

North Carolina Sheriffs' Association

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Weekly Legislative Report

February 17, 2023

When there are no seats in the Legislative Cafeteria during lunch, that's a good sign that big bills of interest to the public at large are moving at the General Assembly. This week, that was profoundly true as bills on the repeal of the pistol purchase permit, medical marijuana and Medicaid expansion moved through the legislative process. Citizens with varying opinions on these issues were present and vocal in committees as the bills received hearings.

Ultimately, the repeal of the pistol purchase permit made it through the Senate committee process and received a favorable vote from the full Senate on Thursday. The Senate bill will now be sent to the House for consideration. A similar House bill made its way through the committee process in the House this week but was not brought up for consideration by the full House.

A bill related to Medicaid expansion received a favorable vote from the full House this week and will be sent to the Senate. This is a topic that has received quite a bit of attention both last session and thus far this session. There will likely be a lot of discussion between leadership in both chambers to determine if there can be a successful Medicaid expansion bill in North Carolina and, if so, what it will look like.

The House and Senate adjourned on Thursday and will reconvene on Monday, February 20, 2023.

BILLS OF INTEREST

[HOUSE BILL 90](#), [Judicial Discretion of FTA Release Conditions.-AB](#), would provide judicial officials with the discretion to decide whether or not to require the execution of a secured appearance bond when imposing conditions of pretrial release on a defendant who has failed to appear on one or more of the charges for which the defendant is being held, unless there are any conditions of pretrial release in the order for arrest on the defendant's most recent failure to appear.

Currently, judicial officials must require the execution of a secured appearance bond in an amount that is at least double the previous secured or unsecured bond where the defendant has failed to appear on one or more of the charges for which the defendant is being held if no conditions of pretrial release are contained in the order for arrest.

Finally, the bill would no longer require judicial officials to mandate the execution of a secured appearance bond when imposing house arrest with electronic monitoring as a condition of pretrial release. Currently, a secured appearance bond is required when imposing house arrest with

electronic monitoring as a condition of pretrial release. **Introduced by Representatives John, Alston, Budd and Harrison, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 91](#), Create Pretrial Release Study Committee.-AB, would create a Joint Legislative Study Committee on Uniform Pretrial Release Procedures. The Committee would be tasked with studying and providing recommendations on uniform: (1) standards and procedures for pretrial release programs; (2) standards and procedures for the treatment of defendants who fail to appear in court or who failed to pay monies owed pursuant to court order; (3) standards and procedures for pretrial release for crimes that would not result in jail time for a particular arrestee; and (4) statewide procedures and cost estimates for a house arrest and electronic monitoring program funded entirely by the State.

The Committee would consist of 23 members, which would include professionals within the criminal justice system, such as judges and prosecutors, as well as two members of the public. Among these members, the bill would require the President Pro Tempore of the Senate to appoint one sheriff to serve on the Committee. **Introduced by Representatives John, Alston, T. Brown and Budd, and assigned to House Committee on Judiciary 2.**

[HOUSE BILL 92](#), Superseding Orders/Domestic Violence.-AB, would clarify that any order related to child custody, child and spousal support, and possession of property entered in divorce or child support proceedings supersedes (i.e., overrides) any similar provisions contained in any previously entered domestic violence protective order. **Introduced by Representatives John, Alston, Budd and Longest, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 94](#), ABC Laws/Local Sales Option, would allow a city or county to adopt an ordinance authorizing the North Carolina Alcoholic Beverage Control (ABC) Commission to issue "Happy Hour Permits" to holders of certain types of ABC permits located in the city or county that adopted the ordinance.

The holder of one of these permits would be able to: (1) sell an alcoholic beverage at a price different from the usual price; (2) sell more than one alcoholic beverage to a patron for a single price; (3) establish a single price based upon the required purchase of more than one alcoholic beverage; (4) offer "cents off" coupons; (5) offer a meal and alcoholic beverage at a single total price; and (6) advertise the price and type of alcoholic beverages in various advertising mediums, including on outside signage.

Currently, permittees with on-premises malt beverages permits, on-premises unfortified wine permits, or on-premises fortified wine permits are not allowed to sell more than two alcoholic beverages at one time to a single patron. Additionally, permittees with on-premises mixed beverages permits are not allowed to sell more than one alcoholic beverage at one time to a single patron, and no permittees are allowed to advertise the price of beverages on outside signage. **Introduced by Representatives Saine, Dahle, Willis and Hawkins, and assigned to the House Committee on Alcoholic Beverage Control.**

[HOUSE BILL 100](#), Regional Firing Range/Alamance CC., would appropriate \$5.3 million in nonrecurring funds for the 2023-2024 fiscal year to Alamance Community College to build a

regional indoor firing range as part of the college's Public Safety Training Center. The firing range would be used for pistol and rifle training for students and law enforcement personnel. **Introduced by Representatives Ross and Riddell, and assigned to the House Committee on Appropriations.**

[HOUSE BILL 101](#), The Firearms Liberty Act, would make the following changes to our State's firearms laws:

1. The bill would allow anyone with a concealed handgun permit, or who is exempt from having to obtain one, to carry a handgun on school grounds if the school grounds also house a place of religious worship. The bill would allow for the carrying of a handgun on the premises of the school grounds only when the premises are NOT being used for curricular or extracurricular activities, for educational, instructional, or school-sponsored activities (such as on weekends or during holidays), or for any programs for minors conducted by entities unaffiliated with the religious institution.

This would not be allowed if notice is posted prohibiting the carrying of a concealed handgun.

Currently, carrying a weapon on educational property is prohibited except in very limited circumstances. Those circumstances do not currently include allowing a person to carry a concealed handgun on educational property because that property is also used for religious worship.

2. The bill would also allow a civilian employee of a law enforcement agency with a concealed handgun permit to carry a concealed handgun in a law enforcement facility, so long as the person has been designated in writing by the agency head to carry the handgun and has in their possession written proof of the designation. The agency head would be allowed to rescind this authorization at any time.

Currently, civilian employees of a law enforcement agency may not carry a concealed handgun inside a law enforcement facility, even with a valid concealed handgun permit.

3. The bill would eliminate the requirement to obtain a pistol purchase permit before selling, giving away, transferring, purchasing, or receiving 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.

4. The bill would require a sheriff to waive the requirement to take a firearms safety and training course upon the renewal of a concealed handgun permit if the person applies to renew the permit no more than 60 days after the permit expires.

Currently, a sheriff has the discretion to waive the firearms safety and training course if the person applies for a renewal within 60 days after the expiration date of the concealed handgun permit.

In addition, if the permittee applies to renew a concealed handgun permit between 61 days and 180 days after expiration, the bill would require the sheriff to waive the requirement of taking another full firearms safety and training course if the permittee completes a “refresher” course.

5. The bill would allow a defendant who has surrendered all firearms (including machine guns) and ammunition to the sheriff pursuant to an emergency or ex parte domestic violence protective order (DVPO) to enter into an agreement to allow a qualified licensed firearms dealer to take possession of the surrendered property from the custody of the sheriff. Any pistol purchase permit(s) and concealed handgun permit would remain with the sheriff.

The bill would authorize a qualified licensed firearms dealer to take custody of the surrendered firearms and ammunition from the sheriff if the defendant is the owner of the property and the property has been in the custody of the sheriff for at least 15 days. A qualified licensed firearms dealer would mean a federally licensed firearms dealer (FFL) who operates a business that is open to the public and located in a commercial building within the State and who regularly engages in the purchase and sale of firearms with members of the public.

The bill would require the FFL to provide the sheriff and the property owner with a record of the FFL’s receipt of the firearms and ammunitions.

The bill would make it a Class 2 misdemeanor for the FFL to release the surrendered property to the defendant or to any person the FFL knows or reasonably should know would give the defendant access to the property unless the DVPO is dismissed or expires. The bill would allow the defendant to submit a written request to the sheriff or the FFL that the firearms and ammunitions be returned, within 30 days of the dismissal or expiration of the DVPO or final disposition of any related criminal charges.

The sheriff or FFL would be required under the bill to conduct a check through the National Instant Criminal Background Check System (NICS) prior to returning the property to the defendant. If the NICS check reveals that the defendant is prohibited from owning or possessing the firearms or ammunitions, the bill would require the sheriff or FFL to file a motion with the court for disposition.

Currently, a defendant must file a motion with the court in order to request the return of surrendered property.

The bill would provide that in the event the surrendered firearms and ammunition are sold by the sheriff or the qualified licensed firearms dealer, the defendant is entitled to the sale proceeds, less any costs associated with the sale and any storage fees owed to the sheriff or qualified licensed firearms dealer. The bill would also prohibit the sheriff from charging a fee for the first 15 days of storage for any property transferred to the FFL.

Introduced by Representatives Adams, Hastings, Kidwell and Carson Smith, and assigned to the House Committee on Judiciary 3.

[HOUSE BILL 116](#), Modify Laws Affecting District Attorneys, would establish a procedure for district attorneys who recuse themselves from prosecuting a case due to a conflict of interest or other good cause to apply to the Administrative Office of the Courts (AOC) for assignment of another district attorney, a resource prosecutor from the North Carolina Conference of District Attorneys (Conference of DAs), or a qualified attorney to act as a special prosecutor. The bill would empower the special prosecutor with all the authority the requesting district attorney would otherwise have had. The bill would clarify that records regarding criminal investigations and criminal intelligence transmitted to the Conference of DAs are permanently confidential, except for certain pieces of information that may be released to the public and except as provided in criminal discovery or by court order.

The bill would provide District Attorney administrative assistants, legal assistants, and investigators with longevity pay to the same extent as State employees generally and would include district attorneys and staff in the list of governmental bodies for which written attorney-client communications are confidential and not public records when concerning legal claims or actions against that governmental body.

The bill would also provide that written attorney-client communications to a governmental body regarding criminal investigations and prosecutions would be permanently confidential, except for certain pieces of information that may be released to the public and except as provided in criminal discovery or by court order. Currently, written attorney-client communications to governmental bodies are public record three years from the date the governmental body received the communication. **Introduced by Representative Stevens, and assigned to House Committee on Judiciary 2.**

[HOUSE BILL 117](#), Modify Administrative Law Provisions, would require the North Carolina Rules Review Commission (RRC) when reviewing a temporary or permanent rule adopted by a State agency, board, department, or commission, such as the North Carolina Sheriffs' Education and Training Standards Commission or the North Carolina Criminal Justice Education and Training Standards Commission (Commissions), to consider whether the adoption of the rule complied with all of Article 2A of Chapter 150 of the General Statutes, which includes restrictions on what can be adopted as a rule, principles in drafting rules, and requirements for publication of proposed rules. Currently, the RRC is only required to consider whether an agency or commission followed the procedural steps contained in Part 2 of Article 2A for adopting a temporary or permanent rule.

The bill would also require the Commissions, when incorporating material by reference in a rule, to specify where the public can obtain copies of the referenced material for free. **Introduced by Representatives Stevens and Riddell, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 120](#), Govt. Retirement/No Vacation Leave Spiking, would provide that State and local government employees joining the Teachers' and State Employees' Retirement System (TSERS) or the Local Governmental Employees' Retirement System (LGERS) on or after January

1, 2024 may not have any accrued unused vacation leave considered in the calculation of their average final compensation for purposes of their retirement benefit other than that vacation leave accruing during the 12-months immediately prior to their retirement.

The bill would essentially prohibit any member whose government employment begins on or after January 1, 2024 from saving up multiple-years' worth of unused vacation leave to increase their retirement allowance under TSERS or LGERS, as is currently allowed. **Introduced by Representative Warren, and assigned to the House Committee on Pensions and Retirement.**

[HOUSE BILL 125](#), Safe Surrender Infants, is substantially similar to [Senate Bill 20](#), Safe Surrender Infants, which is summarized in the January 27, 2023 Weekly Legislative Report. **Introduced by Representative White, Bradford and Riddell, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 126](#), The Prison Resources Repurposing Act, would allow individuals sentenced to life imprisonment without parole to be eligible for the North Carolina Department of Public Safety's Mutual Agreement Parole Program (MAPP) (i.e. parole) after serving a minimum of 20 years in prison and complying with certain education and work requirements as detailed in the bill. The bill would be retroactive and apply to individuals who have already served 20 years or more in prison as of the date of the bill's enactment.

Currently, an individual sentenced to life imprisonment without parole for an offense occurring on or after October 1, 1994 is imprisoned for the remainder of their natural life and is not eligible for parole. **Introduced by Representatives Alexander and Logan, and assigned to the Committee on Rules, Calendar, and Operations of the House.**

[HOUSE BILL 132](#), Govt. Agencies/Delivery of Permits, would require every county and city agency within the State, including sheriffs' offices, to establish a policy by July 1, 2023 that would require permits issued by the agency to be issued to the permittee either via United States mail or by electronic mail. The bill would allow a permittee to elect to pick up a permit in-person at the issuing agency, but the person could not be required to pick up the permit in-person if, for example, the person elects to receive the permit through the United States Mail.

The bill, as written, would apply to sheriffs' offices and the issuance of pistol purchase permits and concealed handgun permits. Therefore, if enacted into law, the bill would require firearms permits to be sent through the United States Mail as opposed to requiring the permittee to physically appear before the sheriff's office to provide proof of identity before receiving a firearms permit in a face-to-face transaction. **Introduced by Representatives Crutchfield, Bradford and Tyson, and assigned to the House Committee on State Government.**

[HOUSE BILL 138](#), Failure to Yield to Blind Pedestrians/Penalty, would clarify that it is a Class 2 misdemeanor to fail to yield the right-of-way to a blind or partially blind pedestrian. **Introduced by Representatives Morey, Setzer, Shephard and Carney.**

[HOUSE BILL 140](#), Civilian Traffic Crash Investigators, is substantially similar to [Senate Bill 77](#), Cities/Civilian Traffic Investigators, which is summarized below in this Weekly Legislative

Report. **Introduced by Representative Faircloth.**

[SENATE BILL 91](#), Amend Rule 4/Acceptance of Service, would allow a person in the State to accept service of civil process by completing an acceptance of service form provided by the North Carolina Administrative Office of the Courts.

Currently, the only way a person can accept service of civil process in the State is by notating acceptance of service on the original or copy of the civil summons and by signing and dating said summons. **Introduced by Senators Galey, Sawrey and B. Newton, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 94](#), Regional Firing Range/Alamance CC., is identical to [House Bill 100](#), which is summarized above in this Weekly Legislative Report. **Introduced by Senator Galey, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 101](#), Window Tint/Inspection/Approach of LEO, would require the driver of a vehicle with tinted windows to roll down the appropriate window upon the approach of a law enforcement officer. If the law enforcement officer makes a driver side approach, the driver would be required to roll down the driver side window. If a law enforcement officer makes a passenger side approach, the driver would be required to roll down the passenger window.

Currently, in the context of a traffic stop based on reasonable suspicion, a driver could be charged with resisting, delaying, or obstructing a public officer in discharging or attempting to discharge their official duties if the driver refuses to roll down their window and such refusal hinders the law enforcement officer's attempts to conduct the traffic stop. However, there is no explicit statutory requirement that windows must be rolled down upon the approach of a law enforcement officer.

Finally, as written, the bill would not legalize all forms of vehicle window tinting. While the bill would eliminate the requirement to check window tinting during a State-mandated safety inspection, the bill would not repeal (eliminate) G.S. 20-127, our state statute that regulates unlawful vehicle window tinting. **Introduced by Senator Johnson, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 102](#), Use Tribal ID for Alcohol & Tobacco Purchase, would allow a person to verify their age when purchasing alcohol or tobacco by presenting a tribal enrollment card issued by a federally recognized tribe. Currently, a member of a federally recognized tribe must verify their age when purchasing these products by presenting some other form of identification, such as a state issued driver's license or state issued identification card, military identification card, or a passport. **Introduced by Senators Johnson, Corbin and Lazzara, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 104](#), 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 Senators Moffitt, Lowe and Johnson, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 108](#), Use Tribal ID for Alcohol & Tobacco Purchase, would allow a person to verify their age when purchasing alcohol or tobacco by presenting a tribal enrollment card issued by a federally or State recognized tribe. Currently, a member of a federally or State recognized tribe must verify their age when purchasing these products by presenting some other form of identification, such as a state issued driver's license or state issued identification card, military identification card, or a passport. **Introduced by Senator Corbin, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 109](#), Repeal Death Penalty, would repeal (eliminate) the death penalty in the State of North Carolina. The bill would require all convicted felons who received a sentence of death and who are awaiting the imposition of the death penalty to be resentenced to a term of life imprisonment without parole. **Introduced by Senators Mayfield and Murdock.**

[SENATE BILL 111](#), Repeat Ordinance Violators/Taxi Ordinances, would allow a person to be found responsible or guilty of a local ordinance violation if the person was alleged to have violated the same local ordinance within the 12 months preceding the current violation. Currently, a person may not be found guilty or responsible for a local ordinance violation if there have been no new alleged violations of the same local ordinance within 30 days from the date of the initial alleged violation. **Introduced by Senators Lazzara, Sawrey and McInnis.**

[SENATE BILL 113](#), Bring Back Our Heroes, would allow a law enforcement officer or justice officer (i.e., a sheriff, deputy, detention officer, or telecommunicator) who has retired under the Teachers' and State Employees' Retirement System (TSERS) or the Local Governmental Employees' Retirement System (LGERS) to return to full-time employment as a law enforcement officer or justice officer, receive a full-time salary or wage, and continue to be paid their retirement allowance without any wage or hour restrictions.

The bill would require a retired law enforcement officer or justice officer under LGERS to have a one-month break in service before returning to employment as a law enforcement officer or justice officer after retiring. The bill would require a retired law enforcement officer under TSERS to have a six-month break in service before returning to employment as a law enforcement officer after retiring.

Currently, a law enforcement officer or justice officer who retires from TSERS or LGERS may not return to employment with an employer participating in the same retirement system from which the officer retired and continue to receive their retirement allowance if they earn more than the greater of 50% of their pre-retirement compensation or \$20,000 or if they work 1,000 hours per year or more. **Introduced by Senators Britt, Perry and B. Newton.**

[SENATE BILL 117](#), Expand Use of Civilian Crash Investigators, would allow Civilian Traffic Investigators (investigators) in the City of Wilmington to issue citations for traffic infractions related to vehicle crashes involving only property damage. Currently, Civilian Traffic Investigators in Wilmington are authorized to investigate vehicle crashes involving only property damage, but they are not authorized to issue citations related to those crashes.

The bill would also authorize the City of Asheville to employ nonsworn personnel to act as Civilian Traffic Investigators (investigators), to investigate and issue citations for infractions for crashes that only involve property damage. The bill would require Asheville 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 or chief's designee, 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.

Civilian Traffic Investigators in both Asheville and Wilmington would have no authority to arrest or issue criminal process (except for citations) but would have the same authority as law enforcement to tow vehicles obstructing a public street or highway. In addition, Civilian Traffic 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, the City of Asheville is not authorized to employ Civilian Traffic Investigators. **Introduced by Senators Lee and Mayfield.**

BILL STATUS

[HOUSE BILL 36](#), Firearms Training/Probation & Parole Officers, which is summarized in the February 3, 2023 Weekly Legislative Report, has passed the House and has been sent to the Senate for consideration.

[HOUSE BILL 49](#), Protect Religious Meeting Places, which is summarized in the February 10, 2023 Weekly Legislative Report, has passed the House and has been sent to the Senate for consideration.

[HOUSE BILL 72](#), Firearm Safe Storage Awareness Initiative, which is summarized in the February 10, 2023 Weekly Legislative Report, has been amended in the House to require the North Carolina Department of Public Safety to conduct the statewide firearm safe storage initiative, instead of the North Carolina Department of Health and Human Services.

[HOUSE BILL 76](#), Access to Healthcare Options, has been amended in the House and would appropriate to the North Carolina Department of Health and Human Services \$50 million dollars in nonrecurring funds for the 2023-2024 fiscal year to be distributed to all North Carolina counties for the administrative costs of Medicaid eligibility determinations and for inmate medical costs. These funds would be distributed to counties on a per capita basis, but each county would receive at least \$100,000 regardless of population size.

[SENATE BILL 20](#), [Safe Surrender Infants](#), which is summarized in the January 27, 2023 Weekly Legislative Report, has passed the Senate and has been sent to the House for consideration.

[SENATE BILL 41](#), [Protect Religious Meeting Places](#), which is summarized in the February 3, 2023 Weekly Legislative Report, has been amended to rename the bill “Guarantee 2nd Amendment Freedom and Protections,” has passed the Senate, and has been sent to the House for consideration. The bill, as amended, would also eliminate the requirement to obtain a pistol purchase permit before selling, giving away, transferring, purchasing, or receiving 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.

The bill has also been amended to require the North Carolina Department of Public Safety, in collaboration with the North Carolina Department of Health and Human Services and 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.

[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 and the City of Fayetteville are authorized to employ civilian traffic investigators.

NOTE: The Association reported on this bill in the February 10, 2023 Weekly Legislative Report, however we mistakenly stated that only the City of Wilmington is currently authorized to employ civilian traffic investigators. In fact, the City of Fayetteville is also currently authorized to employ civilian traffic investigators.

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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