or serious bodily injury to a person.

The bill would further require all North Carolina law enforcement agencies to provide DOJ with information requested to maintain the database on critical incidents, including the North Carolina State Highway Patrol, North Carolina State Bureau of Investigation, company police agencies, campus police agencies, and all county and city law enforcement agencies.

Information provided to DOJ for the database that is confidential under State or federal law would remain confidential and would not be subject to disclosure without a court order.

4. The bill would require DOJ, in consultation with the Commissions, to report annually beginning March 1, 2022, to the Joint Legislative Oversight Committee on Justice and Public Safety on law enforcement officers in the State who were notified by a judge or district attorney in the year prior to the report of an action of misconduct or untruthfulness on the part of the law enforcement officer that requires disclosure to a criminal defendant against whom the law enforcement officer will serve as a witness.

This notification is commonly known as a “*Giglio* notification.” The bill would require all law enforcement officers in the State certified by the Commissions or under the Company Police Act or the Campus Police Act to report the receipt of a *Giglio* notification to DOJ within 30 days of receiving the notification.

Currently, law enforcement officers who receive *Giglio* notifications are not required to report the notification to the Commissions, and there is no formal procedure in existence for a law enforcement officer to challenge (such as through an administrative hearing) the underlying basis or receipt of a *Giglio* notification.

5. The bill would require the Commissions to jointly develop uniform, statewide minimum standards for law enforcement officers and adopt these standards as rules. Each Commission would be required to report on these standards to the Joint Legislative Oversight Committee on Justice and Public Safety no later than October 1, 2021. Currently, each Commission has its own set of minimum standards.

6. The bill would authorize a clerk, magistrate, or district court judge to also allow a respondent's health care provider to transport the respondent for involuntary commitment, so long as this does not pose a substantial danger to the public.
7. The bill would grant additional powers to the Commissions, including: (1) the establishment of minimum mental health screening protocols that must be met to qualify for employment as a criminal justice officer, including a psychological screening within one year prior to certification; and (2) the establishment of minimum annual mental health screening protocols for officers, including a psychological screening.

The bill would further require the minimum educational and training standards for entry level employment and retention as a criminal justice officer to include: (1) crisis intervention training for when officers encounter an individual experiencing a behavioral health crisis; and (2) education and training on current and former trends and examples of civil unrest in the state and nation.

8. The bill would require the Commissions to jointly study the benefits of requiring physical fitness testing throughout a law enforcement officer's career and whether that testing, if required, should be incrementally adjusted for age. The Commissions would be required to report their findings to the Joint Legislative Oversight Committee on Justice and Public Safety no later than December 1, 2021.
9. The bill would require the North Carolina State Highway Patrol, the SBI, company police agencies, campus police agencies, and cities and counties to each develop and implement an early warning system to document and track law enforcement officer actions and behaviors so the relevant agency can intervene to correct the officer's performance. The early warning system would be required to include at a minimum information on: (1) instances of the discharge of a firearm; (2) instances of use of force; (3) vehicle collisions; and (4) citizen complaints.
10. The bill would require the Commissions to jointly develop a "best practices guide" to help law enforcement agencies recruit and retain a diverse workforce. The Commissions would be required to report their findings to the Joint Legislative Oversight Committee on Justice and Public Safety no later than March 1, 2022.
11. The bill would authorize the SBI to conduct an investigation into an officer involved shooting upon the request of the Governor. This would also include an investigation, at the request of the Governor, into any death or serious bodily injury occurring to an individual in the custody of the North Carolina Department of Public Safety, a State prison, a county jail, or a local confinement facility.

Currently, judges, district attorneys, sheriffs and police can request that the SBI investigate an officer involved shooting or incident in a prison or jail that results in death or serious bodily injury.

12. The bill would require the Commissions to develop mandatory in service training standards to cover the following topics: (1) ethics; (2) mental health for criminal justice officers; (3) community interaction; (4) bias and racial equity; (5) use of force; and (6) the duty to intervene and to report.
13. The bill would exempt from the administrative rules review process the selection of annual Mandatory In-Service Training by the Commissions.
14. The bill would require the North Carolina Administrative Office of the Courts to automatically enroll criminal defendants in the court date reminder system. This system sends reminders of court dates via email and text messaging to avoid defendants failing to appear in court. The bill would allow a defendant to opt out of these notifications.
15. The bill would make the violation of a local ordinance an infraction instead of a Class 3 misdemeanor. If enacted into law, a law enforcement officer would be prohibited from arresting an offender that engages in repeated conduct that is disruptive to the community (such as continually loitering in an area open to the public for shopping and dining).
16. The bill would provide that no person could be convicted of a criminal offense unless that criminal offense is contained in Chapter 14 of our General Statutes, Chapter 20 of our General Statutes (for motor vehicle offenses), or is a common law criminal offense established in case law (such as the crime going armed to the terror of the people). If enacted into law, a person could not be arrested for continuing to violate a local ordinance, which is currently a Class 3 misdemeanor.
17. The bill would increase the criminal punishment for riot offenses.
18. Finally, the bill would require any defendant charged with a misdemeanor under a magistrate's order or criminal process and held in custody on that charge to be brought before a district court judge for a first appearance. If a defendant being held on a misdemeanor or felony does not make bail, first appearance before a district court judge would have to be held within 48 hours after the defendant is taken into custody or at the first regular session of the district court in the county, whichever occurs first. The bill would also clarify that this first appearance is not a critical stage of the proceedings, which means the judge could conduct the first appearance even without an attorney being present for the defendant.

Currently, only those defendants who are charged with crimes under a magistrate's order or criminal process having original jurisdiction in superior court (i.e., those charged with felonies) are required to have a first appearance before a district court judge. If a defendant being held on a felony does not make bail, first appearance before a district court judge must be held within 96 hours after the defendant is taken into custody or at the first regular session of the district court in the county, whichever occurs first.

**Introduced by Senators Britt, Daniel and Lee, and assigned to the Senate Committee on Judiciary.**

[SENATE BILL 301](#), [Expand Expunction Eligibility](#), would make various changes to the law regarding expunction of nonviolent misdemeanors and felonies as follows:

1. The bill would exclude from the definition of “nonviolent misdemeanor” or “nonviolent felony” an offense under G.S. 14-56 (breaking or entering into or breaking out of railroad cars, motor vehicles, trailers, aircraft, boats, or other watercraft), unless 20 years have passed from the later of: (1) the date of conviction; or (2) the date when any active sentence, period of probation, or post-release supervision has been served. Currently, an offense under G.S. 14-56 is excluded from the definitions of “nonviolent misdemeanor” and “nonviolent felony” regardless of how much time has passed.
2. The bill would allow a person to file a petition for expunction of one or more nonviolent misdemeanor convictions or up to two nonviolent felony convictions from the person’s criminal record. Currently, a person may only petition for expunction of one nonviolent felony conviction. The bill would also require a petition for expunction of two nonviolent felonies to be filed no earlier than 20 years after the date of the person’s last conviction, other than a traffic offense not listed in the petition for expunction, or 20 years after any active sentence, period of probation, or post-release supervision has been served, whichever occurs later. Currently, there is a 10-year waiting period before a person can file a petition for expunction of one nonviolent felony.
3. The bill would make changes to the findings that must be made by the court following a hearing on a petition for expunction of up to two nonviolent felonies in order for the court to restore the petitioner to the status the petitioner occupied before the arrest or indictment or information. Among the other required findings, the court would have to find that the petitioner has no misdemeanor convictions, other than a traffic violation not listed in the petition for expunction, in the 5 years preceding the petition, and no other felony convictions not listed in the petition during the applicable 10-year or 20-year waiting period described in the section above. If the petition is for expunction of two nonviolent felonies rather than one, the court would also have to find that the two nonviolent felony convictions were obtained within the same 24-month period.
4. Finally, the bill would expand who may file a petition for expunction in the case of an individual: (1) convicted of any misdemeanor or Class H or I felony not excluded under the statute; (2) that was committed prior to December 1, 2019; and (3) while the person was less than 18 years of age, but at least 16 years of age. The bill would allow the petition to be filed by a person eligible for expunction under the statute or, at the request of the person eligible for expunction, the district attorney, the public defender, or private counsel. Currently, a petition for expunction for these individuals may only be filed by the person eligible for expunction or the district attorney.



**Introduced by Senators Britt, Daniel and Lee, and assigned to the Senate Committee on Judiciary.**

[SENATE BILL 302](#), [CJIN Changes](#), would expand upon the North Carolina Criminal Justice Information Network Governing Board's administrative duties. The North Carolina Criminal Justice Information Network (CJIN) is a statewide criminal justice infrastructure that allows the sharing of information between State and local criminal justice agencies. The CJIN Board, among other things, provides assistance with or co-ordinates projects that will provide more effective communication between law enforcement agencies across the State, such as updating North Carolina's Statewide Automated Fingerprint Identification System (SAFIS) and the North Carolina Automated Warrant Repository (NCAWARE).

The Board's expanded administrative duties would include: (1) exercising administrative control over the transportation and subsistence budget; (2) establishing qualifications, classification, and salary levels for its employees; and (3) determining appropriate methods of screening for candidates, interviewing, hiring, and day-to-day management of Board employees. The bill would also require the North Carolina Department of Information Technology to provide technical assistance to the Board at the Board's request. **Introduced by Senators Steinburg, Burgin and Ford, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 306](#), [Qualifications for Sheriff/Expunction](#), is identical to [House Bill 312](#), which is summarized above in this Weekly Legislative Report. **Introduced by Senator Britt, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 307](#), [Evidence/Dist. Ct Speedy Trials](#), is identical to [House Bill 235](#), which is summarized in the March 12, 2021 Weekly Legislative Report. **Introduced by Senator Britt, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 311](#), [No Waiting Period Under LGERS for LEOs](#), would prohibit employers participating in the Local Governmental Employees' Retirement System (LGERS) from imposing a waiting period on law enforcement officers before they become members of the Retirement System if they are otherwise eligible for membership.

Currently, there is no State or federal law that clearly prohibits an employer from imposing a waiting period before a permanent, full-time law enforcement officer may become a member of LGERS. Under current law, this determination is made by the employer's personnel policies and local ordinances. **Introduced by Senator Corbin, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 321](#), [Amend NC Controlled Substances Act](#), would implement a variety of changes to North Carolina's statutes addressing controlled substances. Among them, the bill would:

1. Refine the term "isomer" to mean the optical isomer, unless otherwise specified. Currently, the term means any type of isomer, including structural, geometric, or optical isomers, and stereoisomers.

2. Modify the definition of “narcotic drug” such that the term includes cocaine and any isomer whether optical or geometric.
3. Add the following substances to the Schedule I opiates:
  - a. Isopropyl-U-47700,
  - b. U-51754, and U-48800
  - c. Isotonitazene
  - d. Metonitazene
  - e. Brorphine

The bill also specifies that the isomers of levophenacymorphan, included as a Schedule I opiate, include optical and geometric isomers.

4. Provide that fentanyl derivatives included in Schedule I controlled substances include any compound as currently described in the statute unless specifically excepted, listed in another schedule, or contained within a pharmaceutical product approved by the U.S. Food and Drug Administration. The bill would also specify that the opium derivatives and hallucinogenic substances currently included in the Schedule include the derivatives' or substances' optical, positional, or geometric isomer.
5. Add the following substances to the Schedule I hallucinogenic substances:
  - a. substituted tryptamines
  - b. substituted phenylcyclohexylamines
6. Add the following substances to the Schedule I systemic depressants:
  - a. clonazolam
  - b. flualprazolam
  - c. flubromazolam
7. Specify that the isomers of the following Schedule I controlled substances include optical, positional, or geometric isomers:
  - a. mephedrone, MDPV, and substituted cathinones (all of which are Schedule I stimulants)
  - b. NBOMe compounds
8. Add the following substances to Schedule I controlled substances:
  - a. substituted phenethylamines
  - b. N-Benzyl Phenethylamines
9. Amend the Schedule II controlled substances statute to specify that cocaine includes any isomer chemically equivalent or identical whether optical or geometric. The bill would also add Norfentanyl to the opiates or opioids included in Schedule II controlled substances.

10. Provide that Schedule III controlled substances include any isomer of the substance, whether optical, positional or geometric.
11. Add the following substances to the Schedule IV depressants:
  - a. desalkylflurazepam
  - b. diclazepam
  - c. designer benzodiazepines
  - d. The bill would further provide that the isomers of fenfluramine include optical, positional, or geometric isomers.
12. Make possession of fentanyl or carfentanil or any salt, isomer, compound, or derivative thereof, or the chemical equivalent, a Class I felony. Currently, simple possession of fentanyl or carfentanil is a Class 1 misdemeanor.
13. Include within the felony offense of trafficking cocaine the distinction that isomers of cocaine include optical or geometric isomers.

**Introduced by Senators McInnis, Lazzara and Edwards.**

### **BILL STATUS**

[HOUSE BILL 84, Sex Offender Premises Restrictions](#), which is summarized in the February 19, 2021 Weekly Legislative Report, has passed the House and has been sent to the Senate for consideration.

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