

North Carolina Sheriffs' Association

Proudly Serving the Sheriffs and Citizens of North Carolina since 1922



Weekly Legislative Report

May 7, 2021

In this final week before cross over, most members have been extremely busy with committee meetings and speaking with other members and interested parties who want to see certain pieces of legislation move towards a vote on the floor of one of the chambers. In addition, Monday and Tuesday of this week were the final days for House members to file most bills before the bill filing deadline. They did not waste any time, filing around 140 bills in the first two days of the week for a total of 903 bills filed by House members this Session.

The House did not have a voting session on Tuesday, but certainly made up for lost time on Wednesday. Wednesday evening, the House held session until after 7:00 PM, hearing discussion and voting on no less than 38 bills. The House Rules Committee, typically a bill's last stop in committee before heading to the floor for a vote, did not convene its meeting Wednesday evening until after 8:00 PM, and wrapped up close to 9:30 PM, hearing around 41 bills before adjourning.

Thursday, the House session began at 10:00 AM with 42 items on the agenda for discussion and a vote. The House took a one-hour break for lunch and returned to finish business. The House voted on their last bill around 4:30 PM. Once again, the House Rules committee met after session adjourned and considered close to 30 bills before adjourning around 7:00 PM.

The House adjourned on Thursday and the Senate adjourned Friday. Both the House and Senate will reconvene Monday, May 10, 2021.

BILLS OF INTEREST

[HOUSE BILL 734](#), Dept. of Health & Human Services Revisions, would modify the State's Involuntary Commitment (IVC) laws to allow the first and second examination of a respondent to determine whether the respondent should be involuntarily committed due to mental illness or substance use disorder to occur via "telehealth" instead of the commitment examiner being physically present with the respondent for the examination.

Telehealth would be defined as the use of two-way, real-time interactive audio and video where the respondent and commitment examiner can hear and see each other. Therefore, telehealth could be utilized even when the commitment examiner and respondent are located at the same facility or at different facilities.

Currently, the first examination to determine whether the respondent will be involuntarily

committed due to mental illness may be conducted in person, or if the respondent and examiner are in different geographic locations, via telemedicine. The first examination to determine whether the respondent will be involuntarily committed due to substance use disorder must occur in person. In addition, currently the second examination to determine whether the respondent will be involuntarily committed due to mental illness or substance use disorder must occur in person and may not be conducted via telemedicine. **Introduced by Representatives Potts and Stevens, and assigned to the House Committee on Health.**

[HOUSE BILL 757](#), [The Police Use-of-Force Transparency Act](#), 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, 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. **Introduced by Representatives Szoka, K. Baker and Howard, and assigned to the House Committee on Judiciary 3.**

[HOUSE BILL 761](#), [Police Vehicle and Equipment Protection Act](#), would make it a Class H felony to break or enter into, with the intent to commit a felony or larceny therein, any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind that is owned or operated by any law enforcement agency, the North Carolina National Guard, or any branch of the Armed Forces of the United States if the person knows or reasonably should know that the railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft is owned or operated by any of the above listed entities.

Currently, it is a Class I felony to break or enter into any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind with the intent to commit a felony or larceny therein.

The bill would create the new criminal offense of "Larceny of law enforcement equipment." It would be a Class H felony to commit larceny of law enforcement equipment from a law enforcement vehicle if the person knows, or reasonably should know, that the vehicle was a law enforcement vehicle and that the property was law enforcement equipment. The bill would make it a Class G felony if the person committed larceny of law enforcement equipment and the law enforcement equipment is valued in excess of \$1,000.

Law enforcement equipment would be defined as any equipment owned or operated by a law enforcement agency and used by law enforcement agencies to conduct law enforcement

operations, including firearms and any other type of weapon, ammunition, radios, computers, handcuffs and other restraints, phones, cell site simulators, light bars and sirens.

Finally, law enforcement vehicle would mean any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind owned or operated by any law enforcement agency, the North Carolina National Guard, or any branch of the Armed Forces of the United States. **Introduced by Representatives Blackwell, Faircloth, Boles and McNeill, and assigned to the House Committee on Judiciary 4.**

[HOUSE BILL 762](#), [Booking Photograph Privacy Act](#), would prohibit public law enforcement agencies from publishing, distributing, or releasing a booking photograph unless the booking photograph is released in association with a missing person report that is part of a criminal investigation. A booking photograph would be defined as an image of an individual taken by an arresting public law enforcement agency for the purpose of identification or taken when the individual was processed into a jail.

The bill would authorize a judge to order the release of a booking photograph upon a showing by the person requesting disclosure (such as the sheriff or other law enforcement official) that the disclosure is actually necessary for immediate law enforcement needs. **Introduced by Representatives Moffitt, Turner, Warren and Reives, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 775](#), [Fund Law Enforcement/Detention/Corrections](#), would appropriate funds for law enforcement, detention and corrections recruitment as follows:

1. The bill would appropriate to the North Carolina Department of Public Safety (DPS), Alcohol Law Enforcement Division (ALE), \$300,000 in nonrecurring funds for each year of the 2021-2023 fiscal biennium to lease additional office space for ALE.

An additional \$716,000 in recurring funds for each year of the 2021-2023 fiscal biennium would be appropriated to ALE to hire nine full-time administrative support positions. Finally, \$233,000 in recurring funds for each year of the 2021-2023 fiscal biennium would be appropriated to ALE to hire two full-time sworn law enforcement officer positions.

2. The bill would appropriate to the North Carolina Governor's Crime Commission \$10 million in nonrecurring funds for the 2021-2022 fiscal year to provide grants to the North Carolina State Highway Patrol, county law enforcement agencies, and municipal law enforcement agencies that have at least a ten percent (10%) vacancy rate in sworn law enforcement officer positions.

These grants would be used to provide signing bonuses of \$5,000 to newly hired law enforcement officers that sign a contract to work for three years with the law enforcement agency. The bill would require repayment of the signing bonus if the officer voluntarily leaves without honoring the three-year commitment.

3. The bill would appropriate to the North Carolina Governor's Crime Commission \$2 million

in nonrecurring funds for the 2021-2022 fiscal year to provide grants to local confinement facilities (such as the sheriff's jail) that have at least 10% vacancy rate in certified detention officer positions.

These grants would be used to provide signing bonuses of \$5,000 to newly hired certified detention officers that sign a contract to work for three years with the local confinement facility. The bill would require repayment of the signing bonus if the detention officer voluntarily leaves without honoring the three-year commitment.

4. The bill would appropriate to DPS \$2 million in nonrecurring funds for the 2021-2022 fiscal year to provide signing bonuses of \$5,000 to newly hired certified correctional officers that sign a contract to work for three years within the State prison system. The bill would require repayment of the signing bonus if the correctional officer voluntarily leaves without honoring the three-year commitment.
5. Finally, the bill would appropriate to the North Carolina State Bureau of Investigation (SBI) \$200,000 in nonrecurring funds for the 2021-2022 fiscal year to implement the Federal Bureau of Investigation's Record of Arrest and Prosecution Background (Rap Back) Service.

This appropriation would only occur if legislation is enacted into law that would require the SBI to provide criminal background checks for the North Carolina Sheriffs' Education and Training Standards Commission and to the North Carolina Criminal Justice Education and Training Standards Commission

Introduced by Representatives McNeill, Faircloth, Boles and C. Smith, and assigned to the House Committee on Appropriations.

[HOUSE BILL 776](#), Remote Online Notarization Act, would authorize a notary to perform notarizations and other notarial acts (such as oaths or affirmations) online remotely, provided the notary adheres to the numerous remote notarization requirements that are set out in detail within the bill. Currently, State law does not allow a notarial act to be carried out remotely. **Introduced by Representatives D. Hall, Davis, Hardister and Reives, and assigned to the House Committee on Judiciary 1.**

[HOUSE BILL 786](#), Enhance Local Response/Mental Health Crises, would appropriate to the North Carolina Department of Public Safety \$2 million in nonrecurring funds in the 2021-2022 fiscal year to be distributed as grants to either sheriffs' offices or municipal police departments.

Grant funds would be awarded to sheriffs' offices and police departments that have active response models for mental or behavioral health crises or that are developing response models that will be in use on or before January 1, 2022.

The grants would be required to be awarded to an agency for at least one of the following purposes: (1) to establish nonpolice units to address nonviolent, noncriminal 911 calls regarding mental health, homelessness, substance use, or other behavioral health crises; (2) to establish co-responder

response models in which law enforcement personnel and mental health specialists jointly respond to 911 calls regarding mental or behavioral health crises; (3) to establish a mental health division or to improve existing mental health services within a sheriff's office or police department; and (4) to increase the amount of law enforcement personnel and 911 communications personnel that have received Crisis Intervention Training. **Introduced by Representatives Autry, Lambeth, White and Ball, and assigned to the House Committee on Health.**

[HOUSE BILL 793](#), STOP Act Amendment, would limit the amount of opioids that may be prescribed by a medical practitioner for an initial consultation and treatment for acute pain to a three-day supply of opioids. Currently, a medical practitioner can prescribe a five-day supply of opioids during an initial consultation for the treatment of acute pain.

The STOP act was enacted in 2017 to help reduce deaths associated with opioid misuse and is intended to reduce the supply of unused, misused and diverted opioids and to reduce doctor shopping and improve care by requiring prescribers to use tools and resources that help prevent inappropriate prescribing of opioids. **Introduced by Representative Sasser, and assigned to the House Committee on Health.**

[HOUSE BILL 799](#), Libel Standards/Press, would create the new criminal offense of "publishing libelous matter in newspapers." It would be a Class 2 misdemeanor for any manager, editor, publisher, reporter, or employee of any newspaper or periodical to publish or disseminate any false and libelous statement with actual malice that is directed to any person who currently holds a State or federal public office in this State. Actual malice would mean the person publishing the matter did so with knowledge that the matter was false or with reckless disregard of whether or not it was false. **Introduced by Representative Moffitt, and assigned to the House Committee on Judiciary 1.**

[HOUSE BILL 802](#), Pilot Star Program, would appropriate to the North Carolina Department of Public Safety (DPS) \$990,000 in nonrecurring funds for each year of the 2021-2023 fiscal biennium to provide grants for a pilot "Support Team Assisted Response" (STAR) Program in the police departments in the cities of Charlotte, Greensboro and Greenville.

The purpose of the STAR Program would be to provide alternative responses to citizens in crisis by allowing for the response of behavioral and medical health personnel to nonviolent situations deemed appropriate by the city police department. STAR Program personnel would be required at a minimum to be equipped to provide citizens they are assisting with information regarding shelter, food, aid, counseling, and medication.

The bill would require DPS, in consultation with the city police departments listed above, to report to the Joint Legislative Oversight Committee on Justice and Public Safety no later than April 1, 2022 regarding: (1) the general progress of each STAR Program; (2) the number of incidents in which each police department utilized its STAR Program; (3) the outcomes of the incidents in which each police department utilized its STAR Program; and (4) an itemized accounting from each police department of the use of grant funds received.

Finally, the bill would require DPS to provide the same report described above to the North

Carolina Sheriffs' Education and Training Standards Commission and to the North Carolina Criminal Justice Education and Training Standards Commission no later than April 1, 2022. The bill would require each Commission to make the DPS report publicly available through each Commission's website and would also require the Commissions to electronically deliver a copy of the report to each sheriff and municipal chief of police in the State. **Introduced by Representatives Farkas, Hardister and Brown, and assigned to the House Committee on Appropriations.**

[HOUSE BILL 805](#), Prevent Rioting and Civil Disorder, would increase the criminal punishment for the crime of rioting or inciting rioting that results in property damage as follows:

1. The bill would make it a Class F felony to willfully engage in a riot if in the course of and as a result of the riot there is property damage in excess of \$1,500. Currently, it is a Class H felony to engage in a riot that results in property damage in excess of \$1,500.
2. It would be a Class E felony to willfully engage in a riot if in the course of and as a result of the riot there is a death.
3. The bill would increase the penalty from a Class 1 misdemeanor to a Class A1 misdemeanor to willfully incite or urge another person to engage in a riot.
4. The bill would increase the penalty from a Class F felony to a Class E felony to willfully incite or urge another person to engage in a riot in which there is property damage in excess of \$1,500 or serious bodily injury.
5. It would be a Class D felony to willfully incite or urge another person to engage in a riot in which a death results.

In addition, the bill would increase the punishment for the crime "Assault on emergency personnel." The bill would increase the penalty from a Class I felony to a Class H felony when a person commits an assault upon emergency personnel while they are conducting their official duties during a declared state of emergency or during a riot.

The bill would also include in the definition of "emergency personnel" members of the North Carolina National Guard. Currently, emergency personnel include law enforcement officers, firemen, ambulance attendants, utility workers, doctors, nurses and other persons lawfully engaged in providing essential services during an emergency.

Finally, the bill would require a judge (not a magistrate) to set the conditions of bond when a criminal defendant is charged with rioting, looting, or trespassing during an emergency. The bill would require the judge to obtain from a law enforcement officer or the district attorney the criminal record of the defendant prior to setting the conditions of release. The bill would authorize a criminal defendant to be held in custody up to 48 hours (similar to a domestic violence 48 hour hold) without conditions of release being set. If a judge has not set conditions of release within 48 hours, the bill would authorize a magistrate to set the conditions of release after 48 hours have passed. **Introduced by Representatives Moore, McNeill, Miller and Sauls, and assigned to**

the House Committee on Judiciary 4.

[HOUSE BILL 807](#), Uniformed Heroes Voting Act, would clarify that any law enforcement officer, first responder, correctional officer, or member of the military may wear their uniform while voting. Currently, these individuals may wear their uniform while entering a polling place for the purpose of voting. However, law enforcement officers are currently prohibited from wearing their uniform at a polling place if they are there to provide security. **Introduced by Representatives D. Hall, McNeill, C. Smith and Miller, and assigned to the House Committee on Election Law and Campaign Finance Reform.**

[HOUSE BILL 811](#), Prot. Public Dangrs. Animls/End Animl Cruelty, would with certain exceptions make it unlawful to possess, sell, transfer, or breed dangerous wild animals, or to allow members of the public to have access to such animals. Dangerous wild animals would be defined to include animals such as wolves, lions, tigers, bears, and apes.

Certain entities would be allowed to possess dangerous wild animals such as circuses, research facilities and law enforcement officers for purposes of enforcement. A person would be able to lawfully possess one of these animals so long as they were in possession of the animal prior to June 1, 2021 and meet certain other requirements. It would be a Class 2 misdemeanor for anyone to possess, sell, transfer or breed any dangerous wild animal. It would be a Class A1 misdemeanor for the owner of one of these animals to allow the animal to run loose and cause property damage and a Class I felony if the animal runs loose and causes serious bodily injury to any person.

Finally, State law enforcement officers, animal control officers, and any other law enforcement officer would be able to enforce the provisions against the unlawful possession, sale, or transfer of these animals within the officer's jurisdiction. **Introduced by Representatives Harrison, Ball, Fisher and Gill, and assigned to the House Committee on Wildlife Resources.**

[HOUSE BILL 813](#), Prohibit State Agencies Payment of Ransomware, would prohibit any State agency or local government entity (such as the sheriff's office) from submitting any payment or otherwise communicating with any entity that has engaged in a cybersecurity attack on an information technology system by encrypting data and then subsequently offering to decrypt that data in exchange for a ransom payment.

The bill would define "ransomware attack" to mean a cybersecurity incident where a malicious actor introduces software into an information system that encrypts data and renders the systems that rely on that data unusable, followed by a demand for a ransom payment in exchange for decryption of the affected data.

The bill would also require any State agency or local government entity experiencing a ransom request in connection with a cybersecurity attack to consult with the North Carolina Department of Information Technology. **Introduced by Representative Saine, and assigned to the House Committee on State Government.**

[HOUSE BILL 818](#), Regulate Cannabinoid Products, would require the North Carolina Board of Agriculture to adopt rules to establish a voluntary certification program for good manufacturing

practices in manufacturing, packaging, or labeling operations for “cannabinoid-related compounds” derived from hemp.

The bill would define “cannabinoid-related compounds” to include numerous compounds derived from the marijuana plant, including but not limited to tetrahydrocannabinol (THC) and cannabidiol (CBD).

The bill would allow, but not require, a seller of hemp products containing cannabinoid-related compounds to voluntarily apply to the Commissioner of Agriculture to obtain a license to display approved labeling on manufactured products derived from hemp containing cannabinoid-related compounds. The bill would authorize the Board of Agriculture to establish the schedule of license fees and all fees collected would be used by the North Carolina Department of Agriculture and Consumer Services to cover the costs of administering this licensing program for the manufacturing of products containing cannabinoid-related compounds.

In addition, the bill would define “Hemp products” to mean “all products made from hemp that are prepared in a form available for commercial sale, excluding any product that is smokeable. If enacted into law, smokeable hemp products would no longer be available for sale in North Carolina.

Currently, hemp products are defined as all products made from industrial hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal and seed oil for consumption, and verified propagules for cultivation if the seeds originate from industrial hemp varieties.

The bill would change the definition of marijuana in the North Carolina Controlled Substances Act to exclude hemp products as defined above. Finally, the bill would make changes to Schedule VI of the Controlled Substances Act to clarify that Tetrahydrocannabinols, a compound found in marijuana, would not include tetrahydrocannabinols found in hemp or hemp products. These changes, if enacted into law, would not legalize marijuana possession or use in North Carolina. **Introduced by Representatives Sasser, Humphrey and McNeely, and assigned to the House Committee on Agriculture.**

[HOUSE BILL 840, Intercept Communications/All Party Consent](#), would prohibit the interception (such as by making an audio recording) or disclosure of any wire, oral or electronic communication without the consent of all parties to the communication. Currently, North Carolina is a one-party State, meaning a party could record any wire, oral or electronic communication so long as they are a party to the communication.

An investigative or law enforcement officer, or a person acting under the direction of an investigative or law enforcement officer, would be authorized to intercept a wire, oral, or electronic communication when both of the following requirements are met: (1) the officer, or person acting under the direction of the officer, is a party to the communication, or one of the parties to the conversation has given prior consent to the interception of the communication; and (2) the purpose of the interception is to obtain evidence of a criminal act. The bill does not define “investigative” officer.

Currently, a law enforcement officer that is a party to a communication, or a person acting under the direction of a law enforcement officer that is a party to a communication, may lawfully record any wire, oral or electronic communication because they are a party to the communication.

The bill would clarify that it would be lawful for a law enforcement officer to intercept a communication as part of making a recording from a body-worn camera or dashboard camera during the course of the officer's official duties.

In addition, the bill would authorize an employee of a telephone company to intercept a wire communication without a court order for the sole purpose of tracing the origin of the communication when the interception is requested by the recipient of the communication and the recipient alleges that the communication is obscene, harassing, or threatening in nature. The person conducting the interception on behalf of the telephone company would be required to provide notice within 48 hours of the interception to the local law enforcement agency that has the primary responsibility for enforcing the criminal laws in the location in which the interception occurred.

Finally, it would be lawful for an employee of a public utility, or a law enforcement agency, fire department, ambulance company, or other emergency medical services provider, when receiving or responding to an emergency call, to intercept or disclose a communication while engaged in any activity which is a necessary incident to the provision of service or to the protection of life or property.

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

[HOUSE BILL 841, DHHS Compliance Review/Jail Suicide Attempts](#), would require the administrator of a local confinement facility (such as the sheriff's jail) to make a written report to the local or district health director and to the Secretary of the North Carolina Department of Health and Human Services (DHHS) within five days of an inmate suicide attempt. The bill would require DHHS to develop and distribute forms to facilitate this reporting by local confinement facilities.

The bill would define suicide attempt to mean a nonfatal, self-directed, and potentially injurious behavior with any intent to die as a result of the behavior which results in or is likely to have resulted in physical injury requiring medical treatment.

The bill would require DHHS to review the local confinement facility's compliance with its suicide prevention program and other relevant minimum jail safety standards each time there is a reported suicide attempt. Following this review, DHHS would be required to make a written report summarizing its findings within 30 days of the DHHS inspection. DHHS would also be required to submit the report to the local or district health director, the governing body (such as the county), and other local officials responsible for the facility (such as the administrator of the facility or the sheriff).

Currently, administrators of local confinement facilities are required to report inmate deaths to the local or district health director and to the Secretary of DHHS within five days of the inmate's death.

Finally, the bill would appropriate to DHHS \$186,000 in recurring funds for each year of the 2021-2023 fiscal biennium to hire two full-time Jail Inspectors to perform inspections of local confinement facilities. The bill would also appropriate to DHHS \$110,000 in recurring funds for each year of the 2021-2023 fiscal biennium to hire one full-time Facility Compliance Consultant or comparable position to perform compliance reviews of each attempted suicide reported by a local confinement facility. **Introduced by Representative Cunningham, and assigned to the Committee on Rules, Calendar, and Operations of the House.**

[HOUSE BILL 891](#), Up Minimum Wages/No Subminimum or Exemptions, is identical to [Senate Bill 673](#), which is summarized in the April 9, 2021 Weekly Legislative Report. The bill would increase the State minimum wage to \$15 per hour by the year 2023 as follows: (1) \$10.35 per hour effective January 1, 2022; and (2) \$15.00 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. **Introduced by Representatives Hawkins, Everitt and K. Smith, and assigned to the Committee on Rules, Calendar, and Operations of the House.**

BILL STATUS

[HOUSE BILL 349](#), Traffic-Control Training Program, 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 386](#), Sunny Point Rail ROW Firearm Discharge Ban, has passed the House and has been sent to the Senate for consideration. The bill has been amended in the House to make it unlawful to discharge a firearm, or to attempt to discharge a firearm, from, on, across, or over the right-of-way of the United States Department of Defense Strategic Rail Corridor Network connecting the Leland rail interchange yard with the Military Ocean Terminal at Sunny Point, North Carolina.

A violation of this provision would be a Class 3 misdemeanor and would be enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, by sworn civilian police officers for the Military Ocean Terminal at Sunny Point, and by other peace officers with general subject matter jurisdiction.

This bill would apply only to Brunswick County. 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.

[HOUSE BILL 436](#), Support Law Enforcement Mental Health, which is summarized in the April 2, 2021 Weekly Legislative Report, has passed the House and has been sent to the Senate for consideration.

[HOUSE BILL 483](#), Pistol Permit/Mental Health Record to Sheriff, which is summarized in the April 2, 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 create the new criminal offense of “Misdemeanor crime of domestic violence.” It would be a Class A1 misdemeanor to use or attempt to use physical force, or to threaten the use of a deadly weapon, against a person when the perpetrator of the crime is one of the following: (1) a current or former spouse, parent, or guardian of the victim; (2) a person with whom the victim shares a child in common; (3) a person who is cohabitating with or has cohabitated with the victim as a spouse, parent, or guardian; or (4) a person similarly situated to a spouse, parent, or guardian of the victim.

[HOUSE BILL 536](#), Law Enforcement Duty to Intervene, which is summarized in the April 16, 2021 Weekly Legislative Report, has passed the House and has been sent to the Senate for consideration.

[HOUSE BILL 547](#), Use Law Enf. Decert Index, which is summarized in the April 16, 2021 Weekly Legislative Report, has passed the House and has been sent to the Senate for consideration.

[HOUSE BILL 548](#), Duty to Report Giglio Information, which is summarized in the April 16, 2021 Weekly Legislative Report, has passed the House and has been sent to the Senate for consideration.

[HOUSE BILL 560](#), Public Safety Reform, which is summarized in the April 16, 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 Secretary of the North Carolina Department of Public Safety to assign to probation officers additional duties during a declared state of emergency or a natural disaster. This would not provide to probation officers any additional powers of arrest or other authority not currently contained in the law.

[HOUSE BILL 585](#), Fail to Report Crime/Privilege Exemption, which is summarized in the April 16, 2021 Weekly Legislative Report, has passed the House and has been sent to the Senate for consideration.

[HOUSE BILL 657](#), School Safety/Threat Assessment Teams, which is summarized in the April 30, 2021 Weekly Legislative Report, has passed the House and has been sent to the Senate for consideration.

[SENATE BILL 300](#), Criminal Justice Reform, which is summarized in the March 19, 2021 Weekly Legislative Report, has been amended in the Senate to make various changes to State law that would impact the criminal justice system as follows:

1. The bill, as amended, 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 develop and maintain a statewide database accessible to the public on each Commission's website that contains all revocations and suspensions of law enforcement officer certifications by the Commissions.

2. The bill, as amended, would require the North Carolina State Bureau of Investigation (SBI) 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, or who is certified as a criminal justice officer or justice officer.

The bill would further require the agency employing any certified criminal justice officer or justice officer to provide the applicant's fingerprints and other requested identifying information to the SBI.

The bill would then require the SBI 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, as amended, would require the North Carolina Sheriffs' Standards Division and the North Carolina Criminal Justice Standards Division 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 in the State that employ personnel certified by the Commissions to provide any information requested by either standards Division to maintain the statewide database. Information provided to either Division 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.

Finally, a law enforcement officer that is reported to either Division as having been involved in a critical incident who disputes being involved in the critical incident has the right to request an administrative hearing prior to being placed in the database.

4. The bill, as amended, would require any person certified by the North Carolina Sheriffs' Education and Training Standards Commission or the North Carolina Criminal Justice Education and Training Standards Commission, or who has received a conditional offer of employment, to report to their respective Commission if they have been notified that they may not be called to testify because of bias, interest or lack of credibility. This notification is commonly known as a "*Giglio* notification."

The bill would require the person so notified to report this in writing to their respective Commission and their agency head (such as the sheriff) within 30 days of receiving the *Giglio* notification. This would only apply to *Giglio* notifications that were made as follows: (1) In writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, assistant United States attorney, or the person's agency head; or (2) were made in open court by a superior court judge, district court judge, or federal judge, and documented in a written order.

The bill would also require the persons described above who issued the *Giglio* notification (such as a judge) to report the notification to the standards Division overseeing the person's certification, or prospective certification, within 30 days of issuing the *Giglio* notification and would also require the person to provide a copy of the written document or order to the standards Division. In addition, the bill would require the agency head that was notified of the *Giglio* notification to also report to the standards Division in writing within 30 days of receiving the report that the employee received a *Giglio* notification.

In the event a person's certification is transferred to another agency, the bill would require the applicable standards Division to notify in writing both the head of the new agency and the elected district attorney in the prosecutorial district where the agency is located that the person is subject to a *Giglio* notification issued as described above.

The bill would allow a person that received a *Giglio* notification requiring reporting to the Commission to apply for a hearing to determine whether the person received a notification that requires reporting. The hearing would be limited to reviewing the following: (1) whether the person is certified by the Commission or has received a conditional offer of employment; (2) whether the person has been notified in writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, or assistant United States attorney; or notified in open court by a superior court judge, district court judge, or federal judge, and documented in a written order; and (3) whether the notification states that the person may not be called to testify at trial based on bias, interest, or lack of credibility.

Finally, the bill would require the Commissions to report annually to the Joint Legislative Oversight Committee on Justice and Public Safety, no later than March 1, regarding the number of *Giglio* notifications that were received during the previous calendar year. The bill would also require the report to include whether action was taken against the person's certification (such as through the entry of a final agency decision by either Commission following an administrative hearing). The report would not include the name of any person receiving a *Giglio* notification or any other identifying information of that person.

Currently, law enforcement officers who receive *Giglio* notifications are not required to report the notification to the Commissions, and there is no formal procedure (i.e. due process) 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, as amended, would grant additional powers to the Commissions, including: (1) the establishment of minimum educational and training standards for entry level employment to develop knowledge and increase awareness of effective mental health and wellness strategies for criminal justice officers; and (2) the establishment of minimum in-service training standards for effective mental health and wellness strategies for criminal justice officers that would be a minimum of two hours training every three years.

The bill would require the Commissions to require the administration of psychological screening examinations prior to certification or employment of law enforcement officers. The psychological screening examination would be conducted in person by a licensed clinical psychologist and the bill would also require the psychological screening examination to occur prior to the initial certification of the law enforcement officer and before the officer is employed by an agency.

6. The bill, as amended, would authorize the Governor, sheriff, chief of police, head of a State law enforcement agency, district attorney, or the Commissioner of Prisons to request that the SBI conduct an investigation and prepare evidence related to an incident involving: (i) a sworn law enforcement officer with the power to arrest that uses force against an individual in the performance of the officer's duties that results in the death of or serious bodily injury to the individual; or (ii) an individual in the custody of the Department of Public Safety, a State prison, county jail, or a local confinement facility that dies or suffers serious bodily injury, regardless of the physical location of the individual.

The bill would define “serious bodily injury” as bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

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.

7. The bill, as amended, would decriminalize certain ordinances unless the local governing authority (such as the city or county) adopts an ordinance making the activity a misdemeanor or infraction.
8. The bill, as amended, would increase the criminal punishment for riot offenses.
9. The bill, as amended, would require the Commissions to use the National Decertification Index (NDI) maintained by the International Association of Directors of Law Enforcement Standards and Training, and would require the Commissions to use the search results from the NDI in determining whether an applicant qualifies for certification or a lateral transfer.

The NDI is a national registry of law enforcement officer certificate or license revocation actions related to law enforcement officer misconduct. The records contained in the NDI are provided by participating State and local government agencies. The fact that a law enforcement officer is included in the NDI does not automatically bar that officer from obtaining certification as a law enforcement officer.

10. The bill, as amended, would require a law enforcement officer to intervene, if safe to do so, and to report within 72 hours what is reasonably believed to be any use of excessive force by another law enforcement officer that is not justified given the circumstances.

If the head of the law enforcement agency of the observing officer was involved or present during what the observing officer reasonably believes to be unauthorized use of force, the bill would require the observing officer to make the report to the highest ranking law enforcement officer of that officer's agency who was not involved in or present during the use of force.

11. Finally, the bill, as amended, would make changes to our State Sex Offender Registry laws related to certain sex offender recidivists that are required to submit to satellite-based monitoring.

[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 455](#), [Decriminalize Non-Statutory Offenses](#), which is summarized in the April 2, 2021 Weekly Legislative Report, has passed the Senate and has been sent to the House for consideration.

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