

North Carolina Sheriffs' Association

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Weekly Legislative Report

September 3, 2021

The last time North Carolina made it into the month of September without a signed budget was 2019 when Governor Roy Cooper vetoed the budget sent to him by the General Assembly, resulting in their passage of “mini-budgets.” This year, the House and Senate are still trying to come to an agreement among themselves about what they will send to the floor of both chambers for a vote. As a result of the continuing stalemate, Speaker of the House Tim Moore and President Pro Tempore of the Senate Phil Berger projected a budget might not be finalized until the end of September.

In the meantime, the Governor signed a trio of criminal justice reform bills on Thursday afternoon. [Senate Bill 300](#), Criminal Justice Reform, contains a package of criminal justice reform including measures that will strengthen professionalism within the law enforcement community. [House Bill 436](#), Support Law Enforcement Mental Health and [House Bill 536](#), Law Enforcement Duty to Intervene, address among other things mental health initiatives for law enforcement and the duty to intervene and report excessive uses of force by fellow law enforcement officers.

With Labor Day weekend upon us, both chambers had a brief session Friday morning, but took no action. Almost all of the legislators except those involved in some of the high-level budget negotiations were able to leave Raleigh on Wednesday. They will not need to return until next week and will be able to spend a long Labor Day weekend with their families and constituents back in their home districts.

The House and Senate adjourned on Friday and will reconvene on Tuesday, September 6th.

BILL STATUS

[HOUSE BILL 143](#), Swain County Sheriff Vacancies, which is summarized in the August 27, 2021 Weekly Legislative Report, has passed the Senate with amendment and has been sent back to the House for consideration of the Senate amendment.

[HOUSE BILL 398](#), Pistol Purchase Permit Repeal, which is summarized in the April 23, 2021 Weekly Legislative Report, has been vetoed by the Governor and has been returned to the General Assembly and assigned to the Committee on Rules, Calendar and Operations of the House to see if there are sufficient votes to override the veto.

A veto override is not anticipated. However, if the General Assembly overrides the veto and the bill becomes law, the bill would repeal (eliminate) the requirement of obtaining a pistol purchase

permit to sell, give away, transfer, purchase, or receive a pistol in this State. Currently, a pistol purchase permit issued by the sheriff is required to sell, give away, transfer, purchase, or receive a pistol in North Carolina.

[HOUSE BILL 436, Support Law Enforcement Mental Health](#), which is summarized in the August 20, 2021 Weekly Legislative Report, has been signed into law by Governor Roy Cooper with an effective date of January 1, 2022 for most provisions.

[HOUSE BILL 536, Law Enforcement Duty to Intervene](#), which is summarized in the August 13, 2021 Weekly Legislative Report, has been signed into law by Governor Roy Cooper with an effective date of October 1, 2021 for most provisions.

[HOUSE BILL 608, Dignity for Women Who are Incarcerated](#), which is summarized in the August 20, 2021 Weekly Legislative Report, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature.

[HOUSE BILL 692, Restrict Certain Vehicle Modifications](#), which is summarized in the July 2, 2021 Weekly Legislative Report, has been signed into law by Governor Roy Cooper with an effective date of December 1, 2021, and applies to offenses committed on or after that date.

[HOUSE BILL 805, Prevent Rioting and Civil Disorder](#), which is summarized in the August 13, 2021 Weekly Legislative Report, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature.

[HOUSE BILL 954, Video Lottery Entertainment](#), has been amended in the House and would legalize video gambling in North Carolina through the North Carolina Education Lottery. Currently, video gambling is illegal in North Carolina. The bill, as amended, would create various permitting requirements for “video lottery terminals” through the North Carolina Lottery Commission (the Commission) which would be enforceable by the Alcohol Law Enforcement Division (ALE) of the North Carolina Department of Public Safety.

A “video lottery terminal” would be “any electronic computerized video game machine that, upon the insertion of cash or a lottery share, is available to play a video lottery game authorized by the Commission and which uses a video display and microprocessors in which, by chance, the player may receive free games or credits that can be redeemed for cash.”

The bill, as amended, would define “video lottery games” as “electronically simulated games of chance approved by the Commission that are displayed and played on permitted video lottery terminals.” If enacted into law, the Commission could authorize an unlimited number of games of chance for video gambling through the North Carolina Education Lottery without further authorization of the General Assembly.

The bill, as amended, would require all video lottery manufacturers, operators, and merchants to be licensed by the Commission and would allow each merchant to operate up to six machines per location. However, the bill would allow the Commission to authorize an additional four machines per location for a potential maximum of ten video lottery terminals per location. The bill would

also prohibit the placement of video lottery terminals within 500 feet of a church, public school or a private school.

The bill, as amended, would authorize any law enforcement officer to confiscate any “terminal or machine” that does not display a video lottery permit. The bill does not define what is meant by a “machine” and does not define “terminal,” although it appears that the reference to any terminal in the amended bill would refer to video lottery terminals as defined in the bill.

In addition, the bill does not provide any method by which a law enforcement officer can determine whether or not a permit affixed to a video lottery terminal is valid or the number of video lottery terminals that are authorized by the Commission at any given location, such as through the use of a database that is accessible to all law enforcement officers that could be used to search video lottery permits and locations that are authorized to have video lottery terminals (including the number of video terminals allowed at the location).

Finally, the bill, as amended, would not make video sweepstakes games illegal. Therefore, if enacted into law, there could remain unlawful video sweepstakes machines in operation in North Carolina simultaneously with the North Carolina Education Lottery’s video lottery games of chance.

[SENATE BILL 99](#), Clarify Law on Theft of Catalytic Converters, which is summarized in the February 19, 2021 Weekly Legislative Report, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature.

[SENATE BILL 207](#), Various Raise the Age Changes/JJAC Recs., which is summarized in the August 20, 2021 Weekly Legislative Report, has been signed into law by Governor Roy Cooper with an effective date of December 1, 2021, and applies to juvenile court petitions filed or offenses committed on or after that date.

[SENATE BILL 300](#), Criminal Justice Reform, which is summarized in the August 20, 2021 Weekly Legislative Report, has been signed into law by Governor Roy Cooper with various effective dates, as set out in the bill.

[SENATE BILL 321](#), Amend NC Controlled Substances Act, which is summarized in the March 19, 2021 Weekly Legislative Report, has been approved by the General Assembly and sent to Governor Roy Cooper for his signature.

[SENATE BILL 379](#), Issuance of Unregistrable Cert. of Title, which is summarized in the April 2, 2021 Weekly Legislative Report, has been signed into law by Governor Roy Cooper with an effective date of October 1, 2021.

[SENATE BILL 711](#), NC Compassionate Care Act, which is summarized in the July 2, 2021 Weekly Legislative Report, has been amended in the Senate. Those provisions of interest to the criminal justice community include:

1. The bill, as amended, would specify that any evidence obtained as a result of a search supported by probable cause is not required to be suppressed solely because substances believed at the time to be controlled substances were subsequently determined not to be controlled substances. Similarly, it would specify that any evidence obtained as a result of a search supported by probable cause is not required to be suppressed solely because the presence of controlled substances at the time of the search was later determined to be lawful.

This amendment would simply codify current law that evidence uncovered as a result of a search supported by probable cause is not required to be suppressed.

2. The bill, as amended, would include the following within the definition of a “cannabis-infused product:” a tablet, a capsule, a concentrated liquid or viscous oil, a liquid suspension, a topical preparation, a gelatinous cube, a gelatinous rectangular cuboid, a lozenge in a cube or rectangular cuboid shape, a resin, or a wax.
3. The bill, as amended, would include two additional conditions within the definition of a “debilitating medical condition:” a terminal illness when the patient’s remaining life expectancy is less than six months and a condition resulting in the individual receiving hospice care.
4. The bill, as amended, would require physicians who issue written certifications for medical marijuana use to be registered with the United States Drug Enforcement Administration (DEA) and to have a physical office in North Carolina for conducting in-person examinations.
5. The bill, as amended, would require the physician’s written certification for medical cannabis use to specify the amount and dosage of the cannabis or cannabis-infused product, that is not to exceed an adequate supply. The certification would also have to specify the period of time for which the written certification is valid, not to exceed one year.
6. The bill, as amended, would require the North Carolina Medical Care Commission to include within its rules governing registry identification cards a new rule limiting the number of written certifications a physician can issue at any given time.
7. The bill, as amended, would require the North Carolina Department of Health and Human Services to monitor physician written certifications in the medical cannabis registry database for practices that could facilitate diversion or misuse of cannabis or other harm, and to refer those cases to the North Carolina Medical Board or the North Carolina State Bureau of Investigation as appropriate.
8. The bill, as amended, would allow an individual to serve as a designated caregiver for a maximum of two qualified patients, but specifies that the Commission may create exceptions to this limit for patients and designated caregivers.
9. The bill, as amended, would require all medical cannabis registry identification cardholders to carry their registry identification cards together with valid identification whenever the cardholder is carrying cannabis or a cannabis-infused product. The bill would also require

registry identification cardholders to notify law enforcement officers of their status as a valid registry identification cardholder when approached or addressed by a law enforcement officer. Cardholders would also be required to display both the registry identification card and valid identification at the request of a law enforcement officer.

10. The bill, as amended, would require the Medical Cannabis Production Commission to adopt rules to regulate the medical cannabis supply system, including, but not limited to rules regarding physical plant requirements, security, sanitation, record keeping, storage and transportation of cannabis and cannabis-infused products, and procedures for recall of unsafe cannabis or cannabis-infused products. The bill would also require the Commission to establish and maintain a “seed-to-sale” tracking system, which must include real-time data from all production facilities, medical cannabis centers, and testing laboratories and allow for 24-hour access by the North Carolina Department of Health and Human Services and the Commission.
11. The bill, as amended, would prohibit the smoking or vaping of cannabis for medical use in certain places. “Smoking” would be defined as the “use or possession of a lighted cannabis product” and “vaping” would be defined as the “use of a product which heats a liquid or other form of cannabis in a manner so as to release an aerosol.” The bill would prohibit smoking or vaping in or within 1,000 linear feet of the property line of a church, child-care facility, school, community college, or facility in the UNC system, unless the use occurs in a private residence. If the private residence is a child-care facility, smoking or vaping of cannabis would be prohibited in all instances.

The bill would also prohibit smoking or vaping in a place open to the public, any place of employment, or in a vehicle. The bill would allow smoking or vaping of cannabis in UNC system facilities used for medical or scientific research if the smoking or vaping of cannabis is integral to research. Any violation would constitute an infraction and would be punishable by a fine of not more than \$25.00.

12. The bill, as amended, would prohibit the sale of cannabis and cannabis-infused products after 7:00 PM and before 7:00 AM and would prohibit the placement of medical cannabis centers within 1,000 linear feet of the property line of a church, child-care facility, school, community college, or UNC system facility. The bill would also prohibit consumption of cannabis or cannabis-infused products on-site at a medical cannabis center. It would also prohibit cannabis, cannabis-infused products, and associated paraphernalia from being visible from outside the medical cannabis center and would limit entry to qualified patients, designated caregivers, employees, contractors, and State inspectors and regulators.
13. The bill, as amended, would require packaging of cannabis and cannabis-infused products to include information on the batch and harvest number from which the cannabis originated, the name of the qualified patient to whom the product is prescribed, the name of the physician who issued the written certification, and the recommended dose according to the written certification.
14. Finally, the bill, as amended, would allow the UNC system to possess, transport, store, test and dispose of cannabis as necessary to conduct scientific research.

[SENATE BILL 733](#), 2021 Appointments Bill, which is summarized in the August 20, 2021 Weekly Legislative Report, has been signed into law by Governor Roy Cooper with an effective date of September 1, 2021.

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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