

# North Carolina Sheriffs' Association

Proudly Serving the Sheriffs and Citizens of North Carolina since 1922



Weekly Legislative Report

February 10, 2023

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The third week of this legislative session saw the first meetings of various House and Senate Appropriation committees. These are the committees that determine how State funds will be distributed in the State budget bill, often called the Appropriations Act.

A State budget is typically a primary focus of the General Assembly during each legislative session. A budget was passed by the General Assembly during the 2021 session and was signed by Governor Roy Cooper. The spotlight will likely shine bright on the budget process again this year.

On Wednesday, House Bill 40, Prevent Riot and Civil Disorder, moved at rapid speed from the House Judiciary 2 Committee to the Committee on Rules, Calendar, and Operations of the House and then to the House floor for a vote within a matter of hours. The House saw a lively floor debate on the bill which would increase the criminal penalties for rioting and causing injury to law enforcement officers and other emergency personnel during a riot.

The bill passed with a bi-partisan vote of 75-43, with all Republicans and 6 Democrats voting in favor of the bill. It will now move on to the Senate for consideration. More bills are expected to move to the floor for a vote next week as well, according to an announcement made to House members this week.

The House and Senate adjourned on Thursday and will reconvene on Monday, February 13, 2023.

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## BILLS OF INTEREST

[HOUSE BILL 49](#), Protect Religious Meeting Places, is identical to [Senate Bill 41](#), Protect Religious Meeting Places, which is summarized in the February 3, 2023 Weekly Legislative Report. **Introduced by Representatives McNeely, Carson Smith, Chesser and N. Jackson, and assigned to the House Committee on Judiciary 3.**

[HOUSE BILL 50](#), Pistol Purchase Permit Repeal, is identical to [Senate Bill 40](#), Pistol Purchase Permit Repeal, which is summarized in the February 3, 2023 Weekly Legislative Report. **Introduced by Representatives Chesser, D. Hall, K. Hall and Saine, and assigned to the House Committee on Judiciary 3.**

[HOUSE BILL 52](#), Funds for Davie County Projects, would appropriate funds to Davie County as follows: \$12 million in nonrecurring funds to assist in the funding of a new detention center and \$304,000 in nonrecurring funds to provide new scanning equipment for the Davie County Sheriff's Office. **Introduced by Representative Howard and assigned to the House Committee on Appropriations.**

[HOUSE BILL 53](#), Firearm in Unattended Vehicle/Safely Store, would create a new criminal offense of "Firearms in Unattended Motor Vehicles," making it a Class 2 misdemeanor to leave a firearm in an unattended vehicle unless the vehicle is locked and one of the following conditions exist: (1) the firearm is secured with a trigger lock or other device to prevent unauthorized discharge, or (2) the firearm is in a locked container. **Introduced by Representatives Morey, Autry, Logan and Longest, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 55](#), Fire Investigation Law Revisions, would grant the North Carolina Commissioner of Insurance (Commissioner) the authority to also supervise and direct fire investigations. Currently, only the Director of the North Carolina State Bureau of Investigation (SBI) has the authority to supervise and direct fire investigations when the Director deems it appropriate. The bill would give the Director of the SBI the exclusive right to supervise and direct fire investigations in cases involving death or serious bodily injury.

The bill would also grant the Commissioner the authority to take testimony, compel the attendance of witnesses, administer oaths and affirmations, issue subpoenas, and conduct premises inspections in fire investigations. Currently, only the Director of the SBI has this authority. **Introduced by Representatives Clampitt and Loftis, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 59](#), Funds for Projects in Rowan County, would appropriate \$730,800 in nonrecurring funds to the City of Salisbury for police and fire safety equipment, including ballistic vests, helmets, and a rescue vehicle.

The bill would also appropriate \$14.5 million in nonrecurring funds to the Town of East Spencer for a new municipal complex to house the Town's administrative, police, and fire departments. **Introduced by Representative Warren and assigned to the House Committee on Appropriations.**

[HOUSE BILL 61](#), Abolish Employment At-Will, would abolish the doctrine of at-will employment in this State. The bill would prohibit any employee in this State, including an employee of the sheriff's office, from being terminated except for just cause.

Currently, the vast majority of contracts for employment in the State of North Carolina are at-will, terminable by either party at any time and for any reason or no reason. **Introduced by Representatives Logan, Autry, Harrison and Roberson, and assigned to the Committee on Rules, Calendar, and Operations of the House.**

[HOUSE BILL 72](#), Firearm Safe Storage Awareness Initiative, would require the North Carolina Department of Health and Human Services (DHHS), in collaboration with the North Carolina Wildlife Resources Commission, to conduct a statewide firearm safe storage awareness initiative

to educate the public about the importance of the safe storage of firearms. **Introduced by Representatives Carson Smith, Clemmons, White and K. Baker, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 77](#), Drivers License Designation/Autism, would require the North Carolina Division of Motor Vehicles (DMV) to develop a driver's license designation that may, upon request, be granted to a person with autism spectrum disorder. The bill would authorize DMV to enter the designation into the electronic record associated with the person's driver's license, if the person requests it, to be accessible only to law enforcement and to be used only for the purpose of ensuring mutually safe interactions between law enforcement and the person with autism spectrum disorder.

The bill would also require the North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission (the Commissions) to establish minimum education and training standards for officers on recognizing and appropriately interacting with persons with autism spectrum disorder. Currently, the Commissions are not required by law to establish minimum education and training standards for interacting with persons who have a specific medical condition, other than those persons who are deaf or hard of hearing. **Introduced by Representative Penny and assigned to the House Committee on Transportation.**

[HOUSE BILL 85](#), Revise Use of Alcohol Concentration Result, would make the actual alcohol concentration result of an alcohol screening test administered prior to arrest admissible in court and would allow the actual result of the test to be used by an officer or an administrative agency (such as the North Carolina Division of Motor Vehicles) when making a determination as to whether "probable cause or reasonable grounds" exist for believing that the driver committed an implied consent offense and that the driver consumed alcohol.

Currently, the positive or negative result of an alcohol screening test administered prior to arrest is admissible in court, but not the actual alcohol concentration, and it may be used by an officer or an administrative agency in determining whether reasonable grounds exist to believe the driver committed an implied consent offense and that the driver consumed alcohol.

The bill would also clarify that "low" alcohol test results can be used by an officer, a court or an administrative body to determine whether impairment was caused by an impairing substance other than alcohol. Currently, only negative results on an alcohol test can be used in determining whether a person's alleged impairment was caused by an impairing substance other than alcohol. **Introduced by Representative Clampitt.**

[SENATE BILL 67](#), Firearm Safe Storage Awareness Initiative, is identical to [House Bill 72](#), Firearm Safe Storage Awareness Initiative, which is summarized above in this Weekly Legislative Report. **Introduced by Senators Hanig, Britt and Perry, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 77](#), Cities/Civilian Traffic Investigators, would authorize any city to employ nonsworn personnel, to be known as “Civilian Traffic Investigators” (investigators), to investigate and issue citations for crashes that only involve property damage. The bill would require any city employing such investigators to establish minimum standards for employment and it would create several other requirements for investigators, including attending a training program designed by the chief of police, chief’s designee, or sheriff in consultation with the North Carolina Justice Academy, completing at least four weeks of field training, and wearing a uniform substantially different in color and style from that of a law enforcement officer for the city.

Investigators would have no authority to arrest or issue criminal process but would have the same authority as law enforcement to tow vehicles obstructing a public street or highway. In addition, investigators would not be issued a weapon of any type (such as a firearm).

Finally, the bill would still require law enforcement officers to investigate any crashes involving personal injury or a fatality. Currently, only the City of Wilmington is authorized to employ civilian traffic investigators. **Introduced by Senator Lowe and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 83](#), No Tik Tok on Government Devices, would prohibit any employee of the State or local political subdivision of the State (such as a sheriff’s office employee) from downloading, using, or accessing Tik Tok or WeChat applications or websites on any government-issued information technology, cellular phone, desktop or laptop computer, or other electronic device capable of connecting to the internet.

The bill would also require any government employee or contractor to uninstall any TikTok or WeChat application already downloaded onto a government-issued device within 30 days of the bill’s enactment.

Finally, the bill would allow an exception for law enforcement agencies to access the applications for law enforcement or investigative purposes. **Introduced by Senators Moffitt, Perry and Hanig, and assigned to the Committee on State and Local Government of the Senate.**

[SENATE BILL 87](#), State Emps./No Payroll Dues Deduction, would eliminate the ability of an employee of the State, or any of its political subdivisions, institutions, departments, bureaus, agencies, or commissions, to authorize periodic deductions from their salary or wages to be paid to certain employees’ associations residing and operating in the State.

Currently, an employee of the State may authorize such a deduction. Employees of county, municipal, or local government are not able to authorize such a deduction. **Introduced by Senators Hise, Krawiec and Johnson.**

[SENATE BILL 90](#), Searches of Student’s Person, would allow a school administrator in a public school to authorize the search of a student’s person based on reasonable suspicion that the student has violated a school rule or policy, or a State or federal law. The bill would define “reasonable suspicion” as a suspicion which, in the administrator’s professional opinion, “is based on specific and articulable facts from a credible source.”

The bill would also require that a school's policies and procedures for student searches comply with the federal and State constitutions, as well as State and federal laws.

The bill would require that all searches of a student's person be narrowly tailored and minimally intrusive. The bill would also prohibit cavity searches of students or searches that require a student to completely undress.

Finally, the bill would require that searches of a student's person be conducted in private by one school official and one adult witness, both of whom are the same sex as the student. The bill would define the sex of the student as the sex assigned at birth, unless the student's parent provides written notice to the school that a different sex designation is appropriate.

Currently, searches of students and their belongings on school grounds are governed by the Supreme Court of the United States case of *New Jersey v. T.L.O.*, 469 U.S. 325 (1985), and subsequent cases, which allow school officials, and law enforcement officers "acting in conjunction with" those officials, to search students and their belongings on school grounds based on "reasonable suspicion" alone and without a search warrant.

There is no current explicit requirement under the law that the search must be conducted in private, by officials of the same sex, and be "narrowly tailored and minimally intrusive," only that the search be "reasonable" under the Fourth Amendment. Furthermore, strip searches of students are allowed under current law if there is reasonable suspicion: (1) of danger to the student populace or; (2) that a particular student is resorting to hiding evidence of wrongdoing in their undergarments. *Safford Unified Sch. Dist. #1 v. Redding*, 557 U.S. 364 (2009). **Introduced by Senators Lazzara, Galey and Sawyer.**

## BILL STATUS

[HOUSE BILL 40](#), Prevent Rioting and Civil Disorder, which is summarized in the February 3, 2023 Weekly Legislative Report, has passed the House and been sent to the Senate for consideration. The bill was amended in the House to make it a Class E felony if a person commits an assault upon emergency personnel and causes serious bodily injury to the emergency personnel and a Class D felony if a person commits an assault upon emergency personnel resulting in death.

Additionally, the bill was amended to require the North Carolina Department of Justice to develop model law enforcement agency protest response and engagement policies, in consultation with the North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission.

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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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