

# North Carolina Sheriffs' Association

Serving the Sheriffs and Citizens of North Carolina since 1922

Weekly Legislative Report



April 09, 2009

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This has been a hectic week at the General Assembly. As announced last week, on Monday afternoon the Senate Appropriations subcommittees presented their sections of the State Budget Bill. That was followed by a meeting of the full Senate Appropriations Committee on Tuesday to approve the bill. The State Budget Bill was tentatively approved by the full Senate on Wednesday and received final approval on Thursday. It will now go to the House for their consideration.

The House is likely to accept some of the Senate's ideas and discard others, and will no doubt add several new ideas for consideration. There is speculation that the mid-April revenue report may indicate that North Carolina has an additional shortfall of \$1 billion more than originally anticipated. This shortage will make it even more difficult for the House to prepare their version of the budget bill.

Wednesday was originally the bill filing deadline for most legislative bills for this session in the House. Because of the number of bill requests being handled by the legislative staff, the deadline was extended until 1:00 p.m. on Thursday. The House introduced 480 bills this week. So far this Session 1,505 House Bills have been introduced and 1,098 Senate Bills have been introduced, for a total of 2,603 legislative bills for consideration.

The House and Senate adjourned on Thursday to reconvene on Monday evening.

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## BILLS OF INTEREST

HOUSE BILL 1092, Study Sentencing and Prison Overcrowding, is identical to Senate Bill 1046 discussed in the March 27, 2009 Weekly Legislative Report. **Introduced by Representatives Bordsen and Love.**

HOUSE BILL 1095, Local Retirement System/Include NCSA, would include the North Carolina Sheriffs' Association as an employer under the Local Governmental Employees' Retirement System. **This bill is supported by the North Carolina Sheriffs' Association. Introduced by Representative Warren.**

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HOUSE BILL 1096, [Modify Speed Zone Restrictions](#), is identical to Senate Bill 649 discussed in the March 20, 2009 Weekly Legislative Report. **Introduced by Representative Martin.**

HOUSE BILL 1098, [Kill Search and Rescue Animal](#), would make it a Class H felony to kill or attempt to kill a search and rescue animal. It would also make it an aggravated circumstance in other criminal cases if a search and rescue animal was seriously harmed or killed while the animal was performing official duties. **Introduced by Representatives Frye and Jones.**

HOUSE BILL 1109, [State Fairgrounds Special Police/Mutual Aid](#), would enable the police department for the North Carolina State Fairgrounds in Raleigh to enter into mutual aid agreements with other law enforcement agencies to assist the fairgrounds police during the State Fair and other large events held on the premises of the State Fairgrounds. **Introduced by Representative Hill.**

HOUSE BILL 1114, [Living Will Indication on Drivers License](#), would require DMV to indicate on a driver's license if the person has a living will on file in the Secretary of State's Advanced Healthcare Directive Registry. **Introduced by Representatives Gulley, Burris-Floyd, Fisher and Whilden.**

HOUSE BILL 1117, [Sex Offender Can't Drive Bus with Children](#), would prohibit the Division of Motor Vehicles from issuing or renewing a commercial driver's license that includes an endorsement allowing a person to drive a commercial passenger vehicle or school bus for any driver who is required to register under the Sex Offender and Public Protection Registry Program. **Introduced by Representative Tucker.**

HOUSE BILL 1118, [Standardize Wild Boar Seasons](#), would add a definition in the General Statutes for "wild boar" and would standardize the hunting season. **Introduced by Representatives Haire, West and Rapp.**

HOUSE BILL 1119, [Sheriff/Inspect Prescription & Drug Records](#), would authorize a Sheriff or designated deputy sheriff investigating the diversion and illegal use of controlled substances to inspect prescription and pharmaceutical records and to also obtain access to data in the Controlled Substance Reporting System. **This bill is supported by the North Carolina Sheriffs' Association.** **Introduced by Representatives McLawhorn, Justus and Warren.**

HOUSE BILL 1131, [Castle Doctrine for North Carolina](#), would specify when the use of force or use of deadly force is authorized in defense of self, others or a person's home or vehicle, or in preventing the commission of certain felonies. **Introduced by Representatives Hilton, Spear, Frye and McElraft.**

HOUSE BILL 1132, [Renew Concealed Carry Permit/30 Day Limit](#), would specify that a person must apply to renew their concealed handgun permit within 30 days prior to the permit's expiration and would require the Sheriff's office to issue or deny the renewal application for the concealed handgun permit within 30 days of receipt of the renewal application. The bill would provide that if the Sheriff does not issue or deny the concealed handgun permit within 30 days of receipt of the application, the concealed handgun permit remains valid until the application is either granted or denied by the Sheriff. **Introduced by Representatives Hilton and Gulley.**

HOUSE BILL 1133, Firearm in Locked Motor Vehicle/Parking Lot, would prevent a business owner from prohibiting persons on the premises from having firearms and ammunition locked and out of sight in a motor vehicle on the premises. Business owners who unlawfully prohibited weapons on the premises under these circumstances would be civilly liable if anyone was injured as a result of the unlawful prohibition. It also provides that the business owner would not be civilly liable for any damages resulting from the actions of a person who had a firearm locked in their vehicle in compliance with this law. **Introduced by Representatives Hilton, Cleveland and Barnhart.**

HOUSE BILL 1134, Open Government Act, would establish the Open Government Unit in the Department of Justice to provide information to government entities and the public on compliance with the public records law. This bill would also allow a person who requested public records and who was denied, the opportunity to be awarded attorney's fees if they win a lawsuit forcing the government agency to allow access to the public records. **Introduced by Representatives Ross, Wainwright, Wilkins and Dickson.**

HOUSE BILL 1157, Allow Municipalities to Regulate Golf Carts, is identical to Senate Bill 650 discussed in the March 20, 2009 Weekly Legislative Report. **Introduced by Representative Martin.**

HOUSE BILL 1158, Increase Penalty/Continuing Crime Enterprise, would increase the penalty to a Class C felony (was Class H) for persons convicted of engaging in a continuing criminal enterprise. **Introduced by Representatives Wilkins and Faison.**

HOUSE BILL 1166, Insurance Law Changes.-AB, would authorize the Department of Justice to provide a criminal record check to the Department of Insurance on any person who has applied for or holds a license issued by the Department of Insurance. This bill would also make it clear that bail bondsmen or runner applicants are required to furnish a complete set of fingerprints as required by the Commissioner of Insurance and makes several other changes affecting bail bondsmen and their supervision by the Commissioner of Insurance. **Introduced by Representatives Goforth and Wray.**

HOUSE BILL 1172, Take Voluntary Furloughs/State Government and Schools, would allow state employees and public school personnel to voluntarily be furloughed in order to reduce the need for mandatory furloughs. **Introduced by Representatives Owens and Gibson.**

HOUSE BILL 1173, DOT-Maintain Roads for School Buses/Emergency Vehicles, would require the Department of Transportation to maintain any private road upon which five or more families live in order to provide access for school buses and emergency vehicles. **Introduced by Representative Pierce.**

HOUSE BILL 1185, Habitual DWI-Reinstatement Petition/10 Yrs, would allow a person convicted of habitual driving while impaired to petition for a hearing for consideration of restoring their driving privileges after a period of ten years without the person having any traffic or criminal convictions. **Introduced by Representative Sutton.**

HOUSE BILL 1190, Preservation of DNA & Biological Evidence, would make numerous changes to the law regarding the preservation of DNA and biological evidence related to a criminal offense,

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and a defendant's access to that evidence. This bill would: (1) provide that a court "shall" order pretrial DNA testing upon presentation of certain evidence; (2) expand the definition of biological evidence to include fingerprints; (3) limit the definition of biological evidence to only include information that may reasonably be used to incriminate or exculpate; (4) clarify the responsibilities of the clerk of court to preserve biological evidence that has been introduced at trial; (5) require the State Bureau of Investigation to adopt and publish guidelines regarding the retention and preservation of biological evidence; (6) specify the defendant's right to waive the preservation of biological evidence; (7) make changes in the time period for which biological evidence must be kept after a conviction; (8) would require that biological evidence collected in connection with an unsolved homicide or rape investigation must be maintained permanently; (9) would make it a Class H felony to intentionally tamper with DNA evidence and a Class F felony to do so in a first degree murder case; and (10) allow the defendant to provide input into which facility conducts the post-conviction DNA testing. **Introduced by Representatives Glazier, Stam and Ross.**

HOUSE BILL 1198, Clarification/Hearing on License Restoration, would clarify that a person who had a three year waiting period prior to having a hearing on a conditional restoration of their revoked driver's license did not have this right changed when the law was changed to require a five year waiting period. **Introduced by Representatives Avila and Glazier.**

HOUSE BILL 1203, Felony Murder, would create an independent statute for the offense of felony murder and remove it from the subsection of the statute for first-degree murder. **Introduced by Representative Harrison.**

HOUSE BILL 1206, Disposal of Unclaimed Animals, is identical to Senate Bill 467 discussed in the March 6, 2009 Weekly Legislative Report. **Introduced by Representatives Harrison, Harrell, Cotham and Glazier.**

HOUSE BILL 1208, Wrecker Service Fees/Duties of State Highway Patrol, would prohibit the State Highway Patrol from regulating the amount of the fee that could be charged by a wrecker service that participates in the State Highway Patrol's Rotation Wrecker System. **Introduced by Representatives Cole, Faison and Gibson.**

HOUSE BILL 1212, Fee For Dropping Criminal Charges, would give judges in criminal cases the discretion to impose a \$100 fee against a complainant who request issuance of a criminal process, but subsequently drops the charges or refuses to cooperate in the prosecution of the case. **Introduced by Representative Brubaker.**

HOUSE BILL 1224, Filling Vacancies in Local Offices, is identical to Senate Bill 596 discussed in the March 13, 2009 Weekly Legislative Report. **Introduced by Representative Blue.**

HOUSE BILL 1228, ABC Rules/Private Clubs, would prohibit the ABC Commission from implementing an administrative rule requiring private clubs to have a waiting period of up to 30 days for membership in the private club. **Introduced by Representative Gibson.**

HOUSE BILL 1234, Firearms Allowed In Certain State Parks, would allow firearms to be possessed, carried and transported under certain circumstances in a state park that is adjacent to a national park or a national wildlife refuge. **Introduced by Representative Gibson.**

HOUSE BILL 1241, *Allow Concealed Handgun Certain Locations*, would allow concealed carry permit holders to have a concealed handgun locked in their motor vehicle on educational property and would allow concealed carry permit holders to have a concealed handgun at parades, funeral processions, picket lines, during declared emergencies and riots and in establishments where alcoholic beverages are sold and consumed. **Introduced by Representatives Wray, Hilton and Cleveland.**

HOUSE BILL 1242, *Youthful Offender/Sentence Review*, would establish a post-sentencing review for youthful offenders age 13, 14 or 15 who are tried as an adult and convicted of a B1, B2, C or D felony. The review could only occur after the youthful offender had served at least 84 months of an active sentence and the review would be for the judge to determine certain factors and then to decide whether or not the sentence should be reduced or suspended. **Introduced by Representatives Mobley, Parmon and Womble.**

HOUSE BILL 1253, *Prohibit Penning of Wildlife*, is identical to Senate Bill 515 discussed in the March 13, 2009 Weekly Legislative Report. **Introduced by Representatives Harrell, Mackey, Hall and Jones.**

HOUSE BILL 1255, *Sex Offenders/Permanent No Contact Order*, would provide that upon the request of the district attorney a sentenced sex offender could be ordered by the court to permanently have no contact in the future with the crime victim. **Introduced by Representatives Holloway, Wiley, Underhill and Parmon.**

HOUSE BILL 1256, *Larceny of a Motor Vehicle Part*, would make it a Class 1 misdemeanor for a first offense of larceny of a motor vehicle part valued at \$1,000 or less and would make a second or subsequent offense a Class I felony. Larceny of a motor vehicle part valued at more than \$1,000 would be a Class H felony for a first offense and a Class G felony for a second or subsequent offense. **Introduced by Representatives Holloway, Tillis and Braxton.**

HOUSE BILL 1257, *Medium-Speed Vehicles*, would make it lawful for persons to operate a "medium-speed vehicle" on public streets or highways as long as the posted speed limit was 35 miles per hour or less. A "medium-speed vehicle" is defined to be a self-propelled electronically powered four-wheeled motor vehicle equipped with a roll bar or crush-resistant body design which can attain a speed of 30 miles per hour, but no more than 35 miles per hour. **Introduced by Representatives Samuelson, Cole, Barnhart and McLawhorn.**

HOUSE BILL 1259, *Civil Penalties for Death By Vehicle Cases*, would create a civil process for revocation of driver's license for a person charged with death by motor vehicle, would require a toxicology report in all cases where death by motor vehicle occurs and would require mandatory trauma counseling in all cases involving death by motor vehicle. **Introduced by Representative Allen.**

HOUSE BILL 1261, *Protect Our Kids/Cyber Bullying Misdemeanor*, would make cyber bullying a criminal offense punishable as a Class 1 misdemeanor. **Introduced by Representatives Mackey and Parmon.**

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HOUSE BILL 1265, Identity Theft Warning/Employment Assistance, would require private personnel services, job listing services, and others to provide customers with a notice concerning identify theft. **Introduced by Representatives Hall, Mackey, Floyd and Wainwright.**

HOUSE BILL 1266, Law Enforcement Officer Protection Act, would require employers of sworn law enforcement officers to allow the officer to be represented by the officer's "employee organization" or the "designee" of the organization who could attend during any questioning of the law enforcement officer by their agency if the officer is subject to an internal or administrative investigation that may result in disciplinary action. The bill would provide that if the law enforcement officer requests representation by his or her "employee organization" or their "designee", the questioning could be delayed up to 24 hours. **This bill is opposed by the North Carolina Sheriffs' Association.** **Introduced by Representatives Jones, Mackey and Hall.**

HOUSE BILL 1269, AOC Omnibus Courts Act, contains numerous provisions affecting the operation of the Administrative Office of the Courts. One provision would authorize the Chief Justice of the Supreme Court of North Carolina to declare when catastrophic conditions exists and to then issue any emergency directives necessary to ensure the continuing operation of essential trial or appellate court functions. **Introduced by Representative Blue.**

HOUSE BILL 1272, Technical/Clarifying Changes/Juvenile Code, would add rape and a sexual offense with a child by an adult offender to the list of offenses that would make the juvenile an abused juvenile if the offense is committed upon the juvenile by a parent, guardian, custodian or caretaker. **Introduced by Representatives Goodwin, Glazier and Cotham.**

HOUSE BILL 1276, Shoot at Law Officer/10 Year Active Minimum, would make it a Class C felony to discharge a firearm at a law enforcement officer, and upon conviction would require a minimum active prison sentence of 10 years. **Introduced by Representatives Rapp, Warren, Justus and Goforth.**

HOUSE BILL 1277, Ban Server-Based Video Poker, would make various changes in the law that bans video poker games in North Carolina to further clarify that video poker games remain unlawful. **Introduced by Representatives Rapp, Goodwin, Warren and England.**

HOUSE BILL 1279, Legislative Study on Youth Violence/Funds, would provide \$100,000 per year to support the Legislative Study Commission on Youth Violence. Includes appointment of various categories of individuals to this study, but does not require any appointee to be a law enforcement officer. **Introduced by Representatives Pierce, Mobley, Bryant and Parmon.**

HOUSE BILL 1282, CCPS Study Automated Pawn System, would require the Department of Crime Control and Public Safety to study the feasibility of creating an automated pawn transaction database system as a part of the Criminal Justice Information System. **Introduced by Representative Underhill.**

HOUSE BILL 1295, Regulate Hunting from Vessel, would prohibit hunting with a rifle from a vessel on a navigable body of water. **Introduced by Representatives Stewart and Hall.**

HOUSE BILL 1303, False Report To Law Enforcement, would make it a Class H felony to make a false report to a sworn agent of the State Bureau of Investigation who is investigating a Class A-G felony. **Introduced by Representative Blust.**

HOUSE BILL 1304, Investigative Grand Jury, would allow the convening of an investigative Grand Jury to investigate a lengthy list of specified criminal offenses. **Introduced by Representative Blust.**

HOUSE BILL 1307, Possess Prescription Drug/Not Drug Trafficking, would amend the controlled substances law to clarify that possession of certain prescription drugs is not punishable as drug trafficking. **Introduced by Representative Sutton.**

HOUSE BILL 1312, Technical Corrections-Highway/Motor Vehicle Statutes, would make certain changes in the motor vehicle laws to include: (1) add "public service" vehicle to the list of vehicles which are covered under the "move over" law; and (2) allow a law enforcement officer to remove a vehicle from a highway if the officer deems it a hazard to the public. **Introduced by Representative Martin.**

HOUSE BILL 1318, New Felony Death by Motor Vehicle, would create a new death by motor vehicle charge when the death is the result of the operation of a commercial motor vehicle by a person who knew the commercial motor vehicle was not safe for operation. **Introduced by Representatives Randleman and Howard.**

HOUSE BILL 1320, Cell Phone Use/Aggravating Factor in Crashes, would require an additional fine of \$100 to be imposed by the court upon conviction of a moving motor vehicle violation where mobile telephone use is noted as a distraction. **Introduced by Representative Starnes.**

HOUSE BILL 1326, Amend Second Degree Murder, would make various changes to the criminal procedures involved in the trial of a second degree murder case including changes in the aggravating circumstances, requiring a court hearing and specifying that no capital case can go to trial earlier than 9 months from the time that it is designated a capital case. **Introduced by Representatives Glazier, Lucas, Parmon and Harrison.**

HOUSE BILL 1327, Schools Notified of Gang Membership, would require a law enforcement agency to notify the school within five days if a school student is validated as a gang member. This bill would also authorize local boards of education to place reasonable conditions on the enrollment of any student validated as a gang member. **Introduced by Representatives Folwell, Justice, Langdon and Cleveland.**

HOUSE BILL 1328, Safe Storage of Firearms, would make various amendments to the law governing storage of firearms to protect minors and would require businesses that sell firearms to add additional language to the notice that they are already required to post in their business concerning this law. **Introduced by Representatives Bryant, Hall, Cotham and Mackey.**

HOUSE BILL 1329, Consolidate Expunction Statutes, says in its title that it would consolidate all General Statutes related to expunction of criminal records, so that all expunction statutes could be located in Article 5 of Chapter 15A of the General Statutes. We have not yet reviewed this bill

closely enough to determine whether or not any changes are made to the expunction statutes, or whether they are simply moved verbatim to one consolidated location within the General Statutes. **Introduced by Representatives Bryant, Bordsen, Adams and Moore.**

HOUSE BILL 1332, Create Criminal Offense of Felony Affray, would make it a Class C felony to engage in an affray in which a deadly weapon is used and if the affray resulted in serious bodily injury, it would be a Class E felony. **Introduced by Representatives Stiller and Barnhart.**

HOUSE BILL 1334, Create Criminal Offense/Home Invasion, would create the criminal offenses of first degree and second degree home invasion for a person possessing a firearm who by force and with violence breaks or enters the occupied dwelling house of another. **Introduced by Representatives Stiller, Steen and Barnhart.**

HOUSE BILL 1338, Study Post-Conviction/Post-Release Bond, would establish the Joint Legislative Committee on Post-Conviction and Post-Release Bond to study the feasibility of reducing prison overcrowding through a program that would allow bail bondsmen to bond out prisoners who have completed the major portion of their active sentences. **Introduced by Representatives Gibson and Brubaker.**

HOUSE BILL 1340, Court Fee for Littering, would require persons convicted of littering to pay a court fee of \$75 to be remitted to the county or municipality employing the law enforcement officer who makes the arrest, so that additional law enforcement resources would be available to enforce the littering law in that county or municipality. **Introduced by Representative Cole.**

HOUSE BILL 1343, Federal Enforcement by Marine Inspectors, would allow inspectors of the Marine Fisheries Division to enforce federal laws under the authority of the National Marine Fisheries Service. **Introduced by Representatives Jackson and Harrell.**

HOUSE BILL 1344, Prohibit Taking of Menhaden for Reduction, would prohibit the taking of Menhaden in state coastal fishing waters for the purpose of reduction. **Introduced by Representatives Jackson and Harrell.**

HOUSE BILL 1357, Retired Part-Time LEO/Concealed Carry Permit, would allow a former sworn law enforcement officer with 15 or more years of part-time or auxiliary law enforcement service to obtain a concealed handgun permit without taking the firearms safety and training course if the law enforcement officer applies within two years after retiring. **Introduced by Representatives McCormick, Mills and Warren.**

HOUSE BILL 1359, No Skateboards on Highways, would prohibit the use of skateboards on public highways. **Introduced by Representative Allred.**

HOUSE BILL 1360, Amend Habitual Offender Law, would make various changes to the habitual felon law, including: (1) redefining an habitual felon as a person who has been convicted of 3 prior felony offences that were Class G felonies or higher; (2) by specifying that the sentence imposed on a person convicted as an habitual felon is one felony class higher than the underlying felony for which the person is convicted; (3) and would direct the parole commission to study the feasibility of



reducing the sentence for certain habitual felons who are currently in prison, and to study other possible modifications to the habitual felon law. **Introduced by Representative Haire.**

HOUSE BILL 1362, Change Law on Drug Trafficking Convictions, would amend the law concerning sentencing of certain persons convicted of a drug trafficking offense to allow the sentencing judge to reduce the fine or to impose a prison term less than the applicable minimum term or to suspend the term and place the defendant on probation if the judge finds that the defendant has no prior convictions for crimes that produce or threaten serious bodily harm, has no prior felony convictions for manufactured, sell, delivery or possession of controlled substances and if the sentencing judge finds by a preponderance of the evidence that the person did not possess a firearm during the commission of the offense. **Introduced by Representative Blue.**

HOUSE BILL 1363, Confinement of Biting Dogs and Cats, would provide that when a dog or cat has bitten someone and the local health director determines that the animal must be confined, the confinement can be upon the animal owner's own property unless there is an indication that the animal presents a threat to the public in which case the animal can be confined elsewhere. **Introduced by Representative Blue.**

HOUSE BILL 1365, Provide Cost of Living Adjustments for Retirees, would provide a cost of living increase of 1.82% for state and local retired employees. **Introduced by Representative Bell.**

HOUSE BILL 1367, Modernization of the State's ABC System, would make various changes to the North Carolina Alcoholic Beverage Control System and its operation based on recommendations of the Program Evaluation Division of the North Carolina General Assembly. **Introduced by Representatives Lewis and Gibson.**

HOUSE BILL 1379, Local Law Officers Return to Work, would allow local law enforcement officers to retire for a minimum of 6 months and then be reemployed by any local government agency, including the agency from which they retired, without suffering any reduction in their local government retirement benefits. **This bill is supported by the North Carolina Sheriffs' Association. Introduced by Representatives Warren, McLawhorn, Burr and Spear.**

HOUSE BILL 1380, Medical Marijuana Act, would allow the medical use of marijuana. **Introduced by Representatives Jones, Harrison and Mackey.**

HOUSE BILL 1383, Medical Marijuana Act/Referendum, would establish a statewide election on November 3, 2009 and voters would be asked to vote either YES or NO on the following: "North Carolina should enact an act to permit the possession and use of marijuana for medical purposes only (Medical Marijuana Act)." **Introduced by Representative Jones.**

HOUSE BILL 1396, Superior Court Criminal Case Calendaring, would remove the authority from the district attorney to calendar criminal cases in superior court and would transfer that authority to the Senior Resident Superior Court Judge. **Introduced by Representatives Glazier, Ross and Stam.**

HOUSE BILL 1398, Determining Senior Resident Superior Court Judge, would change the procedure for designating the Senior Resident Superior Court Judge in each district and would give

that decision to the Chief Justice of the Supreme Court of North Carolina **Introduced by Representative Goodwin.**

HOUSE BILL 1400, Prohibit Underage Smoking/Infraction, would make it an infraction for a person who is less than 18 years of age to smoke or otherwise consume a tobacco product. **Introduced by Representatives Avila and Tillis.**

HOUSE BILL 1401, Change Penalty for Misdemeanor Death by Vehicle, would increase the penalty from a Class 1 misdemeanor to a Class A1 misdemeanor for death by motor vehicle. **Introduced by Representatives Barnhart and Moore.**

HOUSE BILL 1403, Collect DNA Sample on Arrest, would require an arresting law enforcement officer to obtain a DNA sample from any person arrested for committing a felony. This bill would also establish the Missing Person's DNA Identification System as a part of the State's current DNA database. **Introduced by Representatives Neumann, Burris-Floyd, McCormick and Tillis.**

HOUSE BILL 1406, Make Terrorism a Crime, would enact a new General Statute making terrorism a crime. **Introduced by Representatives Killian and Neumann.**

HOUSE BILL 1414, The Youth Accountability Act, would define a delinquent juvenile as a juvenile who is between 6 years of age and 18 years of age who commits a crime or infraction. This bill would also establish a Task Force for Juvenile Justice Administration consisting of 17 members. There is no requirement that any of the appointees have any law enforcement experience. **Introduced by Representatives Bordsen, Bryant, Glazier and Parmon.**

HOUSE BILL 1416, Children of Incarcerated Parents Study, would require the Legislative Study Commission on Children and Youth to study the issue of parents incarcerated in jail and prison and their children. **Introduced by Representatives Bordsen, Farmer-Butterfield, Parmon and Bryant.**

HOUSE BILL 1417, Revise Criteria for Secure Custody/Juveniles, would authorize a court to order secure custody of a juvenile who has violated the conditions of their probation or post-supervision if the court finds any of the following: (1) the juvenile committed acts that damage property or injured persons; (2) the juvenile is alleged to have committed acts that pose a danger to the juvenile or others; or (3) the juvenile has absconded from the juvenile's current placement and is unavailable to be supervised safely. **Introduced by Representatives Bordsen, Mobley, Glazier and Dickson.**

HOUSE BILL 1418, Reaffirm Opposition to Video Poker, is a House Resolution that would reaffirm the commitment of the House of Representatives to ban video gaming machines in North Carolina in spite of recent court decisions in Guilford County and Wake County. **Introduced by Representative Rapp.**

HOUSE BILL 1419, Bat Protection Act, would prohibit the capture, injury, killing or disturbance of bats. **Introduced by Representatives Cleveland, Lucas and Gulley.**

HOUSE BILL 1421, Election Amendments, would make various changes to the election laws concerning voting equipment, preparation of ballots and the duties of county boards of election and the State Board of Election. **Introduced by Representative Wainwright.**

HOUSE BILL 1424, Auth. Day Care Operator/Conduct Crim. Checks, would authorize the operator of a child care facility to request state and national criminal history checks of potential child care employees. **Introduced by Representatives Stevens and Burris-Floyd.**

HOUSE BILL 1425, Limited Driving Privileges for 18/19/20-DWI, would clarify that persons convicted of DWI who are 18, 19 or 20 years of age are eligible for a limited driving privilege under certain circumstances. **Introduced by Representative Stevens.**

HOUSE BILL 1428, Taking Deer With Dogs, would allow counties to limit the taking of deer with the aid of dogs by local ordinance. **Introduced by Representative Lewis.**

HOUSE BILL 1432, Expedite Crim. Record Checks/Child Care, would authorize the Division of Child Development of the Department of Health and Human Service to obtain criminal history records checks from a "certified independent company regulated by the federal Fair Credit Reporting Act," in addition to the authority to obtain the criminal history records check from the North Carolina Department of Justice. **Introduced by Representative McLawhorn.**

HOUSE BILL 1433, Clarify Volunteer Immunity/AED, would clarify that the immunity provided to someone who uses an automated external defibrillator (AED) applies whether or not the person is trained in use of the AED or healthcare as long as the person receives no compensation for their services. **Introduced by Representatives England and Bordsen.**

HOUSE BILL 1438, Videoconference Tech. in Court Proceedings, would establish a pilot program to determine the effectiveness of using video conferencing technology to conduct court proceedings (other than trials) involving persons in the custody of the Department of Correction and in local confinement facilities. **This bill is supported by the North Carolina Sheriffs' Association.** **Introduced by Representatives Spear, Warren, Sutton and Randleman.**

HOUSE BILL 1444, Limited Hunting Privilege/Nonviolent Felons, would establish a limited hunting privilege permit that authorizes the person who has only one nonviolent felony conviction to possess and use a long gun for hunting purposes in certain circumstances. These permits would be issued by the Sheriff and detailed criteria are in the bill for determining who would qualify for the permit and who would not. **Introduced by Representative Haire.**

HOUSE BILL 1445, Reform Bill of 2009, would make numerous changes to criminal laws including: (1) reduce the penalty from a Class C felony to a Class F felony for statutory rape defendants or sexual offense defendants if the other person is 13, 14, or 15 years old and the defendant is more than four, but less than six years older than the other person; (2) would provide for the expungement of criminal records for most misdemeanors, most Class H felonies and most Class I felonies; (3) restructure the prior record level point ranges and structured sentencing; (4) make the increase in sentence length between prior record levels more proportionally; (5) reduce a prison sentence by 3 months and extend the period of post-release supervision by 3 months from 9 months to 12 months; and (6) require the Department of Correction to make various changes so that all

categories of offenders currently incarcerated can earn time at each “earned time” level. **Introduced by Representative Haire.**

HOUSE BILL 1447, Crime Stoppers Tips Are Confidential, would provide that the identity of an individual who provides a tip for an unsolved case through the Crime Stoppers Program is confidential and the information is not a public record and is not admissible as evidence in a court proceeding. It would also require law enforcement agencies receiving this information to maintain the information in a confidential manner. **Introduced by Representative Wiley.**

HOUSE BILL 1448, Clarify AMBER Alert Laws, would clarify the laws regarding children that can be entered into the AMBER Alert System to include children who are not only abducted, but those who are missing as a result of some act by a parent of the child. **Introduced by Representatives Wiley, Neumann, Stevens and Fisher.**

HOUSE BILL 1449, Juvenile Code Revisions, would make numerous changes to the Juvenile Code. **Introduced by Representatives Weiss, Moore, Goodwin and Glazier.**

HOUSE BILL 1450, Report Denial of Some Pistol Permits, would require a Sheriff who declines to issue a pistol purchase permit to report that fact to the State Bureau of Investigation and to provide certain information to the SBI about the denial. **Introduced by Representatives Harrison and Jeffus.**

HOUSE BILL 1451, Bicycle Protection Act, would establish various laws relating to the operation of bicycles on a roadway to include provisions governing the conduct of the bicycle operator and the conduct of motorists who encounter a bicycle operator. **Introduced by Representative Harrison.**

HOUSE BILL 1452, Local Government Code of Ethics, would require all local government governing boards to adopt a resolution or a policy containing a Code of Ethics. Two hours of ethics education would be required for all members of local governing boards within 12 months of the person’s election or appointment. **Introduced by Representatives Allen, Howard and Justice.**

HOUSE BILL 1456, Drug Felon/No Large Dogs, would provide that a person convicted of a felony drug offense and sentenced to community or intermediate punishment shall have a special condition of probation that the person shall not own or have a dog that weighs more than 14 pounds either on his residential premises or a motor vehicle the person is driving for a period of 6 years after the conclusion of the defendant’s active sentence. **Introduced by Representatives Burr and Guice.**

HOUSE BILL 1464, Clarify Dometic Violence Laws/Arrest/Valid Protective Order, makes a change in the law that requires a law enforcement officer to make an arrest upon probable cause to believe that a person knowingly violated a valid 50B Protective Order. **Introduced by Representatives Parmon and Womble.**

HOUSE BILL 1476, Governmental Immunity/Adequacy of Remedies, would clarify when a claimant has an adequate remedy at law against an entity protected by governmental immunity. **Introduced by Representative Blue.**

HOUSE BILL 1477, Interpreters in the Courts/Funds, would provide funding to the Administrative Office of the Courts for interpreters for a party or a witness in court. **Introduced by Representative Blue.**

HOUSE BILL 1479, Prevent Execution of Innocent Persons, would prohibit the State from trying a defendant for a capital offense unless the State provides: (1) biological or DNA evidence that links the defendant to the act of murder; (2) a videotaped voluntary confession of the defendant to the murder; or (3) a video recording that conclusively links the defendant to the murder. **Introduced by Representative Hall.**

HOUSE BILL 1480, Expand Permitted 911 Fund Uses, would allow funds in the 911 Fund to be used for the lease, purchase, operation and maintenance of consoles and communications equipment owned or operated by the Public Safety Answering Point (PSAP). **Introduced by Representatives Bryant and Allen.**

HOUSE BILL 1489, Ignition Interlock-All DWI Offenders, would require anyone convicted of driving while impaired, driving after consuming alcohol being less than 21 years of age, or any other impaired driving offense, plus persons who refuse a chemical analysis to have an ignition interlock system installed on every vehicle they may drive before they can get a limited driving privilege. **Introduced by Representatives Bryant and Allen.**

HOUSE BILL 1495, No Sovereign Immunity Nonwaiver Endorsement, would prohibit sovereign or governmental immunity nonwaiver endorsements in insurance policies. **Introduced by Representatives Bryant and Allen.**

HOUSE BILL 1497, Spectral Fluorescence Signature Drug Analysis, would provide that the results of a spectral fluorescence signature drug analysis would be admissible in court and would have the Department of Health and Human Services establish a permit process. This technology is available from the NarTest Corporation. **Introduced by Representatives Warren and Spear.**

HOUSE BILL 1503, Ethen's Law/Injury to Pregnant Women, would include as an aggravating factor in a felony case that the victim was pregnant. **Introduced by Representatives Folwell, Lucas, Starnes and McElraft.**

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## BILL STATUS

HOUSE BILL 97, Active Duty Hunting/Fishing License Exemption, was approved by the House and referred to the Senate Agriculture Committee.

HOUSE BILL 435, Lee County Office Vacancies, has passed the House and been referred to the Senate Committee on State and Local Government for further consideration.

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HOUSE BILL 266, Use of Deadly Force/Public Web Site. As originally introduced, this bill would have required the SBI/DCI to collect and publish detailed information on incidents involving the use of deadly force by law enforcement officers which result in death. The North Carolina Sheriffs' Association and the Attorney General's Office had serious concerns about this bill as originally introduced. We worked together with the bill sponsor to amend the bill. The current version of the bill as amended only requires the SBI to annually publish the number of deaths, by law enforcement agency, resulting from the use of deadly force by law enforcement officers in the course and scope of their official duties. No other information is required to be collected or published. As amended, there was **no opposition to this bill from the North Carolina Sheriffs' Association**, the Office of the Attorney General or the North Carolina Press Association and the bill received a favorable report on Thursday in the House Judiciary III Committee, and was referred to the House Appropriations Committee for further consideration.

HOUSE BILL 697, Remove Restriction/LEO Disability Benefits, would remove the requirement that a law enforcement officer have at least one year of creditable service in the retirement system in order to qualify for disability retirement benefits for injuries that were incurred in the line of duty. This bill was approved on Wednesday by the House Committee on Homeland Security, Military, and Veterans Affairs, and was referred to the House Pensions and Retirement Committee. **The North Carolina Sheriffs' Association supports this bill** and we spoke in favor of the bill during the committee meeting.

HOUSE BILL 1147, Funding of Highway Patrol to General Fund. Currently the funding for the North Carolina State Highway Patrol is provided from the Highway Fund, which receives money from the gasoline tax and other highway taxes. This bill would discontinue funding the State Highway Patrol from the Highway Fund and shift funding for the State Highway Patrol to the General Fund of the State.

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### STATE BUDGET BILL --- SENATE VERSION

This week, the Senate approved Senate Bill 202, Appropriations Act of 2009, which includes the Senate's initial version of the State Budget Bill. This bill has now been sent to the House and the House will make numerous changes and in several weeks the House will approve the House version of the State Budget Bill. Then the House and Senate will jointly spend several weeks trying to resolve the differences between the two versions before they ultimately pass a State Budget Bill that is approved by both the House and Senate, most likely sometime in July.

The provisions in the Senate version of the State Budget Bill of interest to the criminal justice community are listed below:

#### **Senate Subcommittee on Justice and Public Safety**

1. Establish a \$2 increase in the cost of court to fund the Sheriffs' Standards Division and the Criminal Justice Standards Division operations. The Senate proposed legislation would

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allocate \$1.65 of this funding to the Criminal Justice Standards Division and \$.35 of this funding to the Sheriffs' Standards Division.

2. Eliminate six vacant positions in the Department of Justice, including two attorneys, 3 SBI support positions and 1 training coordinator at the North Carolina Justice Academy.
3. Eliminate the Fingerprint Card Program since all 100 counties have access to the Statewide Automated Fingerprint Identification System (SAFIS), which utilizes live scan devices.
4. Increase from \$300 to \$600 the fee assessed to convicted criminals to recover the cost of SBI Crime Lab Analysis. It was noted that DWI cases make up a large percentage of the total revenue generated from this fee.
5. Eliminate funding for the Center for the Prevention of School Violence in the Department of Juvenile Justice and Delinquency Prevention.
6. Eliminate the Support Our Students Program in the Department of Juvenile Justice and Delinquency Prevention.
7. Increase the pay for 1,048 Probation/Parole Officers by increasing their pay grade from 68 to 69.
8. Provide funding for 40 additional Chief Probation Parole Officer positions and 13 Office Assistants in Probation and Parole.
9. Fund an additional 91 Probation Parole Officers.
10. Provide \$3 million in additional funding for the Criminal Justice Partnership Program (CJPP).
11. Expand the capacity of Pamlico Correctional Institution by 332 inmates through double-celling, effective September 1, 2009.
12. Close the McCain Correctional Hospital effective September 1, 2009.
13. Close the Umstead and Guilford Correctional Centers effective September 1, 2009.
14. Close the Wilmington Residential Facility for Women effective September 1, 2009.
15. Provides one year funding only for the Law Enforcement Support Services (LESS) Division of the Department of Crime Control and Public Safety. It also requires LESS to adopt a fee structure to charge law enforcement agencies for LESS services so that the LESS program will be fully receipt supported by July 1, 2010.
16. Transfers the State Capital Police Division from the Department of Administration to the Department of Crime Control and Public Safety.
17. Provide \$150,000 in non-recurring funds to the Governor's Crime Commission to contract with the North Carolina Sheriffs' Association for "immigration enforcement services."

The North Carolina Sheriffs' Association is required to submit a report to the General Assembly no later than March 1, 2010 on the operations and effectiveness of the Association's Illegal Immigration Project.

18. Directs that the Department of Justice may hire sworn personnel to fill positions in the SBI only if:
- a. The position's regular responsibilities involve warrant executions, property searches, criminal investigations, or arrest activities that are consistent in frequency with the responsibilities of other sworn agents;
  - b. The position is a promotion for a sworn agent who was employed at the SBI prior to July 1, 2007;
  - c. The position is a forensic drug chemist position which requires "responding to clandestine methamphetamine laboratories" as a primary duty;
  - d. The position is a forensic impressions analyst position which requires "responding to clandestine methamphetamine laboratories" as a primary duty; or
  - e. The position primarily involves supervising sworn personnel.
19. Requires a study to be conducted of consolidating the law enforcement agencies in the Executive Branch of State Government for the purpose of coordinating the activities of these agencies and reducing duplication and overlapping of law enforcement responsibilities, training and technical assistance among state law enforcement agencies. The study would be conducted by the Office of State Budget and Management with a report to be filed by February 1, 2010.
20. Continue the previous authorization to the Department of Correction to pay \$40 per day as reimbursement to counties for the cost of housing convicted inmates, parolees, and post-released supervisees awaiting transfer to the State Prison System (commonly referred to as "jail backlog").

#### **Senate Subcommittee on Education**

21. Directs the State Board of Education, in conjunction with the Division of Motor Vehicles, to develop a plan by January 1, 2010 for a statewide permit for motor coach companies who transport students on school-sponsored trips.
22. Provides \$1.3 million per year to fund North Carolina's Tarheel ChalleNGe Academy which is a quasi-military program for high school dropouts or expellees located in Sampson County and sponsored by the North Carolina National Guard.
23. Eliminates funding for three regional coordinators in the Community College System who provide education and training to law enforcement personnel.
24. Provides \$5 million for implementation of the UNC Campus Safety Task Force recommendations by increasing the number of university personnel in mental health services and campus police.

#### **Senate Subcommittee on Health and Human Services**

25. Eliminates funding for two 25 bed units at Broughton Hospital and Cherry Hospital.



**Senate Subcommittee on Transportation**

26. Current law provides an automatic annual one step increase in the salaries of State Highway Patrol Troopers until they reach the top step of their pay grade. These annual step increases for Troopers would be frozen for the next two years.

**Full Appropriations Committee Provisions**

27. Continue development of the Criminal Justice Data Integration Pilot Program in Wake County under the Office of the State Controller to integrate databases from various state agencies concerning criminal defendants.
28. Provides that no pay raises are given this year to state employees.
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If you would like a copy of any of the legislation introduced or considered by this year's General Assembly, copies are available on the General Assembly's World Wide Web site: [www.ncleg.net](http://www.ncleg.net).

You may also receive one copy of as many bills as you are interested in, free of charge, by calling the General Assembly's Printed Bills office at 919/733-5648. They will need to know if it is a House bill or Senate bill and the bill number. (For example, Senate Bill 8).

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Eddie Caldwell  
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North Carolina Sheriffs' Association

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