

North Carolina Sheriffs' Association

Serving the Sheriffs and Citizens of North Carolina since 1922

Weekly Legislative Report



May 15, 2009

As scheduled, the May 14th “crossover” deadline came and went yesterday. Unlike some previous years, we did not hear any discussion of extending the deadline. To the contrary, for the last two weeks committees have been meeting at a fast pace and for extended time periods in order to get all of the bills considered.

Several committees met two or three times per day early in the week and a couple of committees actually met on Thursday during the lunch hour break. Thursday was relatively routine and orderly with the Senate finishing their agenda around lunch time and the House finishing their agenda just before supper time. Both the House and the Senate have scheduled no bills on their agenda for Monday evening to allow members to have an extended weekend to rest after the big “crossover” deadline push.

Next Tuesday, the House Appropriations Subcommittees will be given notice of how much money they can spend in the 2009-2010 budget. Once those budget “targets” are released, the House Appropriations Subcommittees will get busy putting together their version of the budget. That process will take several weeks and then the House will send its budget to the Senate. Then, the House and Senate will meet to resolve the differences between their two separate and different versions of the budget. It has been reported that because of the low income tax collections received on April 15th, the House budget (and the final version of the budget) will need to be at least \$1 billion lower than what the Senate projected.

While the impact of the pending budget cuts is frightening, and will certainly have an adverse affect on many criminal justice agencies, the good news is that it appears that no bills passed prior to the “crossover” deadline that are detrimental to the Office of Sheriff, or the law enforcement and criminal justice community.

BILL STATUS

HOUSE BILL 209, Sex Offender Registry/Liberties With/ Student, has passed the House and been referred to the Senate Judiciary I Committee.

HOUSE BILL 243, Mental Health/Law Enforcement Custody, is the bill that, as originally introduced, would have made changes to the Sheriff’s responsibility for transporting respondents in involuntary commitment proceedings. As originally introduced, this bill was opposed by the North

Carolina Sheriffs' Association. We have been working closely for several weeks with the bill's sponsor and other interested advocacy groups to address the problems with this legislation. The bill's sponsor agreed to remove the provisions from the bill that were opposed by the North Carolina Sheriffs' Association. The amended version of the bill was approved by the House Mental Health Reform Committee, House Judiciary I Committee and the full House and was then sent to the Senate. The bill's sponsor, the North Carolina Sheriffs' Association and the other interested advocacy groups have agreed to continue discussing the Sheriff's transportation responsibilities for involuntary commitments to see if changes can be identified to clarify how long a Sheriff's deputy must remain with the respondent at the hospital or 24-hour facility. If changes to this part of the law can be agreed upon by all interested groups, those agreed upon changes can be added to the bill when it is considered by the Senate.

HOUSE BILL 266, Use of Deadly Force by Law Enforcement Officer/Collect and Publish, was amended at the request of the North Carolina Sheriffs' Association and the North Carolina Department of Justice. As amended, the bill passed the House and has been sent to the Senate. While the original version of the bill was opposed by the North Carolina Sheriffs' Association, the troubling provisions of the bill have been removed and rewritten and the Association is no longer opposed to this bill.

HOUSE BILL 275, Sex Offenders Can't be EMS Personnel, has been approved by the House and referred to the Senate Judiciary I Committee.

HOUSE BILL 406, Western Justice Academy/Wildlife Resources Firing Range, has passed the House and been referred to the Senate Appropriations Committee.

HOUSE BILL 471, Selling Motor Vehicle Registrations Unlawful, was approved by the House Transportation Committee and referred to the House Judiciary III Committee.

HOUSE BILL 538, Charlotte/Mecklenburg School Board Police, has been passed by the House and sent to the Senate.

HOUSE BILL 656, Mental Health Proceedings/No Restraint, was the bill that, as originally introduced, would have prohibited Sheriffs from using restraints on minors being transported for involuntary commitment hearings, unless a judge has ordered the use of restraints. This bill as introduced was opposed by the North Carolina Sheriffs' Association. We spent considerable time working with the bill's sponsor and the advocacy organizations that requested this bill to see if there was a way to rewrite the language that would not adversely affect the responsibilities of the Sheriff. Early this week, the bill was approved by the House Judiciary II Committee so that it could be sent to the House Mental Health Reform Committee for further evaluation, analysis and consideration. Because the adverse impacts on the Office of Sheriff could not be resolved this week, the House Mental Health Reform Committee did not take any action on the bill. We have agreed to continue talking with the bill's sponsor and the advocacy groups who requested this legislation to see if there are any changes that can be made to the bill that will meet the needs of the advocacy groups without adversely impacting the responsibilities of the Office of Sheriff. If a future agreement cannot be reached, the bill will not be considered any further during the 2009-2010 General Assembly. If an agreement can be reached, the agreed upon language can be added to another bill as it progresses through the General Assembly process this year.

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

HOUSE BILL 722, Paraphernalia Control Act, has been passed by the House and sent to the Senate.

HOUSE BILL 726, Clarify Expunctions. This is the bill that as originally introduced would have allowed criminal defendants who receive a Prayer for Judgment Continued (PJC) to have their criminal records expunged. This bill as originally introduced was opposed by the North Carolina Sheriffs' Association and numerous other groups. This week the bill was amended to remove all of the provisions objected to. The current version of the bill amends two existing General Statutes that allow for limited expungement of offenses committed by persons less than 18 years of age or for certain alcohol offenses by persons less than 21 years of age. The language in this bill clarifies that the person's age at the time they committed the offense is the age that should be used to determine whether or not the person qualifies for expungement. While that appears to be the original intent of these General Statutes, as currently on the books they use the date of the defendant's conviction in court rather than the defendant's age at the time the offense was committed for the determination of whether or not the defendant qualifies for the expungement. This clarifying change was not opposed by the North Carolina Sheriffs' Association or other groups that were opposed to the original version of the bill.

HOUSE BILL 787, Increase Penalty/Remove Serial # From Gun, has passed the House and been sent to the Senate.

HOUSE BILL 816, Clarify Local Special Separation Allowance, has passed by the House and been sent to the Senate. **This bill is supported by the North Carolina Sheriffs' Association.**

HOUSE BILL 827, Unattended Children in Vehicles, has passed the House and been sent to the Senate.

HOUSE BILL 836, Removal of Electronic Monitoring Device, has passed the House and been assigned to the Senate Rules Committee.

HOUSE BILL 839, Require Safety Motorcycle Helmets/Under 21 Only, has passed the Senate and been referred to the House Transportation Committee and then referred to the House Judiciary III Committee.

HOUSE BILL 857, Minimum Caliber of Rifles for Taking Big Game, has passed the House and been sent to the Senate.

HOUSE BILL 859, Amend Conditions of Probation, has passed the House and been sent to the Senate.

HOUSE BILL 885, No Picketing/Disrupt Residential Tranquility, has passed the House and been sent to the Senate.

HOUSE BILL 1076, Supervision of Certain Defendants, has passed the House and been sent to the Senate Rules Committee.

HOUSE BILL 1078, Report School Violence to Local Education Authority Office, has passed the House and been sent to the Senate.

HOUSE BILL 1094, Require Documentation-Certain Special Plates, has passed the House and been sent to the Senate.

HOUSE BILL 1098, Kill Search and Rescue Animal, has passed the House and been sent to the Senate.

HOUSE BILL 1109, State Fairgrounds Special Police/Mutual Aid, has passed the House and been sent to the Senate.

HOUSE BILL 1117, Sex Offender Can't Drive Bus with Children, was scheduled for consideration by the full House, but was withdrawn from consideration and referred to the House Appropriations Committee.

HOUSE BILL 1119, Sheriff/Inspect Prescription & Drug Records, was approved by the House Health Committee and has been referred to the House Judiciary III Committee.

HOUSE BILL 1129, Clarify Silver Alert-All Ages, has been passed by the House and sent to the Senate.

HOUSE BILL 1132, Renew Concealed Carry Permit/30 Day Limit, has passed the House and been sent to the Senate. **This bill is supported by the North Carolina Sheriffs' Association.**

HOUSE BILL 1185, Habitual DWI-Reinstatement Petition/10 Yrs, has passed the House and been sent to the Senate.

HOUSE BILL 1190, Preservation of DNA & Biological Evidence, has passed the House and been sent to the Senate.

HOUSE BILL 1228, ABC Rules/Private Clubs, has passed the House and been sent to the Senate.

HOUSE BILL 1242, Youthful Offender/Sentence Review, was considered by the House Judiciary I Committee, but was removed from consideration and no action was taken and the bill remains in that committee.

HOUSE BILL 1255, Sex Offenders/Permanent No Contact Order, has passed the House and been sent to the Senate.

HOUSE BILL 1256, Larceny of a Motor Vehicle Part, has passed the House and been sent to the Senate.

HOUSE BILL 1261, Protect Our Kids/Cyber Bullying Misdemeanor, has passed the House and been sent to the Senate.

HOUSE BILL 1265, Identity Theft Warning/Employment Assistance, would require that private personnel services, job listing services and individuals provide a notice to potential customers concerning identity theft. This bill has passed the House and been sent to the Senate.

HOUSE BILL 1307, Possess Prescription Drug/Not Drug Trafficking, has passed the House and been sent to the Senate. This bill as originally introduced was opposed by the North Carolina Sheriffs' Association. Due to the opposition from numerous members of the House and the North Carolina Sheriffs' Association, this bill was amended to remove all provisions of the bill and replace them with language that creates a legislative study of this issue. At the request of the North Carolina Sheriffs' Association, the legislative study language was amended to include the appointment of a Sheriff to the legislative study by the Speaker of the House, after consultation with the North Carolina Sheriffs' Association.

HOUSE BILL 1312, Omnibus Highway/Motor Vehicle Statute Changes, has passed the House and been referred to the Senate Judiciary I Committee.

HOUSE BILL 1317, Sex Offender Registry Changes, has passed the House and been sent to the Senate.

HOUSE BILL 1327, Schools Notified of Criminal Intelligence Information, has passed the House and been sent to the Senate.

HOUSE BILL 1329, Consolidate Expunction Statutes, has passed the House and been sent to the Senate Judiciary I Committee. This bill simply consolidates the existing expunction statutes together in one place in the General Statutes, rather than in the several different places that they are now scattered throughout the statutes. This bill does not make any changes in the expunction statutes themselves.

HOUSE BILL 1334, Create Criminal Offense/Home Invasion, was scheduled for consideration by the full House, but was removed from the agenda and referred to the House Appropriations Committee.

HOUSE BILL 1360, Amend Habitual Offender Law, has been referred from the House Judiciary III Committee to the House Ways and Means Committee. **This bill is opposed by the North Carolina Sheriffs' Association.**

HOUSE BILL 1362, Change Law on Drug Trafficking Convictions, was scheduled for consideration in the House Judiciary II Committee, but was not considered and remains in that committee. **This bill is opposed by the North Carolina Sheriffs' Association.**

HOUSE BILL 1414, The Youth Accountability Act, is the bill that would raise the juvenile age from 16 to 18 without providing any funding for the change and without providing any structure as to how the change would be implemented. This bill was brought up for consideration without any advance public notice during the supper break on Wednesday. It was considered around the committee

chairman's desk on the floor of the House with minimal discussion and with no public input or comment allowed. The committee voted, on a divided vote, to refer the bill to the House Appropriations Committee. This bill has now been approved by both the House Juvenile Justice Committee and the House Judiciary II Committee in meetings at which no public comment was allowed. The primary bill sponsor and the Judiciary II Committee Chairman have both assured us that public comment and discussion will be allowed on this bill on policy issues and budget issues when the bill is considered by the House Appropriations Committee.

HOUSE BILL 1438, Videoconference Technology in Court Proceedings, has passed the House and been sent to the Senate.

HOUSE BILL 1447, Crime Stoppers Tips Are Confidential, has passed the House and been sent to the Senate. It was amended by the full House to provide that evidence given in a Crime Stoppers Tip from an anonymous source cannot be "relied upon, or considered by, a judicial official in determining whether probable cause exists to issue either an arrest or search warrant." **This bill is supported by the North Carolina Sheriffs' Association.**

HOUSE BILL 1449, Juvenile Code Revisions, has passed the House and been sent to the Senate.

HOUSE BILL 1464, Clarify Domestic Violence Laws/Arrest/Valid Protective Order, has passed the House and been sent to the Senate.

HOUSE BILL 1489, Ignition Interlock-All DWI Offenders, was approved by the House Science and Technology Committee and re-referred to the House Judiciary III Committee.

HOUSE BILL 1497, Spectral Fluorescence Signature Drug Analysis, was approved by the House Science and Technology Committee and was referred to the House Judiciary III Committee.

SENATE BILL 11, District Attorney and Assistant District Attorney/Concealed Gun in Court House, was amended in the Senate Judiciary I Committee at the request of the North Carolina Sheriffs' Association. As originally introduced, this bill would have allowed a district attorney or an assistant district attorney with a concealed handgun permit to carry a concealed handgun anywhere in a courthouse building. With agreement from the bill's sponsor and at the request of the North Carolina Sheriffs' Association, the bill was amended to provide that a district attorney or assistant district attorney with a concealed handgun permit may carry a concealed handgun in the courthouse building, but not in an actual courtroom. In addition, at any time that the weapon is not on the person of the district attorney or assistant district attorney, the weapon must be in a locked compartment. And, to be authorized to carry a concealed weapon under this statute, the district attorney or assistant district attorney must successfully complete weapons retention training substantially similar to that provided to certified law enforcement officers in North Carolina. As amended, the bill passed the Senate and was sent to the House. The North Carolina Sheriffs' Association does not oppose the bill as amended.

SENATE BILL 36, Expand Chemical Analysis Sites/Controlled Substance, passed the Senate and has been sent to House.

SENATE BILL 68, No ABC Establishments Within 1,000 Feet of Schools, applies only to Guilford County and would prohibit the location of a new ABC licensed establishment within 1,000 feet of a church, public school or a non-public school. This bill has passed the Senate and been referred to the House Local Government I Committee.

SENATE BILL 69, Crime Control and Public Safety Wrecker Service Fee Rules, has passed the Senate and been sent to the House.

SENATE BILL 94, Felony to Assault Probation/Parole Officer, was considered by the full Senate and then withdrawn from consideration and referred to the Senate Appropriations Committee.

SENATE BILL 105, Suspension and Revocation of Fishing Licenses, has passed the Senate and been referred to the House Committee on Marine Resources and Aquaculture.

SENATE BILL 138, Salvia Divinorum Unlawful, has passed the Senate and been referred to the House.

SENATE BILL 167, No Smoking/Cell Phones on Prison Grounds, has passed the Senate and been referred to the House Ways and Means Committee.

SENATE BILL 203, DMV to Issue Special ID Cards/Special Circumstances, has passed the Senate and been referred to the House Transportation Committee.

SENATE BILL 262, Expunctions/Purge Online Databases, has passed the Senate and been sent to the House.

SENATE BILL 307, Regulate Ownership and Use of Certain Reptiles, has passed the Senate and been sent to the House.

SENATE BILL 368, Various Changes in Motor Vehicle Law, has passed the Senate and been referred to the House Transportation Committee.

SENATE BILL 372, Clarification of Nuisance Abatement Laws, has passed the Senate and been sent to the House.

SENATE BILL 464, Prevent Racial Profiling, as originally introduced, was opposed by the North Carolina Sheriffs' Association and many other law enforcement agencies and associations. At the request of the North Carolina Sheriffs' Association and other law enforcement agencies and associations, the bill was amended to delete the requirement that traffic stop statistics be collected during traffic and DWI checkpoints. Also deleted was the provision that would have required an additional traffic stop statistic to be collected concerning whether or not there were children in the vehicle if the driver was arrested. An amendment was added to the bill that would require law enforcement officers, when making an arrest, to ensure that any children who are present are left in the custody of a responsible adult or left in the custody of the Department of Social Services, and this requirement would apply whether the arrest was conducted during a traffic stop or at any other time. Based on the amendments that have been made to this bill, it is no longer opposed by the North Carolina Sheriffs' Association or the other agencies and associations that had concerns with

the original version of the bill. As amended, this bill passed the Senate and has been sent to the House.

SENATE BILL 488, Establish Proportionate Sentence Lengths, has been approved by the Senate Judiciary I Committee and referred to the Senate Appropriations Committee. **This bill is supported by the North Carolina Sheriffs' Association.**

SENATE BILL 489, Even Out Prior Criminal Record Points, has been approved by the Senate Judiciary I Committee and referred to the Senate Appropriations Committee. **This bill is supported by the North Carolina Sheriffs' Association.**

SENATE BILL 490, Adjust B1-E Felony Penalties, has been approved by the Senate Judiciary I Committee and referred to the Senate Appropriations Committee. **This bill is supported by the North Carolina Sheriffs' Association.**

SENATE BILL 491, Expunge Nonviolent Crimes, has been approved by the Senate Judiciary I Committee and referred to the Senate Finance Committee. The North Carolina Sheriffs' Association had "no position" on this bill. It would allow for expungements in very limited cases after a ten year waiting period during which no other criminal offenses could be committed.

SENATE BILL 628, Release Controlled Substance Reporting Data To Chief Medical Examiner, has passed the Senate and been referred to the House.

SENATE BILL 649, Modify Speed Zone Restrictions, has passed the Senate and been sent to the House.

SENATE BILL 709, Home Improvement Fraud, would create the criminal offense of home improvement fraud and would apply when a contractor uses any false pretense to cause another person to enter into a home improvement contract. A first offense would be a Class H felony; a second offense would be a Class F felony; and a third or subsequent offense would be a Class C felony. This bill was approved by the Senate and sent to the House.

SENATE BILL 713, Removal of Electronic Monitoring Device, has passed the Senate and been referred to the House Judiciary III Committee.

SENATE BILL 726, Amend House Arrest Laws/Adult/Juvenile, has passed the Senate and been referred to the House.

SENATE BILL 794, Sex Offender/Incapacity To Proceed, has passed the Senate and been sent to the House.

SENATE BILL 797, Reasons for Judge's Disqualification, has passed the Senate and been referred to the House Ways and Means Committee.

SENATE BILL 859, Tort Claims Act/Local Government Opt-in, has passed the Senate and been sent to the House. This bill gives discretion to a local government if they voluntarily wish to be covered for civil liability by the provisions of the State Tort Claims Act. This legislation was

requested by the City of Charlotte and we have not heard of any other city or town at this time that is seeking this authority. This bill does not require any city, town or county to participate under the State Tort Claims Act. This bill only applies to cities with a population of more than 500,000 (Charlotte).

SENATE BILL 920, Probation Reform, has passed the Senate and been sent to the House.

SENATE BILL 928, The Castle Doctrine, has passed the Senate and been referred to the House.

SENATE BILL 929, No Set Aside of Bond Forfeit/Actual Notice, has passed the Senate and been referred to the House Ways and Means Committee.

SENATE BILL 931, Commercial Drivers License Changes, has passed the Senate and been referred to the House Transportation Committee.

SENATE BILL 955, Bicycle Lights at Night, has passed the Senate and been referred to the House Transportation Committee.

SENATE BILL 978, Firearms Qualification Sites/Retired Law Enforcement Officers, has passed the Senate and been sent to the House.

SENATE BILL 984, Access to Juvenile Records/Violent Offenders, has passed the Senate and been referred to the House Juvenile Justice Committee.

SENATE BILL 986, Clarify Local Special Separation Allowance, has passed the Senate and been referred to the House Committee on State Government/State Personnel. **This bill is supported by the North Carolina Sheriffs' Association.**

SENATE BILL 990, Increase Penalty/Timber Theft, has passed the Senate and been referred to the House.

SENATE BILL 1000, Motor Vehicle Size and Weight Law Changes, has passed the Senate and been sent to the House.

SENATE BILL 1013, Citizens' Right To Know Act/Pretrial Release, was considered by the Senate Judiciary II Committee, but no action was taken on the bill and it remains in committee. This bill is opposed by the North Carolina Sheriffs' Association, the North Carolina Association of County Commissioners and the North Carolina Pretrial Services Association.

SENATE BILL 1017, Enhance Protections against Identity Theft, has passed the Senate and been sent to the House.

SENATE BILL 1026, Local Government Tort Claims Act, was considered by the Senate Judiciary I Committee and after some discussion of this bill, the bill's sponsor removed it from the committee's agenda and no action was taken. This bill is opposed by the North Carolina Sheriffs' Association and by the North Carolina Association of County Commissioners, North Carolina League of Municipalities and the North Carolina School Boards Association. This bill would change how

negligence claims against local governments are handled. The version of the bill considered in committee was much improved over the originally introduced version, but the improved version was still not acceptable to local governments. We anticipate that the bill's sponsor will want to continue discussions about this issue and we will work closely with the North Carolina Association of County Commissioners, North Carolina League of Municipalities and North Carolina School Boards Association to protect the interests of local governments and local government officials.

SENATE BILL 1056, Require Firearms Certification/Bail Bondsman, has passed the Senate Judiciary I Committee and was referred to the Senate Finance Committee.

SENATE BILL 1062, Strengthen Domestic Violence Protective Orders/Pets, has passed the Senate and been sent to the House.

SENATE BILL 1076, Modify Criminal Justice Partnership Program, has passed the Senate and been referred to the House Ways and Means Committee.

SENATE BILL 1078, Delay Bond/Probationer Arrested For Felony, has passed the Senate and been referred to the House Ways and Means Committee.

SENATE BILL 1086, Correctional/Probation Training Commission Study, was amended by the State and Local Government Committee and then referred to the Senate Appropriations Committee. The bill was amended to delete the provisions establishing the Probation Standards Commission and replaced with language asking the North Carolina Department of Correction and Department of Justice to study various certification issues.

SENATE BILL 1089, Low-Risk Probationers May Be Unsupervised, has passed the Senate and been sent to the House.

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).

Eddie Caldwell
Executive Vice President and General Counsel
North Carolina Sheriffs' Association

www.ncsheriffs.org