

North Carolina Sheriffs' Association

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Weekly Legislative Report

November 22, 2024

What was expected to be a quick day for the House of Representatives on Tuesday finally ended around 8 pm. Along with holding a voting Session on Tuesday to address appointments, veto overrides, and a bill which contained additional Hurricane Helene funding as well as some policy priorities, the House Republicans also met to vote on who would lead their caucus for the 2025-2026 Legislative Session.

Representative Destin Hall was elected to fill the role of Speaker of the House of Representatives being vacated by five-term Speaker of the House Tim Moore. Representative Mitchell Setzer will serve as Speaker Pro-Tempore and Representative Brenden Jones was elected as the Majority Leader.

On Wednesday, Senate Republicans took the opportunity to elect the leadership of their caucus for the upcoming Session. Senator Phil Berger was re-elected to serve as President Pro Tempore, making it the 8th time he's been elected to serve in the position. Senator Ralph Hise was re-elected to serve as Deputy President Pro Tempore and Senator Paul Newton was re-elected to serve as Majority Leader. Both House and Senate leadership will officially take on their new (or continued) roles after being sworn in in January.

The Senate held a voting session on Wednesday as well, taking up the same business that the House considered earlier in the week.

A final matter of business for both the House and the Senate this week was to amend their previous adjournment resolution. Prior to the amendment this week, both chambers planned to come back for a single, one-day session in mid-December.

The adjournment resolution passed this week allows them to return anytime between December 2nd and 13th to conduct business before the end of the year. Based on information provided by Speaker Moore at the conclusion on Tuesday's Session, this amended resolution was passed to accommodate the changing availability of the legislators in the month of December.

The House and Senate adjourned on Wednesday, November 20, 2024.

BILLS OF INTEREST

[HOUSE BILL 149](#), Disaster Recovery Act of 2024, has been approved by the General Assembly and signed into law by Governor Roy Cooper with an effective date of October 10, 2024. The bill

makes various changes to the laws and appropriates funds to support the ongoing Hurricane Helene relief efforts in the Western part of the State, as detailed in the bill.

Of particular interest to the criminal justice community, the bill allows local law enforcement retirees, including retired sheriffs, who have been retired at least one month to work in any part-time or temporary full-time position (existing or newly-created) needed due to the declared state of emergency related to Hurricane Helene or associated Hurricane Helene recovery efforts without jeopardizing either their retirement allowance under the local retirement system (LGERS), their law enforcement officer special separation allowance, or their sheriffs' supplemental pension (for any retired sheriff receiving this benefit).

The same is true for retirees of the State retirement system (TSERS) who retired effective on or before September 1, 2024 and work in any such part-time or temporary full-time position with a State employer, necessitated by Hurricane Helene, after being retired for at least one month.

Any earnings received for work that is needed for Hurricane Helene relief efforts are not counted towards the earnings cap for part-time or temporary work in G.S. 128-24(5)(c) or G.S. 135-3(a)(8)(c) so long as the employer of the retiree certifies to the applicable retirement system that the position is needed for Hurricane Helene relief efforts. As a result, retirees working in existing positions or newly-created positions, when certified by the employer, need not worry about having their retirement allowance suspended because of any amounts they earn for providing those relief efforts.

For the "earnings cap" relief to apply in part-time or temporary employment situations, the retiree's effective retirement date must have been September 1, 2024 or earlier, and the employer of the retiree must certify to the applicable retirement system that the position is needed for Hurricane Helene relief efforts. This new authority to return to work without jeopardizing retirement payments and related payments expires March 1, 2025, unless later extended by the General Assembly.

We have consulted with the Retirement Systems Division staff and they agree with the above analysis as it pertains to LGERS and TSERS. They further noted that a summary of the relevant provisions of [House Bill 149](#), and other information for employers, is available at the following link: <https://www.myncretirement.com/blog/2024/10/15/retirement-monitor-october-2024>.

Introduced by Representatives Elmore, Hardister and Paré.

[HOUSE BILL 1078](#), Additional General Assembly Appointments, has been approved by the General Assembly and enacted into law. 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. The bill contains numerous appointments to State boards and commissions as recommended by the President Pro Tempore of the Senate and the Speaker of the House of Representatives. Of interest to the criminal justice community, the Speaker of the House of Representatives appointed, effective February 28, 2025, Ricky W. Parks of Nash County and Kendall E. Pike of Franklin County to the North Carolina Governor's Crime Commission for terms expiring February 28, 2027. **Introduced by Representative D. Hall.**

[HOUSE JOINT RESOLUTION 1079](#), Confirm Roger Hawley, Director of SBI, has been approved by the General Assembly. The resolution confirms Governor Roy Cooper's appointment of Roger "Chip" Hawley to serve as the new Director of the North Carolina State Bureau of Investigation for a term that expires June 30, 2029.

Director Hawley has worn many hats in his law enforcement career. Most recently he served as the Chief of the State Capitol Police. Director Hawley also served with the Wake County Sheriff's Office where he attained the rank of Major in both the patrol and criminal investigation divisions before retiring with 33 years of service. He was recognized as the Wake County Sheriff's Officer of the Year in 2001. He has also served as a police officer with the Coats Police Department and with North Carolina State University. **Introduced by Representative Carson Smith.**

BILL STATUS

[HOUSE BILL 10](#), Require ICE Cooperation & Budget Adjustments, has been enacted into law by the General Assembly with various effective dates as set forth in the bill. The bill was vetoed by Governor Roy Cooper on September 20, 2024. On November 20, 2024, the veto was overridden by the General Assembly. Of interest to the criminal justice community, the bill:

1. Effective December 1, 2024, requires administrators of county jails, local confinement facilities, district confinement facilities, satellite jails, or work release units (including the sheriff) to attempt to determine if a person confined therein and charged with any of the following offenses is a legal resident of the United States: (1) certain felonies (including controlled substance felonies); (2) Class A1 misdemeanor assaults; and (3) misdemeanor violations of a valid domestic violence prevention order.

Prior to December 1, 2024, jail administrators must inquire into the legal status of detainees charged with any felony or impaired driving offense. This requirement is repealed effective December 1, 2024.

2. Effective December 1, 2024, requires administrators of county jails, local confinement facilities, district confinement facilities, satellite jails, or work release units (including the sheriff) to take an inmate or detainee before a judicial official (i.e. magistrate or judge) in this State if the administrator is in receipt of a detainer and administrative warrant issued for the inmate or detainee by Immigration and Customs Enforcement (ICE) of the United States Department of Homeland Security.
3. Effective December 1, 2024, requires the judicial official to issue an order directing that the person be held in compliance with the detainer and administrative warrant if the official finds that the person presented is the same person subject to the detainer or administrative warrant. The bill provides that no State or local law enforcement officer or agency shall be criminally or civilly liable for action taken pursuant to such an order.
4. Effective December 1, 2024, requires that, unless continued custody of the prisoner is required by other legal process, a person held pursuant to an order issued under the bill's

provisions must be released after 48 hours have elapsed from receipt of the detainer and administrative warrant, excluding weekends and holidays, if the person has not yet been taken into the custody of Immigration and Customs Enforcement of the United States Department of Homeland Security or if the detainer has not yet been rescinded.

5. Appropriates to the Division of Health Services Regulation of the North Carolina Department of Health and Human Services \$278,994 in recurring funds for the 2024-2025 fiscal year to be used to hire 2 full-time jail inspectors.
6. Authorizes the North Carolina Wildlife Resources Commission (Commission) to spend \$3.8 million in receipts and other funds available to the Commission for the 2024-2025 fiscal year for the construction of a Caswell Shooting Range Expansion.

[SENATE BILL 382](#), Dental Practice Act Changes, has been amended to replace the entire contents of the bill and rename the bill Disaster Relief-3/Budget/Various Law Changes. The bill has been passed by the General Assembly and has been sent to Governor Roy Cooper for his signature. This bill will not become law until: (a) Governor Roy Cooper signs the bill; (b) Governor Roy Cooper allows the bill to become law without his signature after 10 days; or (c) Governor Roy Cooper vetoes the bill and his veto is overridden by the General Assembly.

The bill would make various changes to the law as detailed in the bill. Of interest to the criminal justice community, the bill would:

1. Allow the Division of Health Service Regulation (DHSR) of the North Carolina Department of Health and Human Services to temporarily waive rules pertaining to local confinement facilities and jails during the declaration of certain national or State emergencies described in the bill, such as a declaration of a state of emergency by the Governor of North Carolina.

For example, during a state of emergency declared by our Governor, DHSR could temporarily waive the rules requiring jails to adhere to certain meal service requirements and food and nutrient requirements if the nature of the state of emergency (such as a hurricane) made adherence to these rules difficult.

2. Extend the concealed handgun permits of permittees who reside in the areas affected by Hurricane Helene. This includes the following counties: Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Cabarrus, Caldwell, Catawba, Cherokee, Clay, Cleveland, Forsyth, Gaston, Graham, Haywood, Henderson, Iredell, Jackson, Lee, Lincoln, Macon, Madison, McDowell, Mecklenburg, Mitchell, Nash, Polk, Rowan, Rutherford, Stanly, Surry, Swain, Transylvania, Union, Watauga, Wilkes, Yadkin, and Yancey.

Concealed handgun permits set to expire in any of the above counties from and including September 25, 2024 through December 31, 2024 would be extended and would remain valid until March 1, 2025. This means that these permittees would have until March 1, 2025 within which to submit an application to renew their concealed handgun permit that was set to expire between the dates noted above.

3. Allow the governing board of any teaching hospital affiliated with but not part of any constituent institution of The University of North Carolina to establish a campus law enforcement agency and employ campus police officers. It is likely that this change to the law would allow Vidant Medical Center in Greenville to establish a campus police agency. Currently, a hospital must be part of The University of North Carolina Health Care System in order to establish a campus police agency.
4. Provide that a person cannot be found responsible or guilty of a local ordinance violation if, when tried for the violation, the person produces either: (1) proof that they have no new alleged violations of the local ordinance within 12 months from the date of the violation for which they are being tried; or (2) documented proof of a good-faith effort to seek assistance for any underlying factors that may relate to the person's ability to comply with the ordinance (e.g. unemployment, homelessness, mental health, substance abuse).

Currently, a person is prohibited from being found guilty of a local ordinance violation if they prove they have no new violations within 30 days of the violation for which they are being tried. Also, currently the law does not explicitly require documentation of the person's good-faith effort to seek assistance for the underlying factors which may be causing their violation of the ordinance.

5. Require the North Carolina Office of State Budget and Management to provide a directed grant to the Gaston County Sheriff's Office in the amount of \$100,000 in nonrecurring funds for the 2023-2024 fiscal year.
6. Transfer the Center for Safer Schools to the North Carolina State Bureau of Investigation (SBI). Currently, the Center for Safer Schools is administratively located within the North Carolina Department of Public Instruction. The bill would require the Director of the SBI to appoint the Executive Director and other necessary personnel of the Center for Safer Schools, who would serve at the pleasure of the Director of the SBI.

The Center for Safer Schools administers grant programs, such as the School Resource Officer Grants Program and the School Safety Grants Program. In addition, the Center for Safer Schools is tasked with engaging in various school safety activities in consultation and coordination with law enforcement agencies, such as active shooter response drills and other safety-related training.

Finally, the bill would make the following changes related to the North Carolina State Highway Patrol to make it an independent State department:

1. The bill would remove, effective July 1, 2025, the North Carolina State Highway Patrol from the North Carolina Department of Public Safety (DPS). The bill would establish the State Highway Patrol as a single, independent cabinet-level department and all powers, duties, and obligations that were vested in the State Highway Patrol under DPS would be transferred to, vested in and consolidated within the new department of the State Highway Patrol.

The head of the new department of the State Highway Patrol would be the State Highway Patrol's Commander, who would be appointed by the Governor from within the ranks of the uniformed members of the Patrol for a term of 5 years, subject to the confirmation of the Governor's appointment by the General Assembly. However, the bill would appoint current State Highway Patrol Commander, Freddy L Johnson, Jr., to serve a 5-year term commencing on July 1, 2025. Commander Johnson would commence this term without additional nomination by the Governor and without confirmation by the General Assembly.

The law enforcement authority of sworn personnel of the State Highway Patrol would not be expanded upon the enactment of this bill into law. The law enforcement authority of sworn personnel of the State Highway Patrol would remain identical in the law as it exists prior to enactment of the bill.

2. The bill would transfer, effective July 1, 2025, the State Capitol Police from DPS to the new department of the State Highway Patrol and would make the State Capitol Police a new division within the department of the State Highway Patrol, which would serve as a police agency of the Patrol. [Note: It is unclear what is meant by "serve as a police agency of the Patrol."]

The law enforcement authority of sworn personnel of the State Capitol Police would not be expanded upon the enactment of this bill into law. The law enforcement authority of sworn personnel of the State Capitol Police would remain identical in the law as it exists prior to enactment of this bill into law.

3. The bill would transfer, effective July 1, 2025, all sworn personnel of the Division of Motor Vehicles (DMV) License and Theft Bureau of the North Carolina Department of Transportation to the new department of the State Highway Patrol. The bill would also require the North Carolina Department of Transportation to transfer to the State Highway Patrol on a recurring basis all funds necessary to support the salary, benefits, and other costs of the sworn personnel positions transferred.

All powers, duties and functions that are currently assigned to the sworn personnel of DMV's License and Theft Bureau would also be transferred to the new department of the State Highway Patrol.

In addition, the bill would authorize, but not require, the new department of the State Highway Patrol to conduct "transitional training" for all sworn personnel of DMV's License and Theft Bureau that would be transferred to the State Highway Patrol to become State Troopers.

Note: It is unclear what the long-term plan is for the law enforcement authority currently possessed by sworn personnel of DMV's License and Theft Bureau.

4. The bill would appropriate to the State Highway Patrol \$2.8 million in recurring funds for the 2025-2026 fiscal year to be used to hire: 7 personnel positions, 8 budget positions, 1

Safety Director position, 2 information technology communications positions, 1 staff attorney position, and 1 legislative liaison position.

[SENATE BILL 445](#), Recording of Court-Filed Documents, has been enacted into law by the General Assembly with various effective dates as set forth in the bill. The bill was vetoed by Governor Roy Cooper on July 8, 2024. On November 19, 2024, the veto was overridden by the General Assembly. The bill expands the criminal offense of injury to real property, making it a felony to willfully damage the residential property of another if the damage is valued at \$1,000 or more.

The bill also creates the new criminal offense of “Fraudulently renting, leasing, or advertising for sale of residential real property.” This new criminal offense makes it a felony to rent or lease residential real property to another person knowing that the renter or lessor has no ownership or leasehold interest in the property.

This new criminal offense also makes it a felony to list or advertise residential real property for sale knowing that the purported seller has no legal title or authority to sell the property.

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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