

North Carolina Sheriffs' Association

Proudly Serving the Sheriffs and Citizens of North Carolina since 1922



Weekly Legislative Report

June 7, 2024

The slower pace of a summer Session was nowhere to be seen on Jones Street this week. As the heat and humidity of the summer rises in downtown Raleigh, the pace of the General Assembly seems to be picking up.

There was some speculation in the last few weeks that budget discussions between the chambers were stalled. However, it appeared from the quickened pace of things this week that conversations have resumed between members of both chambers and leadership of the House and Senate.

Numerous committees met and individual legislators are making every effort to have their bills heard in substantive committees to get them to the chamber floor for a vote. Both chambers held multiple voting sessions this week, including one on Thursday and both chambers passed a full slate of bills on to the Governor for his consideration. The House and the Senate are expected to have another full calendar scheduled next week ahead of votes.

The House and Senate adjourned on Thursday and will reconvene on Monday, June 10, 2024.

BILLS OF INTEREST

[HOUSE BILL 1075](#), Const. Amend./Right to Access Public Records, would propose an amendment to the North Carolina Constitution making all records of public bodies (including State and local government) public and requiring their disclosure or examination unless the public body could demonstrate: (1) a compelling public interest in preventing or restricting their disclosure; and (2) the restriction or prohibition is narrowly tailored to protect the public interest.

If enacted into law and approved by the voters, this constitutional amendment would supersede the current laws in Chapter 132 of the General Statutes governing public records. **Introduced by Representatives Harrison, Staton-Williams, Prather and Longest, and assigned to the Committee on Rules, Calendar, and Operations of the House.**

BILL STATUS

[HOUSE BILL 250](#), Death by Distribution/Good Samaritan/Autopsy, has been amended in the Senate to replace the entire contents of the bill and rename the bill ME/IDS/Driving Privileges/Xylazine Changes. Of interest to the criminal justice community, the bill, as amended, would:

1. Provide that when a death falls within the jurisdiction of the medical examiner under G.S. 130A-383, the Chief Medical Examiner or the county medical examiner may: (1) inspect the body; (2) inspect and copy the person's medical records; (3) collect the person's body and personal possessions associated with the death, including clothing on the body; and (4) collect tissue and blood samples, cultures, medical images, X-rays, and other medical information.
2. Provide that when a death falls within the jurisdiction of the medical examiner under G.S. 130A-383 and the death is under criminal investigation, the Chief Medical Examiner or county medical examiner is not authorized to inspect other physical evidence or documents other than those listed above except as permitted by the investigating law enforcement agency.

The investigating law enforcement agency or district attorney is required to inform the Chief Medical Examiner, the county medical examiner, or the autopsy center, as applicable, that the death is under criminal investigation. The bill, as amended, would also provide that the Chief Medical Examiner or county medical examiner may be present during the execution of a search warrant by the investigating law enforcement agency.

3. Clarify that the medical examiner is required to provide the investigation file to the district attorney upon request while the death is under criminal investigation. The bill, as amended, would also require the district attorney or investigating law enforcement agency to inform the Chief Medical Examiner, the county medical examiner, or the autopsy center, as applicable, when the death is no longer under criminal investigation.
4. Require the district attorney or investigating law enforcement agency, within 24 hours of a pronouncement of death, to notify the Chief Medical Examiner or county medical examiner that the district attorney may be asserting that there is probable cause to believe the death was caused by distribution of certain controlled substances.

If this notification is made, the bill would then require the district attorney to tell the Chief Medical Examiner or county medical examiner that there is probable cause to believe the death was caused by distribution of certain controlled substances within 72 weekday hours of the pronouncement of death.

5. Allow a person convicted of impaired driving to obtain a limited driving privilege if: (1) the person has not been convicted of more than one offense involving impaired driving within the preceding 7 years; (2) at the time of the offense the person held a valid driver's license or one that had been expired less than a year; (3) the person did not have an alcohol

concentration of 0.15 or more; (4) certain punishment levels were imposed as detailed in the bill; (5) the person has not been convicted or charged within another offense involving impaired driving; and (6) the person has filed a substance abuse assessment with the court.

6. Subject a person ordered to use an ignition interlock device to an additional mandatory 90-day use of the device if the person commits any ignition interlock device violation (such as driving a vehicle not equipped with the ignition interlock or disabling the device) during the final 90 days of the person's court ordered compliance period.
7. Create the offense of "Death by distribution of xylazine." The new offense would track the elements and punishment levels of the offense of "Death by distribution of controlled substances" but would be specifically for Xylazine. Xylazine is a non-opioid sedative or tranquilizer that goes by the street name of "tranq" or "tranq dope" and it is currently not a scheduled controlled substance in the State.

[HOUSE BILL 385](#), Regulation of Battery-Charged Security Fences, has been amended in the Senate to replace the entire contents of the bill and rename the bill Various Energy/Env. Changes. Of interest to the criminal justice community, the bill, as amended, would:

1. Create a new offense of "Injuring a public water system," which would make it a felony to knowingly and willfully stop, obstruct, impair, weaken, destroy, injure, or otherwise damage the property or equipment of a public water system with the intent to impair its services. Attempting to perform any of the previously listed actions would also be punishable under the new offense.
2. Create a new offense of "Injuring a wastewater treatment system," which would make it a felony to perform the above listed actions with respect to a wastewater treatment system that is owned or operated by a public utility or local government unit. Attempting to perform any of the above listed actions with respect to a wastewater treatment system would also be punishable under the new offense.
3. Increase the punishment level for "Willful injury to property of a public utility" from a misdemeanor to a Class C felony.
4. Create a new offense of "Injuring manufacturing facility," which would make it a felony to knowingly and willfully stop, obstruct, impair, destroy, injure, or otherwise damage the property or equipment of a manufacturing facility. Attempting to perform any of the previously listed actions would also be punishable under the new offense.

[HOUSE BILL 495](#), Aggregation of Multiple Financial Crimes, has passed the Senate with amendment and has been sent back to the House for consideration of the Senate amendment. The bill has been amended in the Senate to replace the entire contents of the bill and rename the bill Revise Money Laundering/Retail Crime. Of interest to the criminal justice community, the bill, as amended, would:

1. Create a new criminal offense, "Money laundering," which would criminalize any of the

following conduct if done knowingly and if, alone or in the aggregate, it involves more than \$10,000:

- (i) Acquiring or maintaining an interest in, concealing, possessing, transferring, or transporting the proceeds of criminal activity;
- (ii) Conducting, supervising, or facilitating a transaction involving the proceeds of criminal activity;
- (iii) 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;
- (iv) Financing or investing, or intending to finance or invest, funds that the person believes are intended to further the commission of criminal activity;
- (v) Using proceeds of criminal activity with the intent to promote commission of the criminal activity; or
- (vi) Conducting a transaction with the proceeds of criminal activity to avoid federal transaction reporting requirements.

The bill, as amended, would 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, as amended, would also allow a legal defense if the defendant acts with a belief that the unlawful conduct had a legitimate law enforcement purpose.

2. Expand the criminal offense of “Concealment of merchandise in mercantile establishments” to include willfully transferring any price tag, product code, or other price mechanism under certain conditions as set forth in the bill. Currently, the law only covers transferring a “price tag” from one product to another.

The bill, as amended, would also make it a felony to willfully transfer any price tag, product code, or other price mechanism from one product to another if the product to which those items were transferred is more than \$200 higher in value than the product from which they were transferred.

3. Expand the criminal offense of “Larceny from a merchant” to make it a felony to fraudulently create or affix a “product code or other price mechanism,” as defined in the bill, or to knowingly present for purchase a product with a counterfeit product code or other price mechanism with the intent to fraudulently obtain goods from a merchant for less than its actual retail value.

[HOUSE BILL 834, Juvenile Justice Modifications](#), has been approved by the General Assembly and has been sent to Governor Roy Cooper for his signature. The bill would make various changes to the procedures for the transfer of delinquent juveniles between juvenile court and superior court,

the secure custody process, and the punishment for solicitation to commit a crime.

[HOUSE BILL 909](#), [Fuquay-Varina/Deannex, Wake/ID Bureau Update](#), has passed the House and has been sent to the Senate for consideration. The bill would no longer classify certain employees of the Bureau of Identification of Wake County as deputies of the Sheriff of Wake County. This bill would apply only to Wake County. 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.

[SENATE BILL 303](#), [Court/Out-of-State Atty Changes](#), has been amended in the House to clarify that a law enforcement officer who lives anywhere within the State would be eligible for nomination as a magistrate. The amendment also freezes, until July 1, 2025, the automatic expunction by operation of law of dismissed charges and not guilty verdicts under the [Second Chance Act](#) (S.L. 2020-35).

[SENATE BILL 565](#), [Amend Expunction](#), has passed the House with amendment and has been sent back to the Senate for consideration of the House amendment. The bill, as amended, would require a court to make a final determination on a petition to expunge a criminal charge that resulted in a dismissal or finding of not guilty or not responsible within 90 days after the petition is filed with the court. Currently, there is no time limit within which the court must make a determination on these petitions.

The **Weekly Legislative Report** is provided at no charge as a service to the sheriffs, criminal justice community and citizens of North Carolina.

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