

North Carolina Sheriffs' Association

Serving the Sheriffs and Citizens of North Carolina since 1922

Weekly Legislative Report



May 08, 2009

As expected, it has been a hectic week at the General Assembly as members, lobbyists and interested citizens scramble to get bills heard or defeated before the crossover deadline that has been established for next Thursday, May 14.

Normally committees do not meet on Monday. However, this coming Monday there are eight House committee meetings already scheduled beginning as early as 12 Noon. The chairman of one of the Senate Judiciary committees has already announced that they will meet briefly on Tuesday morning and reconvene Tuesday afternoon after the full General Assembly session and will meet into the evening on Tuesday night if necessary to clear all of the bills scheduled before their committee.

Thursday was a bit of a juggling act as we had legislative bills that we were interested in that were being considered in six different committees that were meeting simultaneously in two different buildings. Fortunately, the bills that we supported were approved in committee and the bills that we opposed were not approved in committee.

Monday, that process will start all over again and continue through Wednesday or Thursday at which time the House and Senate will turn their attention to considering the bills that have been approved by committees thus far.

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

BILLS OF INTEREST

HOUSE BILL 1572, Strike Fail To Appear/Bond Processing Fee, would require the court to assess a \$50 processing fee on any defendant for whom the court sets aside a bail bond forfeiture after striking a failure to appear. **Introduced by Representative Randleman, and referred to the House Committee on Judiciary III.**

HOUSE BILL 1595, Malt Beverage Special Permit, would authorize a malt beverage special event permit and a malt beverage tasting permit. **Introduced by Representatives Tillis and Ross, and referred to the House Committee on Alcoholic Beverage Control.**

HOUSE BILL 1601, Career Fire and Rescue 25-Year Retirement, would allow career firefighters and career rescue squad workers to retire with unreduced benefits after completing 25 years of service. **Introduced by Representative Mackey, and referred to the House Committee on Pensions and Retirement.**

HOUSE BILL 1606, Amend Prior Record Point Levels, is identical to Senate Bill 489 and would restructure the prior record level points in structured sentencing in order to expand the points in prior record level I and to even out the remaining ranges. **This bill is supported by the North Carolina Sheriffs' Association. Introduced by Representatives Bordsen and Glazier, and referred to the House Committee on Judiciary II.**

HOUSE BILL 1607, Adjust B1-E Felony Penalties, is identical to Senate Bill 490 and would reallocate three months from the minimum sentence of Classes B1 through E to the maximum sentence, and would increase the period of post-release supervision from 9 months 12 months. **This bill is supported by the North Carolina Sheriffs' Association. Introduced by Representatives Bordsen and Glazier, and referred to the House Committee on Judiciary II.**

HOUSE BILL 1612, Treatment Court Funds, would appropriate \$2 million for 2009-2010 and \$2 million for 2010-2011 for mental health courts, DWI courts and drug treatment courts. **Introduced by Representative Alexander, and referred to the House Committee on Appropriations.**

HOUSE BILL 1618, Community-Based Corrections Funds, would provide that a county may not use more than 25% of its community-based correction funds to serve offenders released from jail prior to trial. **Introduced by Representative Bordsen, and referred to the House Committee on State Government/State Personnel.**

HOUSE BILL 1637, Modernize Precious Metal Business Permitting, would make various changes to the laws governing the record keeping of precious metal dealers. **Introduced by Representatives Samuelson and Dickson, and referred to the House Committee on Judiciary III.**

HOUSE BILL 1651, Public Safety Employer-Employee Cooperation, would establish the Public Safety Employee Relations Commission and would allow unionization of state and local law enforcement, firefighters and emergency medical services personnel. It would also allow payroll deductions for association dues, insurance and fees for labor union related associations. **This bill is opposed by the North Carolina Sheriffs' Association. Introduced by Representatives Blue, Ross and Martha Alexander, and referred to the House Committee on Judiciary II.**

BILL STATUS

HOUSE BILL 59, Various Counties/911 Fund Uses, has been approved by the House Ways and Means Committee and has been referred to the House Public Utilities Committee. This bill was amended in committee to make it apply to the following additional counties: Burke, Catawba, Halifax, Nash and Pitt. It originally applied to only Franklin County and still does apply to Franklin County.

HOUSE BILL 97, Active Duty Hunting/Fishing License Exemption, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

HOUSE BILL 243, Mental Health/Law Enforcement Custody, was considered on Wednesday by the House Mental Health Reform Committee. Numerous objections to the bill were stated by the North Carolina Sheriffs' Association and others. The committee decided to approve the bill and refer it to the House Judiciary I Committee for further consideration in hopes that the problems with the bill could be resolved in time for it to be sent to the Senate prior to the crossover deadline next Thursday. The bill's sponsor has committed to work to resolve the law enforcement concerns expressed by the Sheriffs, and agreed not to pursue enactment of the bill unless those concerns can be addressed. We are working closely with the North Carolina Association of County Commissioners, the North Carolina Hospital Association, the School of Government, and various mental health advocate organizations in an attempt to resolve the law enforcement concerns with the proposed legislation. We anticipate that the most objectionable parts of this bill will be removed next week in the House Judiciary I Committee and that the bill will be approved by the House and sent to the Senate. Nevertheless, the bill's sponsor remains committed to fixing any law enforcement concerns with the bill, or not pursuing enactment of the bill into law.

HOUSE BILL 266, Use of Deadly Force by Law Enforcement Officers/Collect & Publish, has been approved by the House Appropriations Subcommittee on Justice and Public Safety and is scheduled for consideration by the full House on Monday.

HOUSE BILL 275, Sex Offenders Can't Be EMS Personnel, has passed the House and will be sent to the Senate.

HOUSE BILL 315, Plea Bargain Disclosure, received preliminary approval by the House on Wednesday and was then referred back to the House Judiciary II Committee for further consideration.

HOUSE BILL 323, Prevent the Theft of Scrap Metals, was approved by the House and has been referred to the Senate Judiciary I Committee.

HOUSE BILL 406, Western Justice Academy/Wildlife Resources Firing Range, has been approved by the Wildlife Resources Committee and has been referred to the House Appropriations Committee. As amended in committee, this bill specifies that the firing range is to be constructed on a 10-acre tract in the Big Hungry section of the Green River Game Land in Polk County. It also provides for a public firing range and archery range in addition to law enforcement/hunter-safety use. Additionally, it specifies that any Department of Justice firing range adjacent to the Western Campus of the North Carolina Justice Academy in Edneyville must be an indoor facility.

HOUSE BILL 487, Study License Plate Backgrounds/Information, has been approved by the House Transportation Committee and referred to the House Rules Committee. This bill would mandate a study between legislative sessions of various issues related to motor vehicle license plates. One of the topics for the study would require the study committee to consult with the Division of Motor Vehicles, the State Highway Patrol, and other law enforcement agencies concerning the recognition ability of license plates and any enforcement issues associated with different plate backgrounds.

HOUSE BILL 538, Charlotte/Mecklenburg School Board Police, has been approved by the House Judiciary I Committee and is scheduled for consideration by the full House on Monday.

HOUSE BILL 666, Clarify Status of DWI Treatment Courts, has been approved by the House and referred to the Senate Judiciary I Committee.

HOUSE BILL 706, DMV Handicap Placard Enforcement, has been approved by the House Transportation Committee and has been referred to the House Judiciary III Committee for further consideration.

HOUSE BILL 722, Paraphernalia Control Act, has been approved by the House Judiciary I Committee and is scheduled for consideration by the full House on Monday. This bill was amended significantly in committee and now would regulate certain devices that may be used as drug paraphernalia.

HOUSE BILL 750, Restore Contract Rights To State/Local, is the bill that would allow for collective bargaining for government employees in North Carolina. This bill was scheduled for consideration by the House Judiciary II Committee on Thursday, but was removed from the committee's agenda due to opposition from the North Carolina Sheriffs' Association and numerous other groups and associations. **This bill is opposed by the North Carolina Sheriffs' Association.**

HOUSE BILL 766, Amend Survivor's Alternate Benefit, has been approved by the House and referred to the Senate Rules Committee. **This bill is supported by the North Carolina Sheriffs' Association.**

HOUSE BILL 787, Increase Penalty/Remove Serial # From Gun, has been approved by the House Judiciary II Committee and is scheduled for consideration by the full House on Monday.

HOUSE BILL 816, Clarify Local Special Separation Allowance, was approved by the House Appropriations Subcommittee on Justice and Public Safety and is scheduled for consideration by the full House on Monday. **This bill is supported by the North Carolina Sheriffs' Association.**

HOUSE BILL 827, Unattended Children in Vehicles, has been approved by the House Ways and Means Committee and is scheduled for consideration by the full House on Monday.

HOUSE BILL 838, Create Exemption/Size-Weight for Sage Haulers, has passed the House and will be referred to a Senate committee for further consideration.

HOUSE BILL 859, Amend Conditions of Probation, has been approved by the House Judiciary III Committee and has been referred to the House State Government Committee.

HOUSE BILL 882, Motor Vehicle Inspection Program Changes, has been approved by the House Transportation Committee and been referred to the House Judiciary III Committee.

HOUSE BILL 1109, State Fairgrounds Special Police/Mutual Aid, has been approved by the House Judiciary III Committee and is scheduled for consideration by the full House on Monday.

HOUSE BILL 1119, Sheriff/Inspect Prescription & Drug Records, is scheduled for consideration by the House Health Committee on Tuesday. **This bill is supported by the North Carolina Sheriffs' Association.**

HOUSE BILL 1185, Habitual DWI-Reinstatement Petition/10 Years, has been approved by the House Ways and Means Committee and been referred to the House Judiciary III Committee.

HOUSE BILL 1190, Preservation of DNA & Biological Evidence, was scheduled for consideration by the full House this week, but has been postponed and is now scheduled for consideration by the full House on Monday

HOUSE BILL 1242, Youthful Offender/Sentence Review, has been approved by the House Juvenile Justice Committee and has been referred to the House Judiciary I Committee.

HOUSE BILL 1256, Larceny of a Motor Vehicle Part, has been approved by the House Ways and Means Committee and been referred to the House Judiciary III Committee.

HOUSE BILL 1272, Technical/Clarifying Changes/Juvenile Code, has been approved by the House and referred to the Senate Judiciary II Committee.

HOUSE BILL 1307, Possess Prescription Drug/Not Drug Trafficking, was considered on Wednesday in the House Ways and Means Committee. Based on opposition from the North Carolina Sheriffs' Association and numerous legislators on the committee, the bill was not approved. The bill sponsor indicated that he might ask the General Assembly to convert the bill into a study bill so that the issue could be discussed between legislative sessions. **This bill is opposed by the North Carolina Sheriffs' Association.**

HOUSE BILL 1329, Consolidate Expunction Statutes, was approved on Thursday by the House Judiciary I Committee and will likely be scheduled for consideration by the full House next week. This bill consolidates the existing laws allowing for expunction of criminal records from various locations in the General Statutes all together in one consolidated location. It does not make any changes in the current laws.

HOUSE BILL 1338, Study Post-Conviction/Post-Release Bond, has been approved by the House Judiciary III Committee and referred to the House Rules Committee.

HOUSE BILL 1357, Retired Part-Time Law Enforcement Officer Concealed Carry Permit, has been approved by the House State Government Committee and referred to the House Judiciary II Committee.

HOUSE BILL 1398, Determining Senior Resident Superior Court Judge, has been approved by the House and referred to the Senate Judiciary I Committee.

HOUSE BILL 1401, Change Penalty for Misdemeanor Death by Vehicle, has been approved by the House Judiciary III Committee and been referred to the House Appropriations Committee.

HOUSE BILL 1414, The Youth Accountability Act, is the bill that would raise the juvenile age in North Carolina for criminal offenses from 16 years of age to 18 years of age, but does not provide any funding to implement this change. This bill was approved this week by the House Juvenile Justice Committee and has been referred to the House Judiciary II Committee. This bill was amended in committee to stagger the increase in the juvenile age so that it would increase to 16 ½ years of age on June 30, 2012; would increase to 17 years of age on June 30, 2013; would increase to 17 ½ years of age on June 30, 2014; and would increase to 18 years of age on June 30, 2015.

This legislation would also create the Task Force for Juvenile Administration consisting of 21 members. The legislation does not require that any of the 21 task force members be a law enforcement officer. **This bill is opposed by the North Carolina Sheriffs' Association.**

HOUSE BILL 1438, Videoconference Technology in Court Proceedings, has been approved by the House Judiciary II Committee and is scheduled for consideration by the full House on Monday. **This bill is supported by the North Carolina Sheriffs' Association.**

HOUSE BILL 1444, Limited Hunting Privilege/Nonviolent Felons, has been approved by the House Judiciary III Committee and referred to the House Finance Committee. It would allow a person who has been convicted of certain felonies to be issued a limited hunting privilege permit, and the person would be allowed to own and carry a firearm solely for the purpose of hunting game or related hunting activities. This legislation would require a person to apply for a limited hunting privilege permit from the Sheriff. The permit must list the firearms that the applicant is authorized to own or carry and a copy of the permit must be submitted by the Sheriff to the State Bureau of Investigation (SBI) within five days of the issuance of the permit. It specifies that the permit fee would be \$15 to be used by the Sheriff to pay the cost of administering this legislation and for other law enforcement purposes.

HOUSE BILL 1447, Crime Stoppers Tips Are Confidential, has been approved by the House Judiciary III Committee and has been referred to the House Ways and Means Committee. **This bill is supported by the North Carolina Sheriffs' Association.**

HOUSE BILL 1456, Drug Felon/No Large Dogs, has been approved by the House Ways and Means Committee and referred to the House Judiciary II Committee.

HOUSE BILL 1464, Clarify Domestic Violence Laws/Arrest/Valid Protective Order, has been approved by the House Ways and Means Committee and been referred to the House Judiciary II Committee. This bill was amended in committee with language to make it clear that it is overruling the North Carolina Court of Appeals case of *Cockerham-Ellerbee v. The Town of Jonesville*. That court case held that mandatory arrest under G.S. 50B-4.1(b) was discretionary and this legislation will make it clear that compliance with that statute is mandatory and requires a law enforcement officer to arrest and take a person into custody without a warrant or other process if the person is in violation of a 50B Domestic Violence Protective Order.

HOUSE BILL 1476, Governmental Immunity/Adequacy of Remedies, has passed the House and been referred to the Senate Judiciary I Committee.

HOUSE BILL 1480, Study Expand Permitted 911 Fund Uses, was amended in the House Public Utilities Committee and would create the House Select Committee on the Use of 911 Funds to study the use of 911 funds by Public Safety Answering Points (PSAPs).

SENATE BILL 68, No ABC Establishments Within 1,000 Feet of Schools, has been scheduled for consideration by the full House next Tuesday.

SENATE BILL 94, Felony to Assault Probation/Parole Officer, was approved by the Senate Judiciary II Committee and referred to the Senate Appropriations Committee.

SENATE BILL 105, Suspension and Revocation of Fishing Licenses, was approved by the Senate Agriculture/Environment/Natural Resources Committee and is likely to be considered by the full Senate next week.

SENATE BILL 167, No Smoking/Cell Phones on Prison Grounds, has been approved by the Senate Judiciary I Committee and is likely to be scheduled next week for consideration by the full Senate.

SENATE BILL 203, DMV to Issue Special ID Cards/Special Circumstances, passed the Senate and will be sent to the House.

SENATE BILL 252, Strengthen Local Emergency Management, has been approved by the Senate and will be sent to the House.

SENATE BILL 253, Statutorily Establish Division of Emergency Management, has been approved by the Senate and will be sent to the House.

SENATE BILL 254, Allows Mutual Aid Between State and Local Government, has been approved by the Senate and will be sent to the House.

SENATE BILL 255, Authorize Emergency Management Certification Program, has been approved by the Senate and sent to the House.

SENATE BILL 256, Clarify Local Government Evacuation Authority, has been approved by the Senate. This bill has also been approved by the House Committee on Homeland Security, Military and Veterans Affairs and been referred to the House Judiciary I Committee.

SENATE BILL 257, Expand Division of Emergency Management Authority, was approved by the Senate State and Local Government Committee and has been referred to the Senate Appropriations Committee.

SENATE BILL 368, Various Changes in Motor Vehicle Law, has been approved by the Senate Finance Committee and is likely to be scheduled for consideration by the full Senate next week.

SENATE BILL 464, Prevent Racial Profiling, was considered on Tuesday and Thursday this week by the Senate Judiciary I Committee. Various objections to the bill were raised by the North Carolina Sheriffs' Association, the North Carolina Association of Chiefs of Police and the State

Highway Patrol. Various requested changes are being considered to this legislation and it is scheduled to be reconsidered in committee next Tuesday.

SENATE BILL 467, Disposal of Unclaimed Animals, has been renamed as Recover Pets/Relieve Overcrowding at Shelters. This bill has been approved by the Senate Agriculture/Environment/Natural Resources Committee and is likely to be scheduled for consideration by the full Senate next week.

SENATE BILL 469, Jeanne Hopkins Lucas Act, was scheduled for consideration on Wednesday in the Senate Pensions and Retirement and Aging Committee, but no action was taken.

SENATE BILL 514, Magistrates Provide Appointment of Counsel, was amended in committee to specify that only magistrates with law degrees who are approved by the Chief District Court Judge can be authorized to appoint counsel. We have identified a concern with this legislation that might adversely impact the ability of law enforcement officers to obtain information or confessions from criminal defendants. We are working closely with the bill sponsor to solve this problem, and we do not anticipate that this bill will be enacted into law unless the law enforcement investigatory concerns are resolved. We are optimistic that the law enforcement investigatory issue can be satisfactorily resolved and that the bill will then be amended prior to be enacted into law.

SENATE BILL 526, School Violence Prevention Act, has passed the Senate and been sent to the House.

SENATE BILL 557, Remove Restriction/Law Enforcement Officer Disability Benefits, was considered in the Senate Pensions and Retirement and Aging Committee, but no action was taken.

SENATE BILL 624, 25-Year Law Enforcement Retirement, was considered Wednesday in the Senate Pensions and Retirement and Aging Committee, but no action was taken. We do not anticipate that this bill will be discussed any further during this year's legislative session. The fiscal analysis on this bill indicates that it would cost state and local governments several million dollars and it is unlikely that the General Assembly will approve any legislation this year with a significant cost due to the several billion dollar shortfall in the State's budget.

SENATE BILL 713, Removal of Electronic Monitoring Device, was approved by the Senate Judiciary I Committee and is likely to be scheduled next week for consideration by the full Senate.

SENATE BILL 759, Modify DWI Checking Station Requirements, has passed the Senate and been referred to the House Ways and Means Committee. As originally introduced, this bill was opposed by the North Carolina Sheriffs' Association and other law enforcement associations and agencies, but it was amended in the Senate to address the law enforcement concerns and now is not opposed by the North Carolina Sheriffs' Association.

SENATE BILL 797, Reasons for Judge's Disqualification, has been approved by the Senate Judiciary I Committee and is likely to be scheduled for consideration next week by the full Senate.

SENATE BILL 984, Access to Juvenile Records/Violent Offenders, has been approved by the Senate Judiciary I Committee and is likely to be considered next week by the full Senate.

SENATE BILL 986, Clarify Local Special Separation Allowance, was approved by the Senate Pensions and Retirement and Aging Committee and is likely to be scheduled for consideration by the full Senate next week. **This bill is supported by the North Carolina Sheriffs' Association.**

SENATE BILL 1013, Citizens' Right To Know Act/Pretrial Release, was considered in the Senate Judiciary II Committee on Thursday, but was not approved. It is scheduled to be considered again by the committee next Tuesday. **This bill is opposed by the North Carolina Sheriffs' Association.**

SENATE BILL 1076, Modify Criminal Justice Partnership Program, has been approved by the Senate Judiciary II Committee and is likely to be scheduled for consideration by the full Senate next week.

SENATE BILL 1077, Expand Parole Officers' Delegated Authority, has been approved by the Senate Judiciary II Committee and is likely to be scheduled for consideration by the full Senate next week.

SENATE BILL 1078, Delay Bond/Probationer Arrested For Felony, received tentative approval from the Senate on Tuesday and is scheduled for further consideration by the full Senate next Monday.

SENATE BILL 1089, Low-Risk Probationers May Be Unsupervised, has been approved by the Senate Judiciary II Committee and is likely to be considered by the full Senate next week.

SENATE BILL 1091, Clarify Wt. Measurement/Meth Trafficking, passed the Senate and has been referred to the House Ways and Means Committee. **This bill is supported by the North Carolina Sheriffs' Association.**

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.

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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