

North Carolina Sheriffs' Association

Proudly Serving the Sheriffs and Citizens of North Carolina since 1922



Weekly Legislative Report

March 3, 2023

Speaker Tim Moore and President Pro Tempore Phil Berger announced Thursday that the House and Senate have reached a deal on Medicaid expansion. This deal has been in the works since last session and is likely one of the biggest pieces of legislation that will move this session.

The North Carolina Sheriffs' Association took a position in support of this legislation last session recognizing that jails house a substantial number of people who could benefit from expansion to treat physical and mental health conditions, as well as to address substance abuse issues. The Association believes that a healthier population will generally be less likely to commit crimes and less likely to be involved in the criminal justice system.

A compromise by the legislative leaders in the Republican party on an issue that has long been supported by Democrats signals that this legislation is likely to pass both the House and the Senate with little to no opposition.

The Senate also passed the controversial NC Compassionate Care Act which would legalize medical marijuana. The bill has now been sent to the House for consideration. A very similar version of the bill passed the Senate last year and was sent to the House where it was never considered. However, as Speaker Moore indicated this week, there are a lot of new members in the House and feelings about the bill may have changed. Only time will tell whether this medical marijuana bill will see a House committee calendar or not.

Aside from all the heavy legislative business and announcements of the week, there was also cause for a lighter moment of celebration. It is the 60th Anniversary of the North Carolina Legislative Building, often called "the building" or "the LB" by lobbyists and legislators. The 126th General Assembly held the "inaugural session" in the newly completed building on February 6, 1963.

Famed architect Edward Stone, who also designed the Radio City Music Hall in New York City and the John F. Kennedy Center in Washington D.C., is credited with the design of the Legislative Building. Stone incorporated some of the features of those buildings, such as brass fixtures and red carpets, into the Legislative Building. The Legislative Building is designed in the mid-century modern style.

If you want to see and learn more about the Legislative Building, including photographs of the construction, videos, interesting facts, etc., the General Assembly has created an informative website dedicated to this year's anniversary celebration, which can be found at: <https://sites.ncleg.gov/lb60th/>

The House and Senate adjourned on Thursday and will reconvene on Monday, March 6, 2023.

BILLS OF INTEREST

[HOUSE BILL 196](#), DIT/Omnibus Law Changes.-AB, would expand the definition of “identifying information” for purposes of the offense of identity theft to include “any other numbers or information that can be used to access a person’s resources to cause harm, including embarrassment, inconvenience, reputational harm, emotional harm, financial loss, unfairness, risk to personal safety, fiscal damage, or loss or misuse of information which adversely affects one or more individuals or undermines the integrity of a system or program.”

The bill would also include “information that can be used to distinguish or trace an individual’s identity, either alone or when combined with other information that is linked or linkable to a specific individual” within the definition of “identifying information.”

Finally, the bill would allow an “occupational licensing board” to release the social security numbers of applicants to the Government Data Analytics Center of the North Carolina Department of Technology. “Occupational licensing board” is defined in law as any “board, committee, commission, or other agency in North Carolina which is established for the primary purpose of regulating the entry of persons into, and the conduct of persons within, a particular profession or occupation, and which is authorized to issue licenses.” **Introduced by Representative Johnson, and assigned to the House Committee on State Government.**

[HOUSE BILL 205](#), Transparent Governance & Integrity Act.-AB, would modify State whistleblower protections for government employees and would prohibit any employer from suing, discharging, threatening, or otherwise discriminating against an employee for reporting to the Local Government Commission, State and Local Finance Division of the Department of State Treasurer, State Auditor, Attorney General, or other appropriate authority what the employee reasonably believes to be: (1) a violation of State or federal law, rule or regulation; (2) fraud; (3) misappropriation of State resources; or (4) a gross mismanagement, a gross waste of monies, or the gross abuse of authority related to State and local government fiscal and debt management.

The bill would also prohibit an employer from suing, discharging, threatening, or otherwise discriminating against an employee for that employee reporting on matters of public concern related to State and local government fiscal and debt management, including offering testimony to or testifying before appropriate legislative panels, unless the employee knows or has reason to believe the report is inaccurate.

Finally, the bill would provide any employee who is retaliated against for engaging in the protected conduct under the bill with the right to file a civil action in superior court for monetary damages, an injunction, reinstatement, back wages, costs, and attorney’s fees. **Introduced by Representatives Penny, Winslow and Balkcom, and assigned to the House Committee on Local Government.**

[HOUSE BILL 206](#), Increase Dropout Age/Completion Indicator, would gradually, from the 2024-2025 school year through to the 2027-2028 school year, raise the age of compulsory school attendance to 18. In accordance with this change and at the same rate, the bill would gradually raise the age of juveniles who could be considered “undisciplined” simply for being unlawfully absent from school from less than 16 to less than 18.

Currently, parents, guardians, or custodians of juveniles 16 or 17 years of age cannot be compelled to make those juveniles attend school and juveniles 16 or 17 years of age are not considered “undisciplined” under the State’s juvenile laws simply because they are unlawfully absent from school. **Introduced by Representatives Elmore, Clemmons, Lambeth and Setzer, and assigned to the House Committee on Education – K-12.**

[HOUSE BILL 211](#), DWI Sentencing/Mitigating Factors, would eliminate two of the mitigating factors which can currently be considered by a judge in a defendant’s favor during the sentencing phase of a DWI prosecution.

The bill would eliminate from the judge’s consideration: (1) slight impairment of the defendant’s faculties resulting solely from alcohol and an alcohol concentration that did not exceed 0.09; and (2) slight impairment of the defendant’s faculties, resulting solely from alcohol, with no chemical analysis having been available to the defendant. **Introduced by Representatives Clappitt, Penny and Loftis, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 212](#), DL Restoration/DWI Treatment Court, would allow the North Carolina Division of Motor Vehicles (DMV) to conditionally restore the license of a person whose license was revoked for an impaired driving offense, if the following conditions are met: (1) the license has been revoked for at least 1 year; (2) the person provides DMV with a certificate of graduation from a Drug Treatment or Driving While Impaired Treatment Court Program; (3) the person provides DMV with a letter of recommendation from the presiding judge of the Drug Treatment or DWI Treatment Court; and (4) the person pays a fee of \$25.

If DMV conditionally restores the license, the person would be required to: (1) equip all their registered vehicles with a functioning ignition interlock system; (2) only operate a motor vehicle equipped with a functioning interlock ignition system set to prohibit driving with an alcohol concentration of greater than 0.00; and (3) personally activate the ignition interlock system before driving the vehicle.

The bill would also establish a pilot program to cover costs for persons installing ignition interlock systems pursuant to DMV’s new conditional restoration authority under the bill and would appropriate \$250,000 from the Highway Fund to DMV to be used for the pilot program. **Introduced by Representative Clappitt, and assigned to the House Committee on Transportation.**

[HOUSE BILL 214](#), Add Members to NC Training Standards Commiss., is identical to [Senate Bill 161](#), Add Members to NC Training Standards Commiss., which is summarized in the February 24, 2023 Weekly Legislative Report. **Introduced by Representatives Riddell, Hardister, Bradford and Cunningham, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 237](#), Criminal Law Revisions, would create a new criminal offense, “money laundering,” which would criminalize any of the following conduct if done knowingly: (1) acquiring or maintaining an interest in, concealing, possessing, transferring, or transporting the proceeds of criminal activity; (2) conducting, supervising, or facilitating a transaction involving the proceeds of criminal activity; (3) investing, expending, or receiving, or offering to invest, expend or receive, the proceeds of criminal activity or funds that the person believes are the proceeds of criminal activity; or (4) financing or investing, or intending to finance or invest, funds that the person believes are intended to further the commission of criminal activity.

The bill would not require that the defendant have knowledge of the specific nature of the criminal activity giving rise to the proceeds in order to be guilty of money laundering.

The bill would create a presumption that the defendant believes that the funds in question are the proceeds of or intended to further the commission of criminal activity if a law enforcement officer or a person acting at the direction of a law enforcement officer tells the defendant that the funds are proceeds of or intended to further criminal activity, regardless of whether the law enforcement officer or his/her designee discloses their law enforcement status to the defendant.

The bill would make money laundering a Class H felony, unless the value of the proceeds/funds is \$100,000 or more, in which case it would be a Class C felony.

Finally, the bill would create a sentencing enhancement for a defendant who is convicted of a misdemeanor or felony while wearing a mask, hood, or other clothing or device to conceal their identity. The enhancement would increase the offense class of the underlying misdemeanor or felony by one level and would require an active sentence of imprisonment to be imposed if otherwise allowed. **Introduced by Representatives Torbett, Greene, Faircloth and Carson Smith, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 243](#), Repeal Collective Bargaining Ban, would allow a labor union, trade union, or labor organization to enter into an agreement or contract with a unit of State and local government as a bargaining agent for the public employees employed by that unit. Currently, these agreements or contracts are declared unlawful and void under State law. **Introduced by Representatives Logan, Harrison, Hawkins and Majeed, and assigned to the Committee on Rules, Calendar, and Operations of the House.**

[HOUSE BILL 249](#), January 6 Riot/Attempt Overthrow of Gov't, would amend the current statute governing engaging in and inciting riots, making it a Class F felony if a person: (1) willfully engages in a riot and, in the course of the riot, the person attempts to overthrow the federal government, the State government, or a political subdivision of the State government; or (2) willfully incites or urges another to engage in a riot, and such inciting or urging is a contributing cause of a riot in which a person attempts to overthrow the federal government, State government, or a political subdivision of the State government.

Currently, the statute governing this offense does not increase the penalty for engaging in or inciting a riot if it involves an attempt to overthrow the government. **Introduced by Representative Everitt, and assigned to the Committee on Rules, Calendar, and Operations of the House.**

[HOUSE BILL 250](#), Death by Distribution Revisions, would reclassify the criminal punishments if a person distributes or sells a controlled substance and that sale or distribution results in the death of an individual. Of interest to the criminal justice community, the bill would:

1. Create the offense of “Death by Distribution Through Unlawful Delivery of Certain Controlled Substances,” which would make it a Class C felony for a person to unlawfully deliver a controlled substance that results in the death of a person upon ingestion.
2. Create the offense of “Death by Distribution Through Unlawful Delivery with Malice of Certain Controlled Substances,” which would make it a Class B2 felony for a person to unlawfully deliver a controlled substance with malice that results in the death of a person upon ingestion.
3. Create the offense of “Death by Distribution Through Unlawful Sale of Certain Controlled Substances,” which would make it a Class B2 felony for a person to unlawfully sell a controlled substance that results in the death of a person upon ingestion.
4. Create the offense of “Aggravated Death by Distribution Through Unlawful Sale of Certain Controlled Substances,” which would make it a Class B1 felony for a person to unlawfully sell a controlled substance that results in the death of a person upon ingestion if the seller has a previous conviction for certain North Carolina, federal, or out-of-state controlled substance offenses within 10 years of the date of the current offense.

Currently, the look-back period for determining if a person has a previous qualifying controlled substance offense for aggravated death by distribution is only 7 years.

Currently, death by distribution and aggravated death by distribution offenses require an unlawful sale of a controlled substance, not just an unlawful delivery, and they are punished as a Class C felony and Class B2 felony, respectively. **Introduced by Representatives Arp, K. Baker, Wray and Carson Smith, and assigned to the House Committee on Judiciary 2.**

[HOUSE BILL 251](#), Amend Funeral Procession Law, would allow a civilian lead vehicle in a funeral procession to progress through an intersection against the red light without direction from law enforcement or the funeral director and without being preceded by a law enforcement vehicle giving appropriate warning by light or siren.

Currently, in order for the civilian lead vehicle in a funeral procession to enter an intersection against the red light, it must be directed to do so by a law enforcement officer or designee or the funeral director or it must be preceded by a law enforcement vehicle giving the appropriate warning.

Operators of vehicles in a funeral procession would still be required to exercise reasonable care toward any other vehicle or pedestrian on the highway and would still be required to yield the right-of-way to law enforcement and other emergency vehicles and as directed by a law enforcement officer.

Finally, the bill would require a funeral establishment using a civilian lead vehicle to register the vehicle with the North Carolina Division of Motor Vehicles. **Introduced by Representative Alexander, and assigned to the House Committee on Transportation.**

[HOUSE BILL 254](#), [Storage of Firearms to Protect Minors](#), would create a new criminal offense, “Require safe storage of firearms,” which would make it a Class A1 misdemeanor for a person who owns or possesses a firearm and resides in the same premises as a minor to fail to store or keep the firearm in a locked container, unless the firearm is being carried or used by the owner or another authorized user.

Upon the retail sale or transfer of a firearm, the seller/transferor would be required to deliver a written copy of the “Require safe storage of firearms” statute to the purchaser. Failure to do so would be a Class 1 misdemeanor.

Currently, it is Class 1 misdemeanor for a person to leave a firearm in a manner accessible to an unsupervised minor if the minor accesses the firearm and engages in certain acts with the firearm.

Finally, the bill would also require any retail or wholesale shop, store, or sales outlet that sells firearms to conspicuously post a sign at the purchase counter stating: “EXCEPT WHEN BEING CARRIED OR USED BY THE OWNER OR ANOTHER LAWFULLY AUTHORIZED USER, IT IS UNLAWFUL TO STORE OR KEEP A FIREARM THAT A REASONABLE PERSON SHOULD KNOW IS ACCESSIBLE TO A MINOR IN ANY PLACE OTHER THAN A LOCKED CONTAINER.” The bill would make it a Class 1 misdemeanor to fail to display such a sign. **Introduced by Representatives A. Jones, Morey and Hawkins, and assigned to the Committee on Rules, Calendar, and Operations of the House.**

[HOUSE BILL 255](#), [Regulate EV Charging Stations](#), would make it an infraction, punishable by a fine of \$100, for a person to park a vehicle in an electric vehicle charging station located on public or private property if the vehicle is not connected to the charging equipment. **Introduced by Representatives Warren and von Haefen, and assigned to the House Committee on Transportation.**

[HOUSE BILL 258](#), [Novel Opioid Control Act of 2023](#), would add various substances to Schedules I, II, and III of the North Carolina Controlled Substances Act, as detailed in the bill. **Introduced by Representatives Blackwell, Arp, Lambeth and Sasser.**

[HOUSE BILL 261](#), [Limited Provisional License Modification](#), is identical to [Senate Bill 157](#), which is summarized in the February 24, 2023 Weekly Legislative Report. **Introduced by Representatives Shepard and Iler.**

[SENATE BILL 168](#), North Carolina CROWN Act, is substantially similar to [House Bill 143](#), North Carolina CROWN Act, which is summarized in the February 24, 2023 Weekly Legislative Report. **Introduced by Senators Murdock, Salvador and Smith, and assigned to Committee on Rules and Operations of the Senate.**

[SENATE BILL 171](#), Department of Public Safety Agency Bill.-AB, would make various changes to the laws surrounding criminal and missing persons investigations. Of interest to the criminal justice community, the bill would:

1. Expand the jurisdiction of State Capitol Police officers to cover the entire State. Currently, the territorial jurisdiction of the State Capitol Police only includes the City of Raleigh and property owned, leased, or maintained by the State that is located in Wake County.
2. Require the North Carolina Administrative Office of the Courts (AOC) to give notice to State and local agencies, including the sheriff, when an automatic expunction by operation of law is granted under the [Second Chance Act](#) because of a dismissal, finding of not guilty, or finding of not responsible. Currently, AOC may, but is not required, to give this notice.
3. Require a law enforcement agency to enter information into The National Missing and Unidentified Persons System (NamUs) regarding a missing person or child who has been missing for more than 90 days and regarding an unidentified deceased person who has not been identified for more than 90 days.

Currently, law enforcement agencies are required to enter information into NamUs about missing persons, children and unidentified deceased persons once they have been missing/unidentified for more than 30 days.

4. Rename the North Carolina Silver Alert System as the North Carolina Missing Endangered System.
5. Require a law enforcement agency, upon request, to issue an alert for rapid statewide dissemination whenever a person or child who is believed to be suffering from dementia, Alzheimer's disease, or a cognitive impairment that would make the person or child at risk for abuse, harm, neglect or exploitation has been reported missing within the last 72 hours. Currently, the North Carolina Center for Missing Persons is the only entity required to issue such alerts.

Law enforcement agencies would also be required to adopt guidelines and procedures for issuing such alerts and to consult with the North Carolina Department of Transportation to develop a procedure for such alerts to be posted on overhead permanent changeable message signs that would enable motorists to assist in the recovery of a missing person or child.

6. Require that a law enforcement agency, district attorney, or medical examiner provide records of criminal investigation or criminal intelligence to the North Carolina Adjutant General or his/her designee upon request, for use in a court-martial action or administrative

investigation involving a member of the National Guard, unless release is prohibited by a court order.

7. Clarify that a final conviction in a State court-martial proceeding imposing confinement for any offense which is substantially similar to an offense against a minor or a sexually violent offense is a “reportable conviction.” Therefore, the bill would clarify that a person convicted of these sex crimes in a court martial proceeding would have to be placed on North Carolina’s sex offender registry.

Introduced by Senator Daniel, and assigned to the Committee on Rules and Operations of the Senate.

[SENATE BILL 172](#), ABC Stores/Allow Sale of Gift Cards, would allow an ABC store to sell gift cards to redeem alcoholic beverages sold in the store. The bill would allow an ABC store to accept for redemption a gift card sold by an ABC store under the jurisdiction of a different local ABC board if the respective local boards have entered into a written agreement allowing this type of transaction. The bill would not allow individuals under 21 years of age to redeem the gift cards. **Introduced by Senators Sawrey, Johnson and Moffitt, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 178](#), Greensboro/School Zone Elec. Enforc., would authorize the creation of a pilot program that would allow, but not require, the City of Greensboro (City) to establish and implement the use of electronic speed-measuring systems to detect violations of the speed limit which can be set by the North Carolina Board of Transportation or local authorities for school zones and which can be lower than the state-wide speed limits otherwise contained in law.

The bill would require that any photographs recorded by an electronic speed-measuring system be provided to the investigating law enforcement agency for use as evidence in any proceeding alleging a violation of the local school zone speed limit.

The bill would also require a law enforcement officer who cites or arrests a motorist for any offense in a location where an electronic speed-measuring system is in use to notify the City within 48 hours of the citation or arrest.

Finally, the bill would require the Greensboro Police Department, with the written approval of the Superintendent of Guilford County Schools or his/her designee, to select the school zones for electronic speed-measuring. The bill would require the City to report the results of the pilot program to the Joint Legislative Transportation Oversight Committee no later than 3 years after implementation.

This bill would apply only to the City of Greensboro. Since the bill applies to fewer than 15 counties, it is considered a local bill. Local bills do not require the signature of the Governor and become law if approved by the General Assembly. **Introduced by Senators Robinson and Garrett, and assigned to the Committee on Rules and Operations of the Senate.**

[SENATE BILL 189](#), [Fentanyl Drug Offenses/Increase Punishment](#), would make various changes to the laws regarding fentanyl and death by distribution. Of interest to the criminal justice community, the bill would:

1. Increase the fine from \$50,000 to \$500,000 for trafficking at least 4 grams but less than 14 grams of heroin, fentanyl, or carfentanil.
2. Increase the fine from \$100,000 to \$750,000 for trafficking at least 14 grams but less than 28 grams of heroin, fentanyl, or carfentanil.
3. Increase the fine from \$500,000 to \$1 million for trafficking 28 grams or more of heroin, fentanyl, or carfentanil.
4. Reclassify the punishments for a person distributing or selling a controlled substance that results in the death of an individual in a manner identical to [House Bill 250](#), which is summarized above in this Weekly Legislative Report.
5. Add possession of less than one gram of fentanyl to the list of offenses for which limited immunity from prosecution is provided by the Good Samaritan Law for an (1) overdose victim or (2) individual who calls 911 in good faith to seek medical assistance for an overdose victim and who identifies themselves to 911 or the responding law enforcement officers.
6. Create the Task Force on Enforcement of Fentanyl and Heroin Drug Violations (Task Force), which would be comprised of six members including law enforcement leaders, such as the SBI Director and the “Chairman” of the [North Carolina Sheriffs' Association](#).

The Task Force would study ways to enhance law enforcement’s ability to combat the illegal manufacturing, importation, and distribution of fentanyl, heroin, and other similar controlled substances statewide. The Task Force would be required to submit an interim report and a final report with findings and legislative recommendations to the General Assembly.

Introduced by Senators McInnis, Britt and Lazzara, and assigned to the Committee on Rules and Operations of the Senate.

[SENATE BILL 192](#), [Removing Barriers to Work](#), would make various changes to the laws surrounding expunction of nonviolent misdemeanors and felonies. Of interest to the criminal justice community, the bill would:

1. Exclude any Chapter 90 felony offense involving [fentanyl](#) from being eligible for expunction as a “nonviolent felony.”
2. Include possession with intent to sell and deliver cocaine (PWISD Cocaine) in the list of nonviolent felonies [eligible for expunction](#).

3. Include the offense of breaking or entering a building with the intent to commit any felony therein (B&E) in the list of nonviolent felonies eligible for expunction.
4. Allow a person to file a petition for expunction of one nonviolent felony of PWISD Cocaine or B&E after 15 years from the date of conviction or the expiration of any active sentence, period of probation, or post-release supervision imposed for the conviction, whichever is later.
5. Require a court, in order to grant a petition for expunction of nonviolent misdemeanors or felonies, to find that the petitioner: (1) is not under indictment, and no finding of probable cause exists against the petitioner for a felony in any federal or state court; and (2) is not free on bond or personal recognizance pending trial, appeal, or sentencing for a crime which would prohibit the person from having their petition granted.

Introduced by Senators Britt, Lazzara and Mohammed, and assigned to the Committee on Rules and Operations of the Senate.

BILL STATUS

[HOUSE BILL 11](#), Schools for the Deaf and Blind, which is summarized in the January 27, 2023 Weekly Legislative Report, has passed the House and has been sent to the Senate for consideration. This bill would require the boards of trustees of various schools for the deaf and the blind to adopt school risk management plans, in coordination with local law enforcement agencies, to provide schematic diagrams and keys to local law enforcement, and to conduct a school safety exercise with local law enforcement at least once each year.

[HOUSE BILL 116](#), Modify Laws Affecting District Attorneys, which is summarized in the February 17, 2023 Weekly Legislative Report, has been amended in the House to provide that any legal counsel, advice, or assistance provided by the North Carolina Conference of District Attorneys to district attorneys or their staff is confidential, privileged, not public record, and only disclosable pursuant to limited exceptions in the public records statutes and pursuant to criminal discovery.

[HOUSE BILL 125](#), Safe Surrender Infants, which is summarized in the February 17, 2023 Weekly Legislative Report, has been amended in the House to make its provisions also applicable to infants 7 days old instead of just applicable to infants under 7 days old.

[HOUSE BILL 140](#), Civilian Traffic Crash Investigators, which is summarized in the February 17, 2023 Weekly Legislative Report, has been amended in the House to remove the requirement that the mandatory training for civilian investigators be designed by a chief of police or sheriff. Instead, the bill would require the North Carolina Justice Academy to develop a uniform statewide training program for civilian investigators.

The bill, as amended, would also clarify that the employment or use of civilian investigators would not supplant or replace any existing sworn law enforcement personnel or otherwise reduce the number of sworn law enforcement officers employed by a city.

[HOUSE BILL 153](#), Use Tribal ID for Alcohol & Tobacco Purchase, which is summarized in the February 24, 2023 Weekly Legislative Report, has been amended in the House to provide that a person could also purchase alcohol or tobacco products with a tribal enrollment card issued by a State recognized Indian Tribe.

[SENATE BILL 3](#), NC Compassionate Care Act, which is summarized in the January 27, 2023 Weekly Legislative Report, has passed the Senate with amendment and has been sent to the House for consideration.

[SENATE BILL 58](#), Protect Critical Infrastructure, which is summarized in the February 3, 2023 Weekly Legislative Report, has been amended to add that if a violation of the new criminal offense “injuring energy facility” results in the death of another, it is punishable as a Class B2 felony.

The bill, as amended, would also increase the punishment for “Willful injury to property of public utility” to a Class I felony. Currently the offense is punishable as a Class 1 misdemeanor. Finally, the bill, as amended, would add a facility owned by a public utility or unit of local government for the treatment of wastewater to the list of premises on which it is a Class I felony to commit first-degree trespass.

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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