

North Carolina Sheriffs' Association

Proudly Serving the Sheriffs and Citizens of North Carolina since 1922



Weekly Legislative Report

August 18, 2023

Just when it looked like the legislature was going to be out of town for several more weeks, legislators rolled back into town on Tuesday evening and Wednesday morning to take part in an all-day and night blast of activity that lasted into the evening hours on Wednesday.

Although the House only held a few committee meetings on Wednesday, one of those committees meeting was the powerful Committee on Rules, Calendar, and Operations of the House (i.e., the Rules Committee). Generally, this Committee is the last stop for bills before they are scheduled for a vote of the full House. The Rules Committee considered just over a dozen bills, some being amended and tweaked until just before they were voted on. Most of those bills went directly to the full House for a vote Wednesday evening.

While the Senate did not hold any committee meetings, they did vote on numerous bills in Wednesday evening's session which ended around 9:30 P.M. In addition to other bills considered, both the House and Senate took up veto overrides of bills which were vetoed by Governor Roy Cooper earlier in the month, successfully overriding 6 of the Governor's vetoes.

While most people who work in the legislative arena would agree that the legislature conducted a lot of business in a short amount of time this week, the budget remains unfinished. Speaker of the House of Representatives Tim Moore announced at the close of Wednesday night's session that the House and Senate were very close to concluding their budget negotiations.

Speaker Moore relayed that major budget items like pay raises for State employees had been agreed to, indicating that only smaller budget items remained to be settled. Speaker Moore and President Pro Tempore of the Senate Phil Berger continue to state that they believe a vote on the budget will come in mid-September.

It seems likely after yesterday's flurry of activity that legislators may not return to Raleigh until an agreement has been reached on the budget and a bill is finalized. Therefore, the next edition of the Weekly Legislative Report will be published when legislation of interest to the criminal justice community is considered again this Session.

BILL STATUS

[HOUSE BILL 186](#), [Juv Just Mods/DOI Expenses/Tech Changes](#), has been approved by the General Assembly and has been sent to Governor Roy Cooper for his signature. Of interest to the criminal justice community, it would clarify that a secure custody order for a juvenile carries the

same authority to enter private premises and vehicles as an arrest warrant issued for an adult. The amendment would provide that a law enforcement officer may enter private premises or a vehicle to take a juvenile into custody when all of the following requirements are met:

1. The law enforcement officer possesses a secure custody order or a copy of the order. If the law enforcement officer possesses a copy of the order, the officer must verify the order's validity and the original order must be in the possession of a member of a law enforcement agency in the same county in which the officer executing the secure custody order is employed.
2. The law enforcement officer has reasonable cause to believe the juvenile to be taken into custody is present in the premises or vehicle.
3. The law enforcement officer has given, or made a reasonable effort to give, notice of the law enforcement officer's authority and purpose to an occupant of the premises or vehicle, unless there is reasonable cause to believe that the giving of such notice would present a danger to the life or safety of any person.

The amendment would also provide that a law enforcement officer may use force to enter the premises or vehicle if the law enforcement officer believes that they are being denied entry or unreasonably delayed or if there is reasonable cause to believe that giving notice of the officer's authority and purpose would present a danger to the life or safety of any person.

[HOUSE BILL 563](#), [Regulate Hemp-Derived Consumables & Kratom](#), would clarify that hemp-derived consumable products cannot lawfully contain delta-7, delta-8, delta-9 or delta-10 THC, or any combination of those strains of THC or any other cannabinoid, in concentrations above the three-tenths of one percent (0.3%) dry weight basis cap that is currently the maximum delta-9 THC concentration allowed under State and federal law for hemp products.

[SENATE BILL 9](#), [Local Omnibus Changes](#), has been approved by the General Assembly with amendment and becomes effective August 17, 2023. This bill applies only to Forsyth, Guilford, Haywood and Wake counties. 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 when approved by the General Assembly.

The bill, as amended, establishes within the cities of Greensboro and Winston-Salem a Civil Service Board (Board) with the power to create rules, subject to adoption by the appropriate city council, governing: (1) the suspension, discharge, or reduction in rank or compensation of all un-elected officers, including law enforcement officers (with the exception of the Chief of Police, Deputy Chief of Police, and Assistant Chiefs of Police), and other employees of each city; (2) the standardization and classification of all positions and employment with each city; and (3) the investigation of all un-elected officers and other employees of each city.

The bill, as amended, authorizes the Boards to conduct hearings upon the request of any un-elected officer or member who has been discharged, suspended, reduced in rank, transferred against their will, or denied any promotion or raise as to whether such action was justified and authorizes the

Boards to order the city to rescind any action they determine to be unjustified.

[SENATE BILL 308](#), Guardianship Rights/Modify Firearms Retrieval, has been passed by the House with amendment and has been sent back to the Senate for consideration of the House amendment. The bill, as amended, would allow an individual to retrieve, without a court order, any firearms surrendered to the sheriff pursuant to the entry of an emergency or ex parte domestic violence protective order (DVPO) if: (1) a court does not enter a new DVPO when the emergency or ex parte DVPO expires; or (2) a permanent DVPO is denied following a hearing.

The bill, as amended, would require a sheriff, prior to returning the firearms to the individual in the above-mentioned situations, to verify through a criminal history check conducted through the National Instant Criminal Background Check System (NICS) that the individual is currently not prohibited by law from possessing a firearm.

Currently, if an individual surrenders a firearm pursuant to an emergency or ex parte DVPO and the court does not enter a permanent DVPO upon expiration of the emergency or ex parte DVPO, that individual must petition the court for an order allowing the sheriff to release the firearm back to the individual and the court must determine if the individual is precluded from owning a firearm under State or federal law.

The bill, as amended, would also allow the third-party owner of firearms surrendered pursuant to a DVPO to file a motion for the return of the firearms at any time prior to the firearms being disposed by the sheriff pursuant to court order. Currently, a third-party owner of surrendered firearms must file a motion for the return of the firearms within 30 days after their seizure by the sheriff. After the 30 days, they are permanently barred from filing such a motion.

The bill, as amended, also allows a sheriff to apply for a court order to dispose of a firearm surrendered pursuant to a DVPO and that is owned by a third-party when the third-party owner does not file a motion requesting return of the firearm. Currently, a sheriff is without a mechanism to obtain a court order disposing of a surrendered firearm owned by a third-party when the third-party owner does not file a motion seeking its return.

Finally, the bill, as amended, would provide that the contents of any “911” or other emergency telephone call where the caller is less than 18 years of age is NOT public record.

[SENATE BILL 512](#), Greater Accountability for Board/Commissions, has been approved by the General Assembly and has been sent to Governor Roy Cooper for his signature. The bill would increase the number of appointees to the North Carolina Wildlife Resources Commission,

[SENATE BILL 579](#), Prevent Harm to Children, has passed the House with amendment and has been sent back to the Senate for consideration of the House amendment.

[SENATE BILL 747](#), Elections Law Changes, has been approved by the General Assembly with amendment and has been sent to Governor Roy Cooper for his signature. The amendment provides that retirement allowance payments would not be suspended if a retired law enforcement officer is employed by a local government in service to a county board of elections during the hours of early

voting.

Currently, retirement allowance payments are not stopped or suspended when a retired law enforcement officer works in service to a county board of elections on election day.

[SENATE BILL 754](#), General Assembly Appointments, has been approved by the General Assembly with amendment and becomes effective August 17, 2023. Bills appointing persons to State boards and commissions do not require the signature of the Governor and become law when approved by the General Assembly.

Those additional appointments in the bill of interest to the criminal justice community are:

The Speaker of the House of Representatives appoints the following individuals:

1. The Honorable John W. Kahl of Iredell County is appointed to the North Carolina Crime Victims Compensation Commission for a term expiring June 30, 2027.
2. Chet A. Effler of McDowell County, David L. Rose of Stokes County, Angela L. Williams of Guilford County, and Shawn L. Owens of Davidson County are appointed to the North Carolina Criminal Justice Education and Training Standards Commission for terms expiring June 30, 2025.
3. Jeffrey M. Oliver of Cleveland County and Duncan E. Jagers of Harnett County are appointed to the North Carolina Criminal Justice Information Network Governing Board for terms expiring June 30, 2027.
4. Saira Estrada of Durham County, Nathan M. Knust of Cabarrus County, and Michelle C. Bardsley of Guilford County are appointed to the North Carolina Domestic Violence Commission for terms expiring August 31, 2025.
5. Vernon Ray Clifton, Jr., of Bladen County, John A. Stone of Moore County, John T. Coley, IV, of Wake County, and Tommy Fonville of Wake County are appointed to the North Carolina Wildlife Resources Commission for terms expiring June 30, 2025.

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.

Proudly Serving the Sheriffs and Citizens of North Carolina Since 1922

www.ncsheriffs.org
