

North Carolina Sheriffs' Association

Proudly Serving the Sheriffs and Citizens of North Carolina since 1922



Weekly Legislative Report

June 25, 2021

The budget has been in the spotlight this week at the General Assembly. As expected, the Senate released their proposed budget early this week after working on the budget this spring. The \$52.3 billion dollar budget covers the 2021-2023 fiscal biennium and, not surprising, consists of 426 printed pages. As is customary of the State budget, there are budget provisions this year for spending in areas such as justice and public safety, education, transportation, health and human services, agricultural, natural and economic resources, as well as others.

Tuesday morning, the budget was considered in the Senate Appropriations/Base Budget Committee. This Committee is made up of half of the Senators. During this meeting, Committee members heard from budget Committee chairs about details of appropriations in the budget and the chairs answered questions from members before the bill was given a favorable report and sent to the Finance Committee. The Finance Committee also gave the budget a favorable report on Wednesday.

The Senate debated the budget and adopted several amendments to the original bill on Thursday afternoon. The bill then received a final vote on Friday and has been sent to the House for consideration.

While the budget process moved at what appeared to be lightning speed this week, there is no guarantee that the coming weeks will see the same movement. The House expects to take 4-5 weeks to prepare their version of the budget bill. Then the House and Senate will work to jointly agree on a final version to send to the Governor, who may sign it into law or may veto it.

The House adjourned on Thursday and the Senate adjourned on Friday, both to reconvene on Monday, June 28.

BILL STATUS

[HOUSE BILL 238](#), Prohibit Possession of Skimming Device, which is summarized in the March 12, 2021 Weekly Legislative Report, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature.

[HOUSE BILL 734](#), Dept. of Health & Human Services Revisions, which is summarized in the May 7, 2021 Weekly Legislative Report, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature.

[SENATE BILL 43](#), Protect Religious Meeting Places, which is summarized in the June 4, 2021

Weekly Legislative Report, was approved by the General Assembly on June 8, 2021 and was sent to Governor Roy Cooper for his signature. This bill has been vetoed by the Governor and has been returned to the General Assembly to see if there are sufficient votes to override the Governor's veto.

[SENATE BILL 105](#), [2021 Appropriations Act](#), has been amended to include the Senate version of the proposed budget for the 2021 – 2023 fiscal biennium. The provisions of interest to the criminal justice community include:

1. The Superintendent of the North Carolina Department of Public Instruction would be required to establish the 2021-2023 School Safety Grants Program (Program) for the purpose of improving school safety. Public schools, including charter schools, would be allowed to apply for grants under this Program to pay for services for students in crisis, school safety training, and for safety equipment in schools.

In order to qualify for these grants, a public secondary school would be required to have an assessment performed, in conjunction with a local law enforcement agency, that would help identify current and ongoing school safety needs.

2. \$25,000 would be appropriated to the North Carolina Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for each year of the 2021-2023 fiscal biennium for the purpose of purchasing opioid antagonists for distribution to North Carolina law enforcement agencies at no cost to the law enforcement agency.

The bill would also appropriate \$300,000 in recurring funds to the North Carolina Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for each year of the 2021-2023 fiscal biennium for the purpose of transferring these funds to North Carolina Alcohol Law Enforcement (ALE) for enforcement of our State youth tobacco laws.

3. Our State expungement laws would be amended to require the court to waive the court costs associated with obtaining an expunction for a victim of human trafficking that has applied for an expungement of a criminal offense that was associated with human trafficking.

Currently, our State expungement laws allow a victim of human trafficking to obtain an expunction of a nonviolent misdemeanor or felony convictions so long as the court finds that the victim was “coerced or deceived” into committing the offense(s) as a result of being the victim of human trafficking.

4. The bill would make various changes to the North Carolina Drug Treatment Court Act (more commonly known as drug treatment court). The bill would rename the Drug Treatment Court Act the “Judicially Managed Accountability and Recovery Court Act.” In doing so, local drug courts would become known as “recovery

courts.”

In addition, the bill would remove all references in the statutes governing the Act that refer to “drug” use, abuse or dependency and replace that with the word “substance.”

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

Finally, the bill would add a requirement that the sheriff or sheriff’s designee serve on a local “recovery court committee” (currently known as a drug treatment court management committee) if the judicial district in which the sheriff serves has created such a committee. The bill would maintain the current requirement that a “local law enforcement officer” must serve on these local committees, in addition to other criminal justice professionals designated in the statute.

5. The North Carolina Criminal Justice Information Network (CJIN) would be transferred from the North Carolina Department of Information and Technology to the North Carolina Administrative Office of the Courts.

CJIN is a statewide criminal justice infrastructure that allows the sharing of information between State and local criminal justice agencies. CJINs governing Board, among other things, provides assistance with or coordinates projects that will provide more effective communication between law enforcement agencies across the State, such as the updating of North Carolina’s Statewide Automated Fingerprint Identification System (SAFIS) and the North Carolina Automated Warrant Repository (NCAWARE).

The bill would expand the CJIN Board’s powers and duties to include: (1) employing the services of an Executive Director who would report exclusively to the Board; (2) exercising administrative control over the operational budget established by the Board and appropriated by the General Assembly; and (3) exercising sole authority over employee positions allotted to the Board, including the authority to establish qualifications, classifications, and salary levels for its employees and determining appropriate methods of screening for candidates, interviewing, hiring, and day-to-day management of Board employees.

6. As has been the policy for many years, the North Carolina Department of Justice would be prohibited from hiring sworn law enforcement personnel to fill vacant positions in the North Carolina State Crime Laboratory. However, the bill would not require the North Carolina State Crime Laboratory to terminate the employment of current employees that are sworn law enforcement officers or who annually continue to meet the sworn status retention standards of the North Carolina Criminal Justice Education and Training Standards Commission.

7. The bill 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 and justice officer certifications by the Commissions.
8. The bill would provide that any publicly-accessible database of a State agency or political subdivision of the State (such as a county) that compiles information regarding disciplinary actions taken against law enforcement officers must meet six requirements. Some of these requirements include: the database is created by an act of the General Assembly, the officer received notice of the disciplinary action and opportunity to be heard regarding that action prior to it being added to the database, and the database provides for removal of records of the disciplinary action in the event the action is later rescinded. The bill does not define "disciplinary action."
9. The bill would require the North Carolina Sheriffs' Standards Division and the North Carolina Criminal Justice Standards Division to each develop and maintain a statewide database for law enforcement agencies that tracks all critical incident data of law enforcement officers and justice officers in the State. "Critical incident" would mean an incident involving any use of force by a law enforcement officer resulting in death or serious bodily injury to a person.
10. The Criminal Justice Fellows Program (Fellows Program) that was enacted into law in 2018 would be modified to allow a person to apply for a Fellows Program grant if the person resides in a county with a population less than 200,000 or a county designated as a Tier I county. Currently, an applicant for a Fellows Program grant must reside in a county with a population less than 125,000.

The Fellows Program is administered by the North Carolina Criminal Justice Education and Training Standards Commission and was created to increase the recruitment of criminal justice professionals by providing loan forgiveness to qualified individuals that earn an Applied Associate Degree in Criminal Justice.

11. \$2 million would be appropriated to the North Carolina Department of Public Safety for the 2021-2022 fiscal year to provide grant funds to county sheriffs' offices for expenses incurred in enforcing the laws and for carrying out other duties set by law.

Grant funds would be allocated in equal amounts to the sheriffs' offices located in development Tier I and Tier II counties. The State's 40 most economically distressed counties are designated as Tier I counties, and the next 40 most economically distressed counties are designated as Tier II counties.

12. \$5.2 million would be appropriated to the North Carolina Department of Public Safety for the 2022-2023 fiscal year to provide grant funds to sheriffs' offices for expenses incurred in enforcing the laws and for carrying out other duties set by law.

Grant funds would be allocated in equal amounts to the sheriffs' offices located in development Tier I and Tier II counties.

13. \$1.5 million in nonrecurring funds would be appropriated to the North Carolina Department of Public Safety each year of the 2021-2023 fiscal biennium to be used as grants to sheriffs' offices and other local law enforcement agencies to investigate reports of internet crimes against children.

The bill would require the North Carolina Sheriffs' Association to administer this grant program. The Association would be required to develop guidelines and procedures for the administration and distribution of grant funds. The maximum grant amount would be \$75,000 per recipient per fiscal year and the sheriff's office or local law enforcement agency receiving grant funds would be required to enter into a memorandum of agreement with the North Carolina State Bureau of Investigation that would govern the investigation of internet crimes against children.

Finally, the bill would require the North Carolina Sheriffs' Association to provide reports to the Joint Legislative Oversight Committee on Justice and Public Safety, to the House and Senate Appropriations Committees on Justice and Public Safety, and to the Fiscal Research Division as follows:

- (i) A report on the guidelines and procedures that will govern distribution and administration of grant funds no later than November 1, 2021.
 - (ii) A report on the grant funds distributed during the 2021-2022 fiscal year no later than August 1, 2022.
 - (iii) A report on the grant funds distributed during the 2022-2023 fiscal year no later than August 1, 2023.
14. The State Capitol Police would be authorized to contract with State agencies to provide security services in the buildings occupied by those agencies.
15. The North Carolina Department of Justice and the North Carolina Department of Public Safety would be prohibited from using federally forfeited assets for new personnel positions, new projects or acquisitions of real property and repair of buildings without having the prior approval of the General Assembly.
16. The bill would require the North Carolina State Bureau of Investigation (SBI), at the request of the Governor, to conduct an investigation and prepare evidence

related to an incident involving: (i) a sworn law enforcement officer with the power to arrest that discharges their firearm in the performance of the officer's duties, excluding during training exercises; (ii) 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 (iii) 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.

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.

17. The bill would transfer the Investigations Division of the State Board of Elections (SBE) to the North Carolina State Bureau of Investigation (SBI). The bill would amend the election statutes to authorize the SBI to investigate without being requested all cases arising from fraud in connection with elections in any county, municipality, and special district.

The SBI would be required to report any election law violations to the Attorney General, district attorney, or prosecutor of the district for further investigation and prosecution. During these investigations, the SBI would have the power to subpoena witnesses and compel the production of documents.

18. The North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice (DACJJ), would be required to report to the Joint Legislative Oversight Committee on Justice and Public Safety the following information for DACJJ employees no later than February 1, 2022:

- (i) The number of employees charged with a criminal offense that occurred in a State prison and during the employee's work hours.
- (ii) The number of employees disciplined, demoted or separated from service due to misconduct.
- (iii) A description of the screening process used to select and hire employees, including the process used to verify the information provided by an applicant.

19. The North Carolina Department of Public Safety would continue to be authorized to pay the sum of \$40 per day as reimbursement to counties for the cost of housing backlogged convicted inmates remaining in a county jail who were sentenced to imprisonment in the Division of Adult Correction and Juvenile Justice.

20. The bill would separate the Division of Adult Correction and Juvenile Justice (DACJJ) of the North Carolina Department of Public Safety (DPS). The bill would

establish the “Department of Adult Correction” as its own unified cabinet-level department with a Secretary appointed by the Governor and would transfer several divisions, programs, and entities from DPS. Included in this restructuring would be the creation of the new “Division of Prisons” within the Department of Adult Correction. The new Secretary of the Department of Adult Correction would serve as a voting member of the Governor’s Crime Commission and would also serve on the Domestic Violence Commission.

The bill would also establish the separate “Division of Juvenile Justice” of the North Carolina Department of Public Safety. Currently, Juvenile Justice is a separate section within DACJJ and is not operating as a separate division within the North Carolina Department of Public Safety.

Finally, the bill would create the new “Division of Community Supervision and Reentry” within DPS, which would be responsible for probationers and parolees. Currently, Community Corrections is a section within DACJJ and is not operating as a separate division within the North Carolina Department of Public Safety.

21. The bill would increase the members of the North Carolina Criminal Justice Education and Training Standards Commission from 34 to 36 members. The bill would require the membership of the Commission to include the Secretary of the newly created “Department of Adult Correction.” In addition, the Governor would be required to appoint one employee of the newly created “Division of Community Supervision and Reentry” of the North Carolina Department of Public Safety to serve on the Commission.
22. The bill would authorize sheriffs to pay inmates of the Statewide Misdemeanant Confinement Program (SMCP) for litter cleanup along local and State roadways. The bill would require sheriffs to coordinate with the North Carolina Department of Transportation before allowing SMCP inmates to work in this capacity to avoid duplicative cleanup work with DOT crews. The bill would require sheriffs to ensure that SMCP inmates are “adequately guarded” while conducting roadway cleanup, in addition to ensuring the inmates are fed, hydrated and are provided bathroom breaks.

The bill would allow sheriffs to receive reimbursement in the amount of \$60 per day, per inmate held under the Statewide Misdemeanant Confinement Program for each calendar month in which a combined total of 500 work hours were completed cleaning roadways through that sheriff’s office. Currently, the State reimbursement to the sheriff under the SMCP program is \$40 per day, per inmate.

Finally, the bill would require the North Carolina Sheriffs’ Association to report monthly to the Office of State Budget and Management and to the Fiscal Research Division the number of counties utilizing SMCP inmates for roadway cleanup, the total number of hours worked by the inmates and the miles of roadway cleaned.

The Association would also be required to make a similar report annually to the House Appropriations Committee on Justice and Public Safety, to the Senate Appropriations Committee on Justice and Public Safety and to the Joint Legislative Oversight Committee on Justice and Public Safety.

[SENATE BILL 255](#), [2021 AOC Legislative Changes.-AB](#), which is summarized in the June 4, 2021 Weekly Legislative Report, has been signed into law by Governor Roy Cooper with an effective date of June 18, 2021 for most provisions. As enacted, sheriffs are now required to pay money collected on an execution immediately to the clerk of court's office of the issuing court and no longer have the option to either pay the money collected on an execution to the plaintiff or to the clerk of court's office. **NOTE: Please share this new procedure, which is effective immediately, with all personnel who handle executions.**

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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