

North Carolina Sheriffs' Association

Proudly Serving the Sheriffs and Citizens of North Carolina since 1922



Weekly Legislative Report

July 16, 2021

After a break to celebrate the Independence Day holiday, the House and Senate were back in Raleigh this week. The halls and common areas of most buildings were quiet and committees did not meet frequently this week as the House continued to work towards finalizing their budget.

In a rare move at this point in the session, the House stayed late into the evening on Wednesday and reconvened in the early morning hours for a vote on Thursday. Usually, those late evening and early morning hour sessions are reserved for the days leading up to crossover and the last few days of session before adjournment.

According to rules passed early in the session, with limited exceptions, the House may not continue a session after 10PM on a Monday or 9PM any other day of the week. No such rules exist in the Senate. Interestingly, there is no rule that directs a time when the House may convene, thereby allowing them to do so as early as they would like and potentially while the rest of the world sleeps.

The House adjourned in the early morning hours on Thursday and the Senate adjourned later on Thursday as well. Both the House and Senate will reconvene Monday.

BILL STATUS

[SENATE BILL 300](#), Criminal Justice Reform, which is summarized in the May 14, 2021 Weekly Legislative Report, has been amended in the House to make the following changes to the bill:

1. The bill would require, as previously summarized, 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, as amended, would also include in the reporting requirement to either Commission any *Giglio* notification that was made in writing by the person's agency head. The bill, as amended, still contains the reporting requirements listed in the previous version of the bill for any *Giglio* notification 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) made in open court by a superior court judge, district court judge, or federal judge, and documented in a written order.

2. The bill would require, as previously summarized, the Commissions to require the administration of psychological screening examinations prior to an officer's initial certification by the North Carolina Sheriffs' Education and Training Standards Commission or the North Carolina Criminal Justice Education and Training Standards Commission.

The bill, as amended, would clarify that the psychological screening examination would be conducted face-to-face and in-person by a licensed psychologist. The bill as amended would only allow this examination to be conducted virtually (such as through Zoom or WebEx) when an in-person, face-to-face interview was not practicable and so long as both the audio and video capabilities allow for the psychologist to conduct a "professional clinical evaluation in a clinical environment."

3. Finally, the bill, as previously amended in the Senate, would add a provision to the statute governing law enforcement agency recordings that would require any portion of a recording in the custody of a law enforcement agency that depicts a death or serious bodily injury to be immediately disclosed (viewed), upon request, and in unredacted and unedited form, to the injured individual or a personal representative of the deceased or injured individual unless a law enforcement agency files a motion for permission to redact the recording. If the law enforcement agency files such a motion, the court would then be authorized to consider a number of factors in determining whether the recording would be redacted, including whether disclosure would jeopardize an ongoing investigation or a person's safety or reputation.

An amendment to this provision in the bill was offered in the House Judiciary 2 Committee that would require a law enforcement agency that receives such a request for the immediate disclosure of a recording meeting the above description to file a petition in the superior court within 5 days of receipt of the request. This would allow a judge to review the recording and decide whether the recording should be released in its entirety or released edited or redacted, and to also decide whether the recording should be released immediately, released at a later date, or not released at all.

This amendment to the bill in the House Judiciary 2 Committee was not adopted. Instead, all provisions related to the immediate release of a law enforcement recording that depicts a death or serious bodily injury have been completely removed from the amended bill. It is possible that language on this topic could be added to the bill again at a later time.

[SENATE BILL 605](#), North Carolina Farm Act of 2021, which is summarized in the April 9, 2021 Weekly Legislative Report, has been signed into law by Governor Roy Cooper with an effective

date of December 1, 2021 for most provisions in the bill.

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

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