

North Carolina Sheriffs' Association

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Weekly Legislative Report

February 24, 2023

The overall pace at the General Assembly is quick and steady. Joint appropriation committees covering topics such as justice and public safety, transportation, education, and health care, to name a few, are meeting on a regular basis of two to three times each week. These “joint” committees include both Representatives and Senators.

At this point in the session, these committees meet to hear presentations from fiscal staff at the General Assembly about the budgets of state agencies. The meetings are designed to: (1) help educate committee members about state agency budgets and (2) allow members to ask questions of state agency officials so they can better understand the agency budget requests for the upcoming biennium.

Votes on bills were held this week in both the House and the Senate. Speaker Moore indicated he expects House members to have a heavy committee schedule next week and anticipates votes on bills next Wednesday and possibly Thursday. The Senate is also expected to hold votes next week.

Additionally, even though there are still several weeks before the bill filing deadlines in the House and the Senate, bills are being filed at a steady rate. The House has filed 195 bills and the Senate has filed 159 bills to date.

The House and Senate adjourned on Thursday and will reconvene on Monday, February 27, 2023.

BILLS OF INTEREST

[HOUSE BILL 142](#), [Protect Our Students Act.-AB](#), would expand the definition of “student” in the statutes prohibiting sexual activity with a student and taking indecent liberties with a student to include a person enrolled in kindergarten, or in grades 1 through 12 in any school within six months of any violation. Currently, “student” is defined in those statutes as a person enrolled in kindergarten, or in grades 1 through 12.

The bill would also increase the penalty for engaging in sexual activity with a student or taking indecent liberties with a student from a Class I felony to a Class G felony for all school personnel of any age.

Currently, engaging in sexual activity with a student is classified differently depending upon the position of the offender within the school and the age of the offender relative to the victimized student.

The bill would also create a new criminal offense, "Reporting misconduct of licensed school employee." This new offense would make it a Class I felony if any superintendent, assistant or associate superintendent, personnel administrator, or principal fails to report to the State Board of Education that a licensed school employee has engaged in misconduct resulting in dismissal, disciplinary action, or resignation.

Misconduct would include any conduct that justifies automatic revocation of a license for a professional educator or any infliction of a physical injury against a child other than by accident or in self-defense.

The bill would direct the Center for Safer Schools to develop age-appropriate videos about child abuse and neglect, including sexual abuse, to be distributed to all public school units and shown to students in grades 6 through 12. The video would be required to be shown to students no more than 5 days after the first day of the school year.

Finally, the bill would prohibit the Board of Trustees for the Teachers' and State Employees' Retirement System (TSERS) or the Local Governmental Employees Retirement System (LGERS) from paying any retirement benefit or allowance to a member who is convicted of any felony under State or federal law which was committed while the member was in-service and which requires the revocation of the member's professional license or certification.

Currently, this prohibition only applies to State or federal felony convictions for offenses that were committed while the member was in-service and that were directly related to the member's office or employment. **Introduced by Representative Torbett, K. Baker, Johnson and Kidwell, and assigned to the House Committee on Education K-12.**

[HOUSE BILL 143](#), North Carolina CROWN Act, would prohibit any State agency or unit of local government, such as a sheriff's office or police department, from denying or refusing employment, or discharging any person: (1) because of traits historically associated with race; or, (2) on account of the person's hair texture or "protective hairstyles." Protective hairstyles would be defined to include, but not be limited to hairstyles such as bantu knots, braids, locks and twists.

It is already unlawful to discriminate on the basis of race in employment. However, a person's hairstyle is not deemed a protected classification (such as race, religion, etc.) under State or federal law.

If this bill is enacted into law, law enforcement agencies, such as a sheriff's office, would be prohibited from terminating employment for an employee's refusal to comply with agency appearance standards that prohibit, for example, hair to be kept in a manner that would interfere with the wearing of an agency issued helmet (such as riot gear) or hat. **Introduced by Representatives A. Baker, Logan, Price and Staton-Williams, and assigned to the Committee on Rules, Calendar, and Operations of the House.**

[HOUSE BILL 147, Impaired Driving Law Revisions](#), would prohibit a person from having their driver's license revoked because they were charged by a law enforcement officer with an implied-consent offense unless either: (1) they willfully refuse to submit to a chemical analysis requested by a law enforcement officer; or (2) a judicial official (i.e., a magistrate or judge) confirms there is probable cause to charge the person with the implied-consent offense.

Currently, a person's driver's license is subject to revocation without the determination of a judicial official if they refuse to submit to a requested chemical analysis or if they submit to the analysis and the analysis reveals that they have a certain concentration of alcohol in their blood.

The bill would also modify the oral and written notices required to be given to a person before they are subjected to a chemical analysis to conform to the proposed changes in the law stated above and would increase the fee to restore the license for a person whose license was immediately revoked upon being charged with an implied-consent offense from \$100 to \$250. 25% of this fee is remitted to the county for the sole purpose of reimbursing the county for jail expenses.

Finally, the bill would also increase the license restoration fee for persons convicted of certain alcohol-related offenses from \$140.25 to \$250 and would provide that \$65 of this newly increased fee would be remitted to the county for the sole purpose of reimbursing the county for jail expenses incurred due to the enforcement of impaired driving laws. **Introduced by Representative Clampitt, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 148, Driving/Reduce Legal BAC Level](#), would lower the blood alcohol legal limit for certain implied-consent offenses, including driving while impaired (DWI) and impaired supervision or instruction, to 0.05. Currently, the legal limit for DWI and impaired supervision or instruction is 0.08.

The bill would also lower, from 0.08 to 0.05, the legal limit subjecting a person 21 years of age or older driving a non-commercial vehicle to immediate revocation of their driver's license and would modify the oral and written notice required to be given by a law enforcement officer prior to conducting a chemical analysis to conform to lowered limit.

The bill would also lower the blood alcohol legal limit to 0.05 for operating a vessel (boating) while impaired. Currently, the legal limit for boating is 0.08. **Introduced by Representative Clampitt, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 153, Use Tribal ID for Alcohol & Tobacco Purchase](#), is identical to [Senate Bill 102, Use Tribal ID for Alcohol & Tobacco Purchase](#), which is summarized in the February 17, 2023 Weekly Legislative Report. **Introduced by Representatives Gillespie, Clampitt, B. Jones and Lowery, and assigned to the House Committee on Federal Relations and American Indian Affairs.**

[HOUSE BILL 167, Community Actions ID Card Restrictions](#), would clarify that a "Community Action ID" is not a valid form of identification. The bill would add a "Community Action ID" to the list of identity documents a justice, judge, clerk, magistrate, law enforcement officer, or other government official may not use to determine a person's identity or residency. A Community

Action ID is a non-governmental identification card that is issued by a nonprofit organization and that is designed to provide a form of identification for those that cannot access an identity document issued by the State or federal government or a consular entity.

Currently, government officials are prohibited from using a matricula consular or other similar document issued by a foreign consulate or embassy (aside from a valid passport) or any other identity document issued by a person, organization, county, city, or local authority unless it is specifically authorized by the General Assembly to be used to determine a person's identity or residency.

The bill would not change current law authorizing a law enforcement officer to use any of the prohibited documents listed above to determine a person's identity or residency when there are no other documents available to the law enforcement officer. **Introduced by Representative Cleveland, Iler, Shepard and Clampitt, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 168](#), DNCR Agency Bill.-AB, would make juvenile law enforcement records and records concerning probationers, parolees, post-release supervisees, and prison inmates (including medical and mental health records) public record after 100 years from the creation of the record. Currently, records concerning juveniles, probationers, prison inmates, parolees and post-release supervisees do not become public record after the passage of 100 years. **Introduced by Representatives K. Hall and Wray, and assigned to the House Committee on Judiciary 1.**

[HOUSE BILL 186](#), Div. of Juvenile Justice Mods.-AB, would make various changes to the law regarding juveniles. Of interest to the criminal justice community, the bill would:

1. Clarify that a juvenile court counselor may serve and complete juvenile process, such as a summons or petition.
2. Authorize a district court judge to allow a juvenile who is eligible for secure custody to remain in the community under the supervision of a juvenile court counselor through alternatives to detention, including electronic monitoring, house arrest, or another structured program, if the alternatives to detention would ensure protection of the public and secure the juvenile's appearance in court.

Currently, there is no middle ground whereby a court can authorize community alternatives for a juvenile eligible for secure custody. The court may only order nonsecure custody (in which case the juvenile would be placed with a relative, a foster home, or with the county department of social services), or secure custody (in which case the juvenile would be placed in a juvenile detention facility).

3. Authorize the court to order the Division of Juvenile Justice (DJJ) of the North Carolina Department of Public Safety or any law enforcement agency within the State to release to the public a juvenile's first name, initial of their last name, photograph, any offense in a juvenile petition that the juvenile is alleged to have committed, whether a secure custody order has been issued for the juvenile, and a statement as to the juvenile's threat to self or

others.

In order to authorize such release, the court would be required to make the following findings in a written order: (1) a petition has been filed alleging the juvenile has committed an offense that would be a Class A, B1, B2, or C felony if committed by an adult; (2) the court determines based on the juvenile's record or the nature of the alleged offense(s) that the juvenile presents a danger to self or others; and (3) the court determines there is good cause for disclosure. The bill would not allow disclosure of the information described above if the juvenile in question is taken into custody prior to the disclosure.

The bill would also require DJJ or the law enforcement agency to make a reasonable effort to notify the juvenile's parent, legal guardian, or custodian prior to disclosing the information about the juvenile to the public.

Currently, disclosure of information regarding juveniles is prohibited except for the publication of pictures of runaways with the permission of the parents, release of information regarding juvenile escapees, and by order of court.

4. Require DJJ to create, implement, and evaluate annual juvenile minority sensitivity and racial and ethnic disparities training for law enforcement personnel. Currently, the North Carolina Department of Justice (DOJ) creates the training.
5. Require DOJ to conduct minority sensitivity training each year, except where local law enforcement or DJJ has existing juvenile minority sensitivity training that meets DOJ guidelines in place.

Introduced by Representatives Davis, Pyrtle, Carson Smith and A. Jones.

[HOUSE BILL 189](#), [NC Constitutional Carry Act](#), would make various changes to our State's firearm laws. Of interest to the criminal justice community, the bill would:

1. Exclude "firearms" from the list of weapons which are prohibited from being carried concealed when a person is off their own property. Currently, it is a Class 1 misdemeanor to carry a deadly weapon such as a knife, stun gun, or firearm concealed about one's person, unless the deadly weapon is a handgun and the person has a valid concealed handgun permit. If enacted into law, any firearm could be carried concealed, such as a shotgun or rifle.
2. The bill would provide that any person who is a citizen of the United States and at least 18 years old would be able to carry a concealed handgun in this State without a concealed handgun permit.

An individual would not have this authority to carry a concealed handgun if the person is disqualified under certain criteria (generally the same criteria currently set out in North Carolina law that would prohibit an individual from receiving a concealed handgun

permit). Any person unlawfully carrying a concealed handgun would be guilty of a Class 2 misdemeanor for a first offense and a Class H felony for a second or subsequent offense.

If an individual is qualified under the bill to carry a concealed handgun but fails to carry valid identification with them or fails to disclose to any approaching law enforcement officer that they are carrying a concealed handgun, they would only be guilty of an infraction.

3. The bill would make it a Class 1 misdemeanor to carry a concealed “weapon” into the following areas unless authorized otherwise by law: (1) an area prohibited by a rule adopted by the Legislative Services Commission; (2) any area prohibited by federal law; (3) in a law enforcement or correctional facility; and (4) on private premises where notice is posted prohibiting the carrying of concealed handguns.

The bill does not define “weapon.”

4. The bill would allow anyone to carry any gun, rifle, or pistol into an establishment or assembly, unless the person is consuming alcohol, or has alcohol or a controlled substance remaining in their body.

The bill would also allow anyone to carry a concealed handgun at a parade or funeral procession, provided they are not on any private premises where the carrying of a concealed handgun has been prohibited by posting of a conspicuous notice.

Currently, a person can only carry a concealed handgun in these areas with a valid concealed handgun permit, or if they fall under a legal exemption, such as being a sworn law enforcement officer or a qualified retired law enforcement officer.

5. This bill would also modify the State’s concealed handgun permit statutes to provide that the State of North Carolina shall continue to make a concealed handgun permit available to any person who applies for and is eligible to receive a concealed handgun permit, for purposes of reciprocity when traveling in another state or to make the purchase of a firearm more efficient.
6. The bill 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.
7. The bill would allow a court to restore a person’s firearms rights upon petition even if an arrest warrant has been issued against the person for a felony offense or another finding of probable cause exists against the person for a felony. Currently, a court cannot restore a person’s firearms rights if a finding of probable cause exists against that person for commission of a felony offense.

8. Finally, the bill would authorize any elected official or person appointed to fill an elective office in this State to carry a concealed deadly weapon, including a non-firearm deadly weapon, while performing their official duties if the person has a valid concealed handgun permit and the person is not consuming alcohol or has alcohol or a controlled substance remaining in their body. The bill would not authorize these individuals to carry, openly or concealed, any deadly weapon on any campus or educational property.

Introduced by Representatives Kidwell, Adams, Moss and Pless.

[HOUSE BILL 190](#), Dept. of Health and Human Services Revision.-AB, would expand the persons the Chief Medical Examiner could appoint as county medical examiners to include dentists, physical therapists, pathologists' assistants, and medicolegal death investigators. The bill would also allow the Chief Medical Examiner to appoint other persons as temporary county medical examiners during a declared state of emergency. **Introduced by Representative Potts.**

[HOUSE BILL 193](#), Various Court Changes 2023.-AB, would clarify that the board of county commissioners, upon taking and approving the official bond of the sheriff, must register the bond with the register of deeds and file the bond with the clerk of superior court. **Introduced by Representative Stevens.**

[HOUSE BILL 198](#), DOT Legislative Changes.-AB, would establish a pilot program that would allow, but not require the North Carolina Department of Transportation (DOT) to enter into agreements with the North Carolina State Bureau of Investigation (SBI) for the placement and use of automatic license plate reader systems in DOT right-of-ways. The bill would allow the SBI to enter into an agreement with DOT for the placement of a license plate reader systems in a DOT right-of-way on its own behalf or as an administrative agent of a local law enforcement agency in this State.

The authority described above would be temporary and DOT would be authorized to remove or relocate these license plate reader systems as explained in greater detail in the bill. The bill would require the SBI to submit a report containing various information set out in the bill to the Joint Legislative Oversight Committee on Justice and Public Safety and the Joint Legislative Transportation Oversight Committee no later than March 1, 2024.

In addition, the bill would repeal (eliminate) various provisions of law that were enacted in the 2021 State Budget Bill. Specifically, the bill would repeal those provisions of law that purported to authorize DOT or a public utility to “relocate” automatic license plate reader system equipment that is on a right-of-way owned or maintained by DOT.

Currently, State law does not authorize the placement of automatic license plate reader system equipment on a right-of-way owned or maintained by DOT. Therefore, those provisions of law enacted in the 2021 State Budget Bill related to the “relocation” of automatic license plate reader system equipment had no real effect because DOT was not authorized to allow such placement of automatic license plate reader system equipment in DOT right-of-ways.

Finally, the bill would prohibit the disclosure of data obtained by an automatic license plate reader system except to a criminal justice officer at a State or local law enforcement agency or similar official at a federal law enforcement agency for a legitimate law enforcement purpose pursuant to a written request from the requesting agency. The bill would define “law enforcement purpose” as actions relating to criminal investigations, arrests, prosecutions, post-conviction confinement or supervision, apprehending an individual with an outstanding felony warrant, locating a missing person, and locating a lost or stolen vehicle. **Introduced by Representative B. Jones.**

[HOUSE BILL 199](#), [DMV Proposed Legislative Changes.-AB](#), would expand the supplemental law enforcement authority of the Division of Motor Vehicles (DMV) Commissioner and the officers and inspectors designated by the Commissioner to include when they have probable cause that any criminal act has immediately occurred or is in the process of occurring on physical property owned, operated, or maintained by either the Department of Transportation or DMV, or property operated as a license plate agency for DMV.

This expanded law enforcement authority would also include situations where an emergency exists and response by DMV personnel could protect life and property.

Currently, the primary law enforcement authority designated to DMV officers and inspectors is limited to enforcement of Chapter 20 offenses. DMV officers and inspectors currently also have supplemental law enforcement authority when they have probable cause to believe a person has committed a crime in their presence: (1) while they are engaged in the enforcement of laws otherwise within their jurisdiction (Chapter 20 offenses); or (2) at the request of the head of a State or local law enforcement agency.

The bill would also expand the law enforcement authority of DMV inspectors and officers who are requested by a law enforcement agency head to provide assistance to be equal to the authority of the agency that is requesting assistance.

The bill would also increase the penalty for knowingly displaying, permitting to be displayed or possessing any temporary registration plate or marker that is fictitious, canceled, revoked, suspended or altered, or for willfully displaying an expired temporary plate or marker from a Class 3 misdemeanor to a Class I felony.

Finally, the bill would also increase the penalty for giving, lending, selling or obtaining a certificate of title for the purpose of using such certificate for any purpose other than the registration, sale, or other use in connection with the vehicle for which the certificate was issued from a Class 2 misdemeanor to a Class I felony if the offense involves a temporary registration plate or marker.

Introduced by Representative B. Jones.

[SENATE BILL 157](#), [Limited Provisional License Modification](#), would allow, until December 31, 2023, a person who is 16 or 17 years of age to obtain a limited provisional license if the person has held a limited learner’s permit for at least 6 months. After that date, the bill would require that these individuals hold a limited learner’s permit for at least 9 months before being eligible for a limited provisional license.

Currently, these individuals must hold a limited learner's permit for 12 months before being eligible for a limited provisional license. **Introduced by Senators Sawyer, Lazzara and McInnis.**

[SENATE BILL 161](#), Add Members to NC Training Standards Commiss., would increase the number of members of the North Carolina Criminal Justice Education and Training Standards Commission (Commission) from 35 to 37 members. The bill would allow the North Carolina Police Benevolent Association to appoint one full-time sworn law enforcement officer to the Commission. The bill would also allow the North Carolina Fraternal Order of Police to appoint one full-time sworn law enforcement officer to the Commission. **Introduced by Senators Jarvis, Hise and Hanig.**

BILL STATUS

[HOUSE BILL 34](#), Protect Those Who Serve and Protect Act, 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 35](#), Expand Definition of Opioid Antagonist, 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 50](#), Pistol Purchase Permit Repeal, 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 passed the House and has been sent to the Senate for consideration.

[HOUSE BILL 76](#), Access to Healthcare Options, which is summarized in the February 17, 2023 Weekly Legislative Report, has passed the House and has been sent to the Senate for consideration.

[SENATE BILL 3](#), NC Compassionate Care Act, which is summarized in the January 27, 2023 Weekly Legislative Report, would legalize marijuana in North Carolina for persons who have been diagnosed with medical conditions defined in the bill as "debilitating medical conditions."

The bill has been amended in the Senate to make numerous changes to the bill. Of interest to the criminal justice community, the bill as amended would:

1. Require the North Carolina Department of Health and Human Services (DHHS) to issue supplier registry identification cards to each owner, director, or employee of a medical cannabis supplier licensee.
2. Require a physician to update the DHHS Confidential Medical Cannabis Registry Database within 48 hours of any change being made to an original written certification issued to a

patient for medical use of cannabis.

3. Require a medical marijuana user with a registry identification card or a person with a supplier registry identification card to display the relevant identification card when approached or addressed by a law enforcement officer only when the person is carrying cannabis or a cannabis infused product (such as a marijuana cigarette or marijuana edibles).
4. Allow law enforcement agencies to contact DHHS to confirm a registry identification cardholder's identity through the DHHS Confidential Medical Cannabis Registry Database only if the law enforcement agency is unable to verify the registry identification cardholder by using the Medical Cannabis Verification System that would be accessible to all State and local law enforcement personnel under the bill.
5. Include the adequate supply of cannabis or cannabis-infused product prescribed to the qualified patient and also the prescribed delivery method for the cannabis or cannabis-infused product for the qualified patient in the list of information that must be contained in the DHHS Confidential Medical Cannabis Registry Database and in the Medical Cannabis Verification System that would be accessible to all State and local law enforcement personnel.
6. Provide all State and local law enforcement agencies with 24-hour access to the Seed-to-Sale Tracking System that would be created by the bill that would allow for the computer software tracking of medical cannabis from the time a seed is planted through the point of sale of the cannabis.
7. Require a medical marijuana user with a valid registry identification card to possess their medical cannabis only in the labeled, child-resistant packaging that has been provided by the licensed medical cannabis supplier.
8. Make it a Class 3 misdemeanor to possess in a passenger compartment of a motor vehicle that is in a public vehicular area (PVA) or on a public street or highway, cannabis or cannabis-infused products other than in a closed retailer's container as packaged.

[SENATE BILL 83, No TikTok on Government Devices](#), which is summarized in the February 10, 2023 Weekly Legislative Report, has been amended to delete and replace the entire contents of the bill and to rename the bill "No High Risk Apps/Gov't Networks & Devices." The bill makes various changes to the laws affecting use of computer applications on government networks and devices. Of interest to the criminal justice community, the bill would:

1. Prohibit "public agencies," defined to include all executive agencies and constitutional officers of the State (i.e., sheriffs), units of local government, public authorities, and public school units, from permitting the use of any "high risk platform" on the public agency's network.

“High risk platform” would be defined as TikTok, WeChat, or Telegram, or any successor applications developed by various corporate entities.

2. Prohibit the use of any “high risk platform” on a network of the legislative branch or judicial branch.
3. Prohibit public agencies, the judicial branch, and the legislative branch from allowing an employee, elected official, appointee, or student to install, use, or otherwise access a “high risk platform” on a device owned, leased, maintained, or otherwise controlled by the government entity.

Officials and employees engaged in investigating or prosecuting crimes, identifying security or cybersecurity threats, protecting human life, maintaining firewalls and other protocols, and participating in judicial or quasi-judicial proceedings would be exempt from this prohibition.

4. Direct public agencies, the judicial branch and the legislative branch to adopt policies governing the use of their networks and the use of “high risk platforms” on their devices, no later than July 1, 2023.
5. Require each public agency (including each sheriff) to report annually to the State’s Chief Information Officer on the number of incidents of unauthorized use or attempted use of “high risk platforms” on its network and the specifics of those incidents.
6. Require employees, appointed officials, elected officials, and students of a public agency, the judicial branch, or the legislative branch to uninstall any “high risk platform” on a public agency device by April 15, 2023.

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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