

North Carolina Sheriffs' Association

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Weekly Legislative Report

April 30, 2021

Once again, committees at the General Assembly stayed busy this week and legislators hustled through the hallways from committee to committee. In some instances, members sponsored multiple bills calendared to be heard in different committees at the same time. They could be seen leaving one committee and moving quickly to the next to be sure their bill was heard and that they were there to answer questions from other members about their legislation.

However, the many meetings of standing committees cannot conflict with a House session. A rule exists in the House which requires standing committees (of which there are 42) to adjourn at least 15 minutes before any House session and 10 minutes prior to the next regularly scheduled standing committee meeting. Presumably, this rule both allows members time to proceed to session or to their next standing committee and does not put members in a position to have to make a choice about where their presence or their vote might be more valuable. Sometimes these deadlines are met, and occasionally they are not.

Because of the volume of bills filed and assigned to committees, at least one committee which typically only meets once a week inquired of its members this week whether they would be available for two meetings the week of May 3rd. As calendars are published in the coming days, we expect to see House committee calendars full of bills to be considered as legislators push their legislation through necessary committees and hopefully onto the House floor for a vote before the gavel falls on May 13.

The House and Senate adjourned on Thursday and will reconvene Monday, May 3, 2021.

BILLS OF INTEREST

[HOUSE BILL 652](#), NC Consumer Fireworks Safety Act, would make numerous changes to the State laws relating to the sale, possession, and use of fireworks. The provisions of interest to the criminal justice community include:

1. The age at which a person could lawfully purchase consumer fireworks, such as sparkling devices, glow worms, and party poppers, would be raised from 16 years of age to 18 years of age.
2. The use and sale of consumer fireworks would be prohibited in counties and cities unless the county or city passes an ordinance allowing for their use and sale. The use of consumer fireworks would be subject to certain time and location restrictions.

3. Anyone who sells consumer fireworks in the State would have to be licensed through the North Carolina Department of Insurance. To be eligible the seller would have to be, in addition to other criteria, at least 21 years of age and not previously convicted of a felony.
4. Unlawfully selling or distributing consumer fireworks would be a Class 1 misdemeanor.
5. The Commissioner of the North Carolina Department of Insurance, a State law enforcement officer, a municipal law enforcement officer, a code enforcement officer, or a fire safety official would be able to petition a district court to seize unlawfully possessed, stored, or sold fireworks. This provision does not include a sheriff or deputy sheriff. It is unknown whether or not this omission was an oversight.

Introduced by Representative Szoka, and assigned to the House Committee on Insurance.

[HOUSE BILL 657](#), [School Safety/Threat Assessment Teams](#), would make numerous changes to the laws concerning school safety in North Carolina. The provisions of interest to the criminal justice community include:

1. The bill would clarify that “public school units” would be required to participate in a school safety exercise annually; coordinate with local law enforcement agencies regarding the appropriate location of crisis kits; and provide to local law enforcement the diagrams and keys to the main entrance of school buildings.

Currently, a “public school unit” includes a local school administrative unit, charter school, regional school, and a school providing elementary or secondary instruction operated by the State Board of Education (State Board) or The University of North Carolina.

2. Private church schools and schools of religious charter would be encouraged, but not required, to develop a School Risk Management Plan (SRMP), to hold annual school safety exercises, and to provide floorplans and keys to local law enforcement for safety purposes. Currently, only public schools are required to have an SRMP, to conduct annual safety training and provide floorplans and keys to local law enforcement for safety purposes.
3. The governing body of a public school unit would be required to adopt, at a minimum, policies developed by the Center for Safer Schools (CSC) of the North Carolina Department of Public Instruction for the establishment of “threat assessment teams.” These teams would include law enforcement personnel and persons with expertise in counseling, instruction and school administration.

The threat assessment team would work to identify, assess, and intervene with students who might pose a threat to the safety of the school. The threat assessment team would also be tasked with determining the level of threat posed by an individual. If a threat is identified as “imminent,” the threat would have to be immediately reported to the school superintendent, or their designee, who would be required to notify local law enforcement

of the threat. If the threat is classified as “high risk,” the superintendent, or their designee, would notify law enforcement if that action is recommended by the threat assessment team.

The bill would allow, but not require, the North Carolina Department of Public Safety to provide criminal record checks to the members of a threat assessment team on those individuals that have been identified by the threat assessment team as posing an imminent threat to school safety.

Introduced by Representative Torbett, and assigned to the Committee on Rules, Calendar, and Operations of the House.

[HOUSE BILL 667](#), Expand Recording/Interviews/Interrogations, would require the electronic recording, in its entirety, of any “law enforcement interview” occurring at a place of detention (such as the sheriff’s jail) involving a juvenile in a criminal investigation or a person being interviewed in a criminal investigation about any felony criminal offense. The bill does not define what would constitute a “law enforcement interview.”

Currently, electronic recordings are required for all custodial interrogations taking place at a place of detention that involve either a detained juvenile in a criminal investigation or a person being detained and interviewed in a criminal investigation regarding the following criminal offenses: any Class A, B1, or B2 felony, and any Class C felony of rape, sex offense, or assault with a deadly weapon with intent to kill inflicting serious injury. **Introduced by Representative Richardson, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 672](#), Modify DNA Evidence Provisions, would require the clerk of superior court to take custody of biological evidence collected by a law enforcement agency that is offered or admitted into evidence in a criminal proceeding until such time as the biological evidence may be released back to the collecting agency under our State statutes (such as after the period of incarceration and supervised release of the defendant has expired) without a court first making a determination that the evidence is of evidentiary value.

Currently, when biological evidence is offered or admitted into evidence in a criminal proceeding, the presiding judge must inquire of the State and the defendant as to the identity of the collecting agency of the biological evidence and whether the evidence is reasonably likely to contain biological evidence that is relevant to establishing the identity of the perpetrator of the crime. If the court finds that the evidence may have biological evidentiary value, the court is required to designate in the court's records that the evidence be preserved by the clerk of superior court until release back to the collecting agency is authorized under our State statutes.

The bill would also allow for postconviction DNA testing without a court first making a determination that had the DNA testing been conducted previously and been included as evidence, there is a reasonable probability that the verdict would have been more favorable to the defendant.

Currently, in addition to the above requirement that the court find there is a reasonable probability that the verdict would have been more favorable to the defendant had DNA testing been conducted and included as evidence, postconviction DNA testing can only be ordered by the trial court if all

of the following additional conditions are met: (1) the DNA is material to the defendant's defense and is related to the investigation or prosecution that resulted in conviction; (2) the DNA was either not previously tested or, if previously tested, a more current DNA test would provide significantly more accurate results or have a reasonable probability of contradicting prior test results; and (3) the defendant signs a sworn affidavit of innocence. **Introduced by Representative Richardson, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 673](#), Expand Traffic Stop Data Reporting, would require a law enforcement officer to record and report to the North Carolina Department of Public Safety (DPS) the longitude and latitude of each vehicle traffic stop, or the nearest address, intersection or mile marker in which the stop was made. A North Carolina State Highway Patrol trooper would be required to record and report the longitude and latitude of each vehicle traffic stop, or the mile marker in which the stop was made.

Currently, law enforcement officers must report to DPS the city or county in which the vehicle stop was made (in addition to other reportable information required in the statute) and North Carolina State Highway Patrol troopers must report the location of the vehicle stop as the Highway Patrol District in which the vehicle stop was made.

Finally, the bill would require a law enforcement officer to include on all vehicle stop reports the officer's anonymous identification number that is issued by the law enforcement officer's agency. Currently, this anonymous identification number is public record, and is included in the information provided to DPS for each vehicle stop conducted by a law enforcement officer so DPS can collect data related to vehicle traffic stops. **Introduced by Representative Richardson, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 674](#), Require DNA for Various Charges/DNA Kit Funds, would require the collection of a DNA sample upon the arrest for the crime of assault on a female by a male at least 18 years of age, assault on a child under the age of 12, and for an arrest due to the violation of a valid domestic violence protective order issued under Chapter 50B of our General Statutes.

Currently, DNA testing is required upon the arrest for numerous felony and serious misdemeanor crimes (such as habitual misdemeanor assault) that are specified in the General Statute governing mandatory DNA testing for certain crimes.

Finally, the bill would appropriate to the North Carolina Department of Justice \$1 million dollars in recurring funds for both fiscal years of the 2021-2023 fiscal biennium, which would be allocated to the North Carolina State Crime Laboratory for supplies and collection kits for DNA testing, two full-time forensic scientist positions and four full-time criminal justice specialist/investigator positions. **Introduced by Representative Richardson, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 679](#), Emergency Care for K9 Units, would provide civil immunity to emergency medical services personnel (such as an emergency medical technician or emergency medical-services nurse practitioner) or "law enforcement dog handlers" who voluntarily render first aid, emergency treatment, rescue assistance, or transportation to a veterinary clinic to a law

enforcement dog or search and rescue dog that is unconscious, ill, injured, or in need of rescue assistance.

A law enforcement dog handler would be defined as a law enforcement officer or security professional who: (1) is trained to partner with a law enforcement dog in the performance of the law enforcement officer's or security professional's duties; (2) is actively certified pursuant to federal, national, regional, or State standards; and (3) is qualified to train, care for, and work with a law enforcement dog.

This immunity would not apply if the person rendering aid was grossly negligent, engaged in willful misconduct, reckless conduct, or in intentional wrongdoing. In addition, the immunity would not apply if the first aid, emergency treatment, or rescue assistance is rendered on the premises of a veterinary hospital or clinic. **Introduced by Representative Boles, and assigned to the House Committee on Health.**

[HOUSE BILL 686](#), No Gov't Retribution for Refusal of CV19 Vax, would prohibit any State or local government employer from disciplining, terminating or declining to hire an employee because of the person's refusal to obtain a COVID-19 vaccination. Currently, there is no law that prohibits a public employer from requiring COVID-19 vaccinations for employees and a public employer can currently discipline, terminate or decline to hire an employee because of the person's refusal to obtain a COVID-19 vaccination, unless a medical exception applies under the Americans With Disabilities Act (ADA). **Introduced by Representatives Johnson, Penny, Watford and Moss, and assigned to the House Committee on State Government.**

[HOUSE BILL 692](#), Restrict Certain Vehicle Modifications, would eliminate from our State motor vehicle laws the requirement that the manufacturer's specified height of any passenger motor vehicle shall not be elevated or lowered, either in front or back, more than six inches by modification, alteration, or change of the physical structure of the vehicle without prior written approval of the Commissioner of the North Carolina Division of Motor Vehicles.

The bill would instead prohibit a private passenger automobile from being modified so that the vehicle is more than three inches from the manufacturer's specified height in the front and lowered more than two inches from the manufacturer's specified height in the rear. This would not apply to private passenger automobiles modified in such a manner that are not operated on any highway or public vehicular area (such as a trailered show car).

Currently, a private passenger automobile is a four-wheeled motor vehicle designed principally for carrying passengers and for use on public roads and highways, except a multipurpose passenger vehicle which is constructed either on a truck chassis or with special features for occasional off-road operation. **Introduced by Representative B. Jones, and assigned to the House Committee on Transportation.**

[HOUSE BILL 694](#), First Responders/Medical POAs Required, would require all first responders to have a medical power of attorney on file with their employing authority to ensure medical decisions can be made and that the medical wishes of the first responder are honored in the event

the first responder becomes incapacitated or is otherwise unable to give medical consent for treatment.

A first responder would be a public employee who is a law enforcement officer, firefighter, an emergency medical technician, or any other public employee whose primary job duty is to respond to an emergency. This would not include volunteer firefighters. An employing authority would be a State agency or a city, county, or other local political subdivision of this State (such as the sheriff's office or police department).

The bill would require an employing authority to: (1) require each first responder to execute or produce a true copy of a valid medical power of attorney; (2) maintain and provide access to a copy of the medical power of attorney in a manner that allows its use promptly and effectively if the first responder is incapacitated while responding to an emergency; and (3) require that the first responder and the responder's supervisor review the medical power of attorney annually as part of the employing authority's employee performance review process.

Finally, privately employed first responders that are working for a private employer would also be required to maintain a valid medical power of attorney with their private employer. **Introduced by Representative McNeely, and assigned to the House Committee on Health.**

[HOUSE BILL 697](#), [The Prison Resources Repurposing Act](#), would allow inmates serving a sentence of life imprisonment without parole to become eligible for parole through the Mutual Agreement Parole Program after serving a period of 20 years imprisonment. The convicted felon would also be required to complete certain mandatory educational, vocational, and work requirements before they would be eligible for parole. Currently, a life sentence imposed after 1994 is not eligible for parole or any reduction based on credit for work or good behavior. **Introduced by Representatives Alexander and Gailliard, and assigned to the House Committee on State Government.**

[HOUSE BILL 698](#), [Release Body-Worn/Dashboard Camera Video](#), would require the release (provide a copy) of law enforcement agency body-worn camera and dashboard camera recordings automatically upon request from any person so long as 48 hours have passed from the time of the recording.

The bill would require the custodial law enforcement agency (not the person making the request) to file an action in superior court for an order restricting release of the recording for a specified period of time. The bill would require the custodial law enforcement agency to state in the petition to the court the date and time of the activity captured in the recording, or to otherwise identify the activity.

If a custodial law enforcement agency filed such an action in superior court to restrict release of the body-worn camera recording or dashboard camera recording to the public, a judge would be required to consider the same factors that exist under current law regarding whether these types of recordings should be released to the public, such as whether confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation or whether release may harm the reputation or jeopardize the safety of a person.

In addition, the bill would require the following to be notified and given an opportunity to be heard at the hearing: (1) the head of the custodial law enforcement agency; (2) any law enforcement agency personnel whose image or voice is in the recording and the head of that person's employing law enforcement agency; and (3) the District Attorney.

Currently, a court order is required for the release of a body-worn camera recording or dashboard camera recording to the public. Current law requires either the person seeking the recording or the custodial law enforcement agency to obtain a court order for the release of the recording. These recordings may not currently be automatically released to the public following a 48-hour period. **Introduced by Representative Quick, and assigned to the Committee on Rules, Calendar, and Operations of the House.**

[HOUSE BILL 699](#), [Elder Abuse & Neglect/Increase Punishment](#), would increase the punishment for “domestic abuse, neglect, and exploitation of disabled or elder adults” from a Class H felony to a Class G felony if the elder adult suffers injury as the result of abuse. If the crime results in the elder adult suffering serious injury as the result of abuse, the punishment would be increased from a Class F felony to a Class E felony.

Finally, if the elder adult suffers injury as the result of neglect, the punishment would be increased from a Class I felony to a Class H felony. If the crime results in the elder adult suffering serious injury as the result of neglect, the punishment would be increased from a Class G felony to a Class F felony. **Introduced by Representative Pickett, and assigned to the House Committee on Families, Children and Aging Policy.**

[HOUSE BILL 700](#), [Bring Back Inmate Litter Crews](#), would require the North Carolina Department of Public Safety (DPS) to reinstate inmate litter crews. The bill would require the North Carolina Department of Transportation to transfer \$9 million dollars in recurring funds in each year of the 2021-2023 fiscal biennium to the Division of Adult Correction and Juvenile Justice of DPS to implement an Inmate Litter Crews Program. The use of inmate litter crews was discontinued by DPS in 2017. **Introduced by Representative Graham, and assigned to the House Committee on Transportation.**

[HOUSE BILL 705](#), [Set \\$15 Minimum Wage for First Responders](#), would require every employer of first responders to pay at least \$15.00 per hour. A first responder would mean a law enforcement officer, firefighter, paramedic, or emergency medical technician. The term first responder would not include a volunteer firefighter. Currently, the State minimum wage is set by statute at \$6.15 per hour. **Introduced by Representative Everitt, and assigned to the Committee on Rules, Calendar, and Operations of the House.**

[HOUSE BILL 710](#), [School Bus/Failure to Stop/Penalties/Evidence](#), would increase the civil penalty from \$500 to \$1,000 for failing to stop for a school bus that is stopped and displaying its mechanical stop signal or flashing red lights. The civil penalty would be increased from \$1,250 to \$2,250 if the motorist fails to stop for a school bus and strikes any person. Finally, the civil penalty would be increased from \$2,500 to \$3,500 if death results from the person being struck by the motorist failing to stop for a school bus.

In addition, the bill would create a presumption (known as *prima facie* evidence) that the vehicle being operating in violation of the stopped school bus statute was operated by the person in whose name the vehicle was registered at the time of the violation. If the vehicle is rented, then proof of that rental would be *prima facie* evidence that the vehicle was operated by the renter of the vehicle at the time of the violation. Therefore, if enacted into law, the registered owner (or renter) and not the State would need to prove to the court the vehicle was not being operated by the registered owner (or renter). **Introduced by Representative Logan, and assigned to the House Committee on Transportation.**

[HOUSE BILL 717](#), Abolish Office of County Coroner, would abolish (eliminate) the Office of County Coroner throughout the State. Currently, Yadkin County will be the only county remaining to have an Office of County Coroner once the county coroners in Montgomery, Avery, Bladen and Hoke counties fulfill remaining terms of office. Current State law authorizes a county coroner to temporarily perform the duties of sheriff (but not become the sheriff) where a vacancy occurs in the Office of Sheriff (such as due to the death of the sheriff). **Introduced by Representative Boles, and assigned to the House Committee on State Government.**

[HOUSE BILL 719](#), Repeal Death Penalty, would repeal (eliminate) the death penalty in the State of North Carolina. The bill would require all convicted felons that received a sentence of death and who are awaiting the imposition of the death penalty to be resentenced to a term of life imprisonment. **Introduced by Representative K. Smith, and assigned to the Committee on Rules, Calendar, and Operations of the House.**

[HOUSE BILL 723](#), Reenact & Revise Racial Justice Act, would prohibit the State from seeking or obtaining a criminal conviction, or seeking, obtaining or imposing a criminal sentence based upon race, ethnicity, or national origin. Currently, it is unlawful to seek or obtain a criminal conviction or to seek or impose a particular criminal sentence based upon a person's race, ethnicity, or national origin. **Introduced by Representative Alston, and assigned to the Committee on Rules, Calendar, and Operations of the House.**

[HOUSE BILL 724](#), Repeal Death Penalty, would also repeal (eliminate) the death penalty in the State of North Carolina. The bill would require all convicted felons that received a sentence of death and who are awaiting the imposition of the death penalty to be resentenced to a term of life imprisonment. **Introduced by Representative Alston, and assigned to the Committee on Rules, Calendar, and Operations of the House.**

[HOUSE BILL 738](#), Recodification of Criminal Laws, would create a working group to make recommendations for the recodification of North Carolina criminal laws. The purpose of the Working Group would be to make recommendations to the General Assembly regarding a streamlined, comprehensive, orderly, and principled criminal code which includes all common law, statutory, regulatory, and ordinance crimes.

The working group would consist of nine members and would be required to solicit input from several groups, including the North Carolina Sheriffs' Association and the North Carolina Association of Chiefs of Police. **Introduced by Representative Riddell.**

[HOUSE BILL 741](#), Line of Duty Death Benefits for 911 Operators, would include telecommunicators among the list of first responders that would be entitled to line of duty death benefits. A telecommunicator would be a person qualified to provide 911 call taking that is employed by a public safety answering point (PSAP), and would include 911 call takers, dispatchers, radio operators, data terminal operators, or any combination of these call taking functions in a PSAP.

The bill would define a line of duty death for telecommunicators as the death of a telecommunicator occurring as a direct and proximate result of a heart attack or stroke that occurs in the course of employment or during travel to or from work.

Currently, a line of duty regular death benefits in the amount of \$100,000 is available to the spouse or dependents of a covered person, such as a law enforcement officer, firefighter, rescue squad worker, or civil air patrol member killed in the line of duty. **Introduced by Representative Boles.**

[HOUSE BILL 743](#), Remove ID Mark/Increase Punishment, would increase the punishment for altering, destroying, defacing or removing a serial number, manufacturer's identification plate or other permanent, distinguishing number or identification mark (personal mark) from any item of personal property or from any farm machinery, farm equipment or farm apparatus.

The bill would make it a Class 1 misdemeanor to alter, destroy or remove a personal mark if the property was valued at less than \$1,000 at the time of the criminal offense. It would be a Class H felony if the property was valued at \$1,000 or more at the time of the criminal offense.

Currently, it is a Class 1 misdemeanor to alter, destroy, deface or remove a personal mark from any item of personal property or from any farm machinery, farm equipment or farm apparatus. **Introduced by Representative C. Smith.**

[HOUSE BILL 751](#), Abolish Employment At-Will, would abolish (eliminate) at-will employment in the State of North Carolina. The bill would only allow an employee to be terminated for "just cause." The bill does not define what would constitute "just cause."

Currently, unless an employer enters into an agreement with the employee to the contrary, an employer may discontinue the employment relationship at-will and for any reason so long as the employer is not doing so based upon some discriminatory factor (such as age, race, sex, etc.) or in retaliation of the employee engaging in a protected activity. If enacted into law, the bill would make it more difficult for an employer to terminate a bad employee. **Introduced by Representative Logan.**

BILL STATUS

[HOUSE BILL 235](#), Evidence/Dist. Ct Speedy Trials, which is summarized in the March 12, 2021 Weekly Legislative Report, has passed the House and has been sent to the Senate for consideration.

[HOUSE BILL 303](#), Greensboro SBE/Residential Streets Speed, which is summarized in the March

19, 2021 Weekly Legislative Report, has passed the House and has been sent to the Senate for consideration. The bill has been amended in the House to authorize the City of Greensboro to employ and allow civilian personnel to investigate traffic crashes involving only property damage.

These civilian personnel would be classified as "Civilian Traffic Investigators," and would be required to attend a training program designed by the Greensboro Police Department, in consultation with the North Carolina Justice Academy, in addition to meeting other training requirements set out in the amended bill. The Civilian Traffic Investigator would have no authority to arrest or to issue criminal process and could not be issued a weapon of any type.

[HOUSE BILL 315](#), Arson Law Revisions, which is summarized in the April 23, 2021 Weekly Legislative Report, has passed the House and has been sent to the Senate for consideration.

[HOUSE BILL 406](#), Spec. Sep. Allowance/25-Yr Cleveland Cty LEOs, which is summarized in the March 26, 2021 Weekly Legislative Report, has passed the House and has been sent to the Senate for consideration.

[House Bill 417](#), The Sergeant Mickey Hutchins Act, which is summarized in the March 26, 2021 Weekly Legislative Report, would allow law enforcement officers, probation/parole officers and correction officers with an Advanced Certificate to purchase up to 4 years of creditable service in the retirement system, has passed the House Pensions and Retirement Committee and been referred to the House Appropriations Committee for consideration.

[HOUSE BILL 598](#), Restitution/Sexual Exploitation of Minor, which is summarized in the April 23, 2021 Weekly Legislative Report, has passed the House and has been sent to the Senate for consideration.

[SENATE BILL 99](#), Clarify Law on Theft of Catalytic Converters, which is summarized in the February 19, 2021 Weekly Legislative Report, has passed the Senate and has been sent to the House for consideration.

[SENATE BILL 183](#), Begin Modernizing Ignition Interlock Laws, which is summarized in the March 12, 2021 Weekly Legislative Report, has passed the Senate and has been sent to the House for consideration.

[SENATE BILL 660](#), Regulate Dissemination of Booking Photograph, which is summarized in the April 9, 2021 Weekly Legislative Report, has passed the Senate and has been sent to the House for consideration.

The **Weekly Legislative Report** is provided at no charge as a service to the sheriffs, criminal justice community and citizens of North Carolina.

North Carolina Sheriffs' Association, Inc.

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