

North Carolina Sheriffs' Association

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Weekly Legislative Report

April 23, 2021

This week more than most in this legislative Session, it was difficult to find a legislator in his or her office. It was much easier to find them moving in the hallways from committee meeting to committee meeting. No fewer than 20 House committees met this week, while the Senate convened at least 11 committees.

As the crossover deadline of May 13 inches closer, committee calendars are getting heavier as bill sponsors attempt to move their bills from chamber to chamber. More amendments to bills are being filed as legislators work to ensure their bills accomplish the goals they hoped to achieve with the legislation. House members who still hope to see their ideas turned into legislation have a little less than two weeks to file those bills or their proposals will likely remain on the shelf until the short session in 2022.

The House and Senate adjourned on Thursday and will reconvene Monday, April 26, 2021.

BILLS OF INTEREST

[House Bill 594](#), Traveling Animals/Pub. Safety Protection Act, would make it a Class 2 misdemeanor for a person to cause a performance of, or allow for the participation of, an exotic or wild animal in a traveling animal act. Among the various types of animals that would be considered exotic or wild animals are lions, tigers, elephants, bears, seals, and non-human primates. A traveling animal act would mean a performance with one or more animals that transports the animals from place to place in a mobile housing facility for the purpose of participation in the performance, such as a circus.

Exceptions to this prohibition would include use of wild or exotic animals in exhibitions at permanent, non-mobile, and accredited zoos, aquariums, and wildlife sanctuaries, and in specified research and educational programs. The bill would be enforceable by wildlife protectors of the North Carolina Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other law enforcement officers with general subject matter jurisdiction. **Introduced by Representative Ball, and assigned to the Committee on Rules, Calendar, and Operations of the House.**

[HOUSE BILL 598](#), Restitution/Sexual Exploitation of Minor, would provide that restitution ordered by a court to a victim of first, second or third degree sexual exploitation of a minor, or where the criminal defendant viewed child pornography in connection with any of these crimes, must include restitution for the “full amount of the victim’s losses.”

The full amount of the victim's losses would include but not be limited to the following: (1) medical services relating to physical, psychiatric, or psychological care; (2) physical and occupational therapy or rehabilitation; (3) transportation, temporary housing, and childcare expenses; (4) loss of income; (5) reasonable attorneys' fees and other litigation costs associated with the order of restitution or its enforcement; and (6) any other relevant losses incurred by the victim.

Currently, a court has the authority to order restitution to a victim of a crime for bodily injury suffered by the victim resulting from the defendant's crime, but this does not currently include the victim's attorney's fees, transportation, temporary housing, and childcare expenses, or "any other relevant losses incurred by the victim." **Introduced by Representative Davis, and assigned to the House Committee on Judiciary 1.**

[HOUSE BILL 607](#), [LEO Background Checks/FBI Rap Back Services](#), would require the North Carolina Department of Public Safety (DPS) to provide the North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission (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, or who is certified as a criminal justice officer or justice officer. 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).

All personnel previously certified by either Commission would be required to electronically submit their fingerprints to the SBI no later than June 30, 2022, unless the SBI directs the person to submit their fingerprints to their certifying Commission. If so directed, the certifying Commission would then be required to forward the fingerprints to the SBI.

Finally, 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. **Introduced by Representative McNeill, and assigned to the House Committee on Judiciary 3.**

[HOUSE BILL 608](#), [Dignity for Women Who are Incarcerated](#), would create a new Article in Chapter 15A of the North Carolina General Statutes governing the treatment of incarcerated women. The provisions of interest to the criminal justice community include:

1. The North Carolina Department of Public Safety (DPS) employees and employees of a correctional facility (including county jails) would be prohibited from applying any of the following restraints to an incarcerated woman in the second or third trimester of pregnancy or during the six-week postpartum recovery period: (1) leg restraints; (2) handcuffs or other wrist restraints; (3) restraints connected to other incarcerated persons; or (4) waist shackles. Wrist restraints in the front of the body would be permitted during the

postpartum recovery period if the correctional facility employee made the determination that an “important circumstance” existed and documented that in writing within 5 days of the use of restraints.

The bill defines an “important circumstance” as an individualized determination that there are reasonable grounds to believe that the incarcerated woman presents a threat of harming herself, the fetus, or any other person, or that the person poses an escape risk that cannot be reasonably contained by other means, including the use of additional personnel.

However, handcuffs and wrist restraints held in front of the incarcerated woman’s body would be allowed when transporting the person outside of the correctional facility so long as the incarcerated woman is not in labor or suspected to be in labor.

2. A correctional facility employee, other than a certified healthcare professional, would be prohibited from conducting a body cavity search of an incarcerated woman who is pregnant or in postpartum recovery unless the employee has probable cause to believe the woman is concealing contraband that would present a threat of harm to herself, the fetus, or another person. The bill would require an employee who conducted such a search to submit a written report within 5 days of conducting the search justifying the search and stating the presence or absence of contraband.
3. The bill would prohibit the placement of an incarcerated woman who is pregnant or in postpartum recovery in restrictive housing absent important circumstances. The authorizing employee would be required to submit a report within 5 days of the transfer justifying the placement of the incarcerated woman in restrictive housing.

However, the bill would allow the incarcerated woman who is pregnant to be housed in single cell accommodations at the request of the woman, due to a threat of harm to the woman or to the fetus, due to medical reasons other than pregnancy, or because single cell accommodations are provided to all other inmates at the facility or to all inmates of a certain sex or gender at the facility.

4. The bill would require DPS and correctional facilities to do the following with respect to inmates who are pregnant or in postpartum recovery: (i) provide adequate daily food and dietary supplements to a pregnant inmate as ordered by a physician or correctional facility nutritionist; (ii) assign a pregnant inmate a bed that is no higher than 3 feet off the ground; (iii) allow a bonding period with the newborn (i.e. allow the newborn to remain with the incarcerated woman) for an inmate who has just given birth while the inmate remains in the hospital, unless a medical provider believes it poses a health or safety risk to the newborn; and (iv) provide postpartum nutrition and hygiene supplies to an incarcerated woman in postpartum recovery.
5. The bill would require, to the extent practicable, DPS to place female inmates who are parents to minor children under the age of 1 within 250 miles of the child’s permanent

address of record. It would also require DPS and correctional facility administrators to adopt more relaxed visitation rules for incarcerated parents (both mother and father) of minor children under the age of 1 that have low or minimum-security classifications.

6. Inspection by male correctional facility employees of female inmates who are in a state of undress would be limited to the greatest extent practicable and consistent with safety. This would not apply if a female correctional facility employee is not available to conduct the inspection within a reasonable period of time.
7. DPS and correctional facility administrators would be required to ensure incarcerated women at the facility have access to menstrual products at no cost.
8. DPS would be required to develop, in consultation with the North Carolina Department of Health and Human Services, Divisions of Public Health and Mental Health, Developmental Disabilities, and Substance Abuse Services, training for State prison employees related to the physical and mental health of pregnant women and fetuses.
9. DPS would be required to develop and provide educational programming to incarcerated pregnant women in State prisons related to prenatal care, pregnancy-specific hygiene, parenting skills, the impact of drugs and alcohol to the fetus, and the general health of children.

Introduced by Representative K. Baker, and assigned to the House Committee on Health.

[HOUSE BILL 612](#), Up Minimum Wages/No Subminimum or Exemptions, would increase the State minimum wage to \$15 per hour by year 2023 as follows: (1) \$10.35 per hour effective January 1, 2022; and (2) \$15 per hour effective January 1, 2023. Beginning on September 30, 2023, and each September 30 after, the State minimum wage would be adjusted by the North Carolina Commissioner of Labor using the Consumer Price Index. This adjusted minimum wage would be published September 30 of each year and would take effect the following January 1. Currently, the State minimum wage is set by statute at \$6.15 per hour. **Introduced by Representative Fisher, and assigned to the Committee on Rules, Calendar, and Operations of the House.**

[HOUSE BILL 614](#), Lemon Law for Emergency Vehicles, would expand North Carolina's New Motor Vehicles Warranties Act, our State motor vehicle "lemon laws," to include new "emergency vehicles" under warranty that are in use by an agency of the State, municipality, or county, or a volunteer fire department or volunteer rescue squad. Emergency vehicle would be defined as a fire department vehicle, law enforcement vehicle, or ambulance that is designed and equipped with specialized equipment for responding to an emergency and owned, leased, or used by an authorized entity for responding to an emergency. **Introduced by Representative Hardister, and assigned to the House Committee on Transportation.**

[HOUSE BILL 617](#), Cannabis Legalization & Regulation, would legalize the use and sale of cannabis (marijuana) and cannabis accessories (such as water bongs and smoking pipes) in North

Carolina, as set out in greater detail in the bill.

The bill would make it lawful for a person 21 years of age or older to possess, consume, ingest, smoke, use, grow, process, purchase, or transport an amount of cannabis that does not exceed the following: (1) two ounces of cannabis in a form other than concentrated cannabis or cannabis products; (2) fifteen grams of concentrated cannabis; (3) cannabis products containing no more than 2,000 milligrams of tetrahydrocannabinol; (4) six cannabis plants and any additional cannabis produced by the person's cannabis plants, provided that the possession of any amount of cannabis in excess of two ounces of cannabis, 15 grams of concentrated cannabis, and cannabis products containing no more than 2,000 milligrams of tetrahydrocannabinol must be limited to the same property where the plants were cultivated.

The bill would also authorize “cannabis establishments” and “cannabis product manufacturing facilities” in North Carolina, provided various application and licensing requirements are met, as explained in greater detail in the bill.

A “cannabis establishment” would be any cannabis cultivation facility, a cannabis delivery service, an on-site consumption establishment, a cannabis testing facility, a cannabis product manufacturing facility, a cannabis transporter, a retail cannabis store, or any other type of cannabis business authorized and registered by the North Carolina Department of Public Safety.

The bill would define a “cannabis product manufacturing facility” to be an entity registered to purchase cannabis, manufacture, prepare, and package cannabis products, and sell cannabis and cannabis products to other cannabis establishments but not to consumers.

Finally, the bill would make it unlawful to smoke cannabis in public or to consume cannabis while operating or driving a motor vehicle, boat, vessel, aircraft, or other motorized device used for transportation. **Introduced by Representative Autry, and assigned to the Committee on Rules, Calendar, and Operations of the House.**

[HOUSE BILL 623](#), Purchase Permit Req'd/Long Gun, would require a person to obtain a pistol purchase permit issued by the sheriff in order to purchase or receive a long gun. A long gun would be defined as a shotgun or rifle that is not considered to be an antique firearm. Currently, a pistol purchase permit or concealed handgun permit issued by the sheriff can only be used for the purchase or receipt of a handgun.

In addition, an antique firearm is currently defined as one that was manufactured on or before 1898, any replica of a firearm manufactured on or before 1898 if the replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder substitute and which cannot use fixed ammunition. **Introduced by Representative von Haefen, and assigned to the Committee on Rules, Calendar, and Operations of the House.**

[HOUSE BILL 626](#), Forensic Medical Examination Costs/Revisions, would clarify that a medical facility or medical professional that performs a forensic medical examination using a Sexual Assault Evidence Collection Kit (SAECK) shall not bill the victim, the victim's personal insurance,

Medicaid, Medicare, or any other collateral source for the examination. The bill would require the imposition of a civil penalty in the amount of \$25,000 (per occurrence) for any medical facility or medical professional that issues a bill for these forensic medical examinations.

Currently, SAECKs are administered by medical facilities and medical professionals free of charge for rape victims through the Assistance Program for Victims of Rape and Sex Offenses. **Introduced by Representative Richardson, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 639](#), Funds for Opioid Abuse Treatment Centers, would appropriate to the North Carolina Department of Health and Human Services (DHHS), Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, \$400,000 in recurring funds and \$9 million in nonrecurring funds for the 2021-2022 fiscal year to be allocated to various nonprofit corporations identified in the bill that provide opioid use disorder treatment.

The bill would require the named corporations receiving these funds to submit to DHHS a detailed report on the expenditure of the allocated funds to the nonprofit corporation no later than April 1, 2022. Finally, the bill would require DHHS to report on the use of these funds to the Joint Legislative Oversight Committee on Health and Human Services and the Fiscal Research Division by May 1, 2022. **Introduced by Representative Sasser.**

[HOUSE BILL 647](#), Enhanced In-Service Retirement for LEOs, would allow an “In-service retired law enforcement officer” that is receiving retirement benefits through the Local Governmental Employees’ Retirement System (LGERS) to return to work as either a school resource officer (SRO) or an elected sheriff while continuing to receive LGERS retirement benefits.

An in-service retired law enforcement officer would be defined as a retired law enforcement officer receiving LGERS retirement benefits who meets both of the following criteria: (1) is at least 59.5 years of age, with at least five years of creditable service as a law enforcement officer; and (2) is reemployed by a sheriff’s office or a police department as a SRO or is elected to the office of sheriff. This allowance to return to work while still receiving LGERS benefits would only apply if the person becomes regularly employed as an SRO or elected sheriff, which means the in-service retired law enforcement officer must work 1000 hours per calendar year or more.

The bill would require the in-service retired law enforcement officer to contribute again into the LGERS retirement system while they are working as an SRO or elected sheriff. Once the in-service retired law enforcement officer decides to reenter retirement and submits the appropriate application to LGERS, the member’s retirement allowance will be recalculated on the new retirement date to take into account the membership service that was provided while serving as an in-service retired law enforcement officer.

Currently, if a retired employee participating in LGERS returns to work in a full-time position requiring at least 1,000 hours of work per calendar year, the retired employee’s retirement benefit must be suspended during that time. If the retired employee returns to work in a position that does not require membership in LGERS (such as a part-time position), the employee is subject to annual earnings restrictions. **Introduced by Representative McNeill.**

[HOUSE BILL 656](#), Prohibition on No-Knock Warrant Service, would prohibit a law enforcement officer from breaking and entering a premises or vehicle pursuant to a lawfully issued warrant unless the officer is serving the warrant to effect the rescue of a hostage. This would apply even if the officer cannot serve the warrant because entry is being denied the officer, entry is being delayed by the occupant (such as by stalling to conceal illegal contraband), and even where entry without knocking is deemed necessary by the officer due to safety concerns.

Currently, a law enforcement officer is authorized to break and enter any premises or vehicle when necessary to the service of a warrant if: (1) the officer has previously announced the officer's identity and purpose and reasonably believes either that admittance is being denied or unreasonably delayed or that the premises or vehicle is unoccupied; or (2) the officer has probable cause to believe that the giving of notice would endanger the life or safety of any person. **Introduced by Representative Alexander.**

BILL STATUS

[HOUSE BILL 145](#), Property Protection Act/DVPO, which is summarized in the February 26, 2021 Weekly Legislative Report, has passed the House and has been sent to the Senate for consideration.

[HOUSE BILL 315](#), Arson Law Revisions, which is summarized in the March 19, 2021 Weekly Legislative Report, has been amended in the House to make various changes to North Carolina's arson statutes as follows:

1. The bill, as amended, would increase the punishment for the crime of arson, making this criminal offense a Class E felony. Currently, arson is classified as a Class G felony.
2. The bill, as amended, would create a new crime in our State's arson statutes for "Burning of jails or prisons." The bill would make it a Class D felony for any person to wantonly and willfully set fire to or burn or cause to be burned, or aid, counsel or procure the burning of a "penal institution."

A penal institution is currently defined as a detention facility operated by the State, a detention facility operated under the jurisdiction of another state or the federal government, or a detention facility operated by a local government in this State (such as the sheriff's jail) or another state.

3. The bill, as amended, would expand the types of structures that would be included in the current criminal offense of "Burning of churches and certain other religious buildings." The bill would include the following buildings in this crime: synagogues, temples, longhouses, mosques, or any other "building that is regularly used, and clearly identifiable, as a place for religious worship."

Currently, churches, chapels and meetinghouses are included in the criminal offense of Burning of churches and certain other religious buildings.

4. Finally, the bill has been amended further to clarify that while the Commissioner of Insurance, through the Office of the State Fire Marshal, would be authorized to investigate the cause, origin, and circumstances of fires, the North Carolina State Bureau of Investigation would also retain its authority to conduct these investigations.

Currently, the Director of the SBI, through the SBI, the Office of the State Fire Marshal and local fire departments and authorities are authorized to conduct fire investigations.

[HOUSE BILL 398](#), [Pistol Purchase Permit Modifications](#), which is summarized in the March 26, 2021 Weekly Legislative Report, has been amended in the House to repeal (eliminate) the requirement of obtaining a pistol purchase permit to sell, give away, transfer, purchase, or receive a pistol in this State. Currently, a pistol purchase permit issued by the sheriff is required to sell, give away, transfer, purchase, or receive a pistol in North Carolina.

[HOUSE BILL 436](#), [Support Law Enforcement Mental Health](#), which is summarized in the April 2, 2021 Weekly Legislative Report, would require the North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission (the Commissions) to require psychological screening examinations prior to certification or employment of law enforcement officers.

The bill has been amended in the House to require the psychological screening examination to be conducted in person by a licensed clinical psychologist. The bill, as amended, would also require this psychological screening examination to occur prior to the initial certification of the law enforcement officer and before the officer is employed by an agency.

[HOUSE BILL 483](#), [Pistol Permit/Mental Health Record to Sheriff](#), which is summarized in the April 2, 2021 Weekly Legislative Report, would eliminate the current requirement that the applicant for a pistol purchase permit provide the sheriff with a signed and notarized release for mental health orders. The bill has been amended in the House to further clarify that, upon request by the sheriff in writing, any holder of a mental health order (such as clerks of court or medical facilities) must provide such court orders directly to the sheriff.

[SENATE BILL 390](#), [UNC Law Enforcement Recruitment](#), which is summarized in the April 2, 2021 Weekly Legislative Report, has passed the Senate and has been sent to the House for consideration.

[SENATE BILL 539](#), [Disclose Human Trafficking Conviction/Custody](#), which was filed on April 5, 2021, has been amended in the Senate to include in the criminal offense of human trafficking the act of knowingly patronizing a person that is held in involuntary servitude or sexual servitude. If enacted into law, a person who obtained (patronized) the sexual services of a person held in involuntary servitude or sexual servitude would be guilty of a felony crime in the same manner as a person who recruits or harbors victims for human trafficking.

Currently, a person commits the offense of human trafficking if the person knowingly recruits, entices, harbors, transports, provides, or obtains by any means another person with the intent to

hold the person in involuntary servitude or sexual servitude, or causes a minor to be held in involuntary servitude or sexual servitude.

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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