

# North Carolina Sheriffs' Association

Serving the Sheriffs and Citizens of North Carolina since 1922

Weekly Legislative Report



August 11, 2009

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The 2009 Session of the North Carolina General Assembly officially adjourned today, although much of the final business of the Session was actually concluded last week. The Senate concluded their discussion and consideration of legislative bills and left town last Friday and asked a few local senators to come in today to accept final paperwork from the House and to officially closeout the Session.

The House concluded the bulk of its work last Thursday and recessed for the weekend. The House returned on Monday evening and concluded their work at approximately 11:00 p.m.

As of today, there are 108 bills that have been sent to Governor Beverly Perdue for her signature that are pending. The Governor has until September 10, 2009 to take action on those bills (which is the 30<sup>th</sup> day after adjournment.) If all bills pending in the Governor's office are enacted into law, and not vetoed, there will be 578 legislative bills enacted in 2009, compared with 551 legislative bills enacted in the 2007 session.

Today, Tuesday, August 11<sup>th</sup>, the House convened a "skeleton" session at 12 Noon and the Senate convened a "skeleton" session at 1:00 p.m. A "skeleton" session is convened when there are no legislative bills on the agenda for formal action and when only a small handful of legislators are asked to attend the session, with the majority of legislators not in attendance.

Today, the "skeleton" sessions were utilized for the Speaker of the House and the Lieutenant Governor to officially sign the bills approved during the last few days so that they can be sent to Governor Beverly Perdue for her signature. The last bill to be signed today by legislative leaders was the Adjournment Resolution (Senate Bill 1109) which provides that the North Carolina General Assembly will adjourn today and will reconvene on Wednesday, May 12, 2010 at 12:00 Noon.

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## BILL STATUS

HOUSE BILL 67, License Plate Frame/State Name Visible/Study, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

HOUSE BILL 121, Regulation of Golf Carts by Local Governments, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

HOUSE BILL 191, General Statutes Clarifying Corrections, was amended to provide that it is not a violation of the law to possess an inoperable blue light on a “specially constructed vehicle” that is registered with DMV and used primarily for use in shows, exhibitions, parades or holiday/weekend activities, and not for general daily transportation. This bill has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

HOUSE BILL 209, Sex Offender Registry/Liberties With Student, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

HOUSE BILL 274, Clarifying Changes to State Law, makes changes to various provisions of law. Among other changes, this bill clarifies the authority of the Law Enforcement Support Services (LESS) Division of the North Carolina Department of Crime Control and Public Safety to obtain vehicles from the United States Department of Defense and to transfer those vehicles to another State agency or unit of local government, a volunteer fire department or a volunteer rescue squad. This bill has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

HOUSE BILL 378, Statutorily Establish Division of Emergency Management, has been enacted into law. **Effective: July 31, 2009.**

HOUSE BILL 406, Western Justice Academy/Wildlife Resources Firing Range, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

HOUSE BILL 473, Magistrate Can Carry Gun in Courthouse, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

HOUSE BILL 506, Clarify Entitlement to Counsel/Appointment, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

HOUSE BILL 764, 2009 Appointments Bill, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

Upon the recommendation of Senate President Pro Tempore Marc Basnight, Sheriff Rodney Midgett of Dare County was reappointed to the North Carolina Sheriffs' Education and Training Standards Commission. Sheriff Midgett serves as Vice-Chairman of the Commission.

Upon the recommendation of Senate President Pro Tempore Marc Basnight, the following persons were appointed to the North Carolina Criminal Justice Education and Training Standards Commission: Steve Johnson of Wake County, Terry Waterfield of Pasquotank County, Annie Harvey of Wake County, and Ricky Anderson of Pasquotank County.

Upon the recommendation of Speaker of the House Joe Hackney, the following persons were appointed to the North Carolina Criminal Justice Education and Training Standards Commission: James K. Festerman of Rockingham County, Richard Armstrong of Wake County, Vernon Bryant of Halifax County and Kevin Wallace of Wake County.

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HOUSE BILL 775, [Alternative Testimony/Children and Adults with Disabilities](#), has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

HOUSE BILL 806, [Notice on Liens for Homeowner Association Assessments](#), has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

HOUSE BILL 816, [Clarify Local Special Separation Allowance](#), has been signed into law by Governor Beverly Perdue. **This bill was supported by the North Carolina Sheriffs' Association. Effective: July 31, 2009.**

HOUSE BILL 836, [Modify Appropriations Act](#), contains various provisions that amend the State Budget Act that was enacted in Senate Bill 202, discussed below. The changes made to the State Budget Act in House Bill 836 have been included in our discussion of Senate Bill 202 below. This bill has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

HOUSE BILL 889, [Change Penalty for Misdemeanor Death By Vehicle](#), was amended to increase the penalty for misdemeanor death by a motor vehicle from a Class 1 misdemeanor to a Class A1 misdemeanor. This bill has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

HOUSE BILL 926, [Continuous Alcohol Monitoring Systems](#), was amended to allow the use of continuous alcohol monitoring systems in certain circumstances. It has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

HOUSE BILL 945, [Studies Act of 2009](#), requires certain studies to be conducted in the interim between now and when the General Assembly reconvenes in May, 2010 and authorizes other studies that may be conducted. This bill has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

HOUSE BILL 1002, [Amend Public Health-Related Laws](#), has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

HOUSE BILL 1078, [Report School Violence to Superintendent/Required Notification Policy](#), has been enacted into law. **Effective: December 1, 2009.**

HOUSE BILL 1098, [Protect Search and Rescue Animal](#), has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

HOUSE BILL 1117, [Sex Offender Can't Drive Bus with Children](#), has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

HOUSE BILL 1228, [ABC Rules/Private Clubs](#), has been signed into law by Governor Beverly Perdue. **Effective: July 31, 2009.**

HOUSE BILL 1255, [Sex Offenders/Permanent No Contact Order](#), has been signed into law by Governor Beverly Perdue. **Effective: December 1, 2009.**

HOUSE BILL 1256, Larceny of a Motor Vehicle Part, has been signed into law by Governor Beverly Perdue. **Effective: December 1, 2009.**

HOUSE BILL 1260, Conform State Law/Firearm Disentitlement, has been approved by the Senate and referred to the House Judiciary II Committee for further consideration.

HOUSE BILL 1261, Protect Our Kids/Cyber Bullying Misdemeanor, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

HOUSE BILL 1269, AOC Omnibus Courts Act, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

HOUSE BILL 1329, Consolidate Expunction Statutes, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

HOUSE BILL 1445, Reform Bill of 2009, was amended in committee last week to delete the section that allowed certain criminal defendants in certain limited circumstances to have their criminal records expunged. After being amended in committee, this bill was scheduled for consideration by the full House on Monday, August 10<sup>th</sup>. During the House Session on Monday, the bill was removed from the House agenda and referred back to the House Finance Committee for further consideration.

HOUSE BILL 1464, Clarify Domestic Violence Laws/Arrest/Valid Protective Order, has been signed into law by Governor Beverly Perdue. **Effective: July 31, 2009.**

HOUSE BILL 1595, Malt Beverage Special Permit, has been signed into law by Governor Beverly Perdue. **Effective: October 1, 2009.**

HOUSE BILL 1637, Modernize Precious Metal Business Permitting, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

SENATE BILL 69, Crime Control Wrecker Service Fee Rules, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

SENATE BILL 138, Salvia Divinorum Unlawful, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

SENATE BILL 167, No Smoking/Cell Phones on Prison Grounds, also includes provisions that make it unlawful for an inmate of a county jail to possess tobacco products or cellular telephones. This bill has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature. **This bill was supported by the North Carolina Sheriffs' Association.**

SENATE BILL 202, Appropriations Act of 2009, adopts the State Budget for 2009-2010 as amended by House Bill 836. A detailed analysis of this bill (as amended) will be included in the Final Legislative Report, but the following significant changes were made during the final budget negotiations:

1. Eliminates the requirement that the Department of Correction pay \$18 per day to counties for holding inmates with sentences of at least 30 days, but no more than 90 days. The elimination of this reimbursement will cost counties \$10 million on a statewide basis.

The final version of the State Budget Act that was enacted into law by the General Assembly and signed by the Governor repeals G.S. §148-32.1(a). That is the general statute that requires the Department of Correction to pay \$18 per day to counties for state prisoners serving sentences between 30 days and up to 90 days in the county jail.

The repeal of this general statute was not included in the Senate version of the budget bill. When the House was preparing their version of the budget bill, the House considered repealing this general statute and ultimately did not include a repeal of this general statute in the House version of the state budget bill. Under General Assembly procedures, items not included in either the Senate or House versions of the budget bill should not be contained in the final version of the budget bill that is enacted into law. Nevertheless, this provision was included in the final version of the state budget bill and this general statute was repealed.

When the final version of the state budget bill is presented to legislators, they have the option of voting for the budget bill or against the budget bill, but there is no opportunity for them to amend the budget bill. Therefore, once the state budget bill was presented to the House and the Senate that included the provision that repeals this general statute, no legislator could have amended this provision out of the bill.

Repeal of G.S. §148-32.1(a) **was opposed by the North Carolina Sheriffs' Association** and the North Carolina Association of County Commissioners when it was initially considered by the House. We had no information indicating that it would be added into the final budget bill until the final budget bill was released to the public. Although the state budget bill was signed into law by the Governor on August 7, 2009, the repeal of G.S. §148-32.1(a) is retroactive to July 1, 2009.

2. Continues the budgetary provision authorizing the Department of Correction to pay \$40 per day as reimbursement to counties for convicted prisoners awaiting transfer to the state prison system that are "back-logged" in county jails. **This provision was supported by the North Carolina Sheriffs' Association.**
3. Provides \$150,000 funding to the Governor's Crime Commission to contract with the North Carolina Sheriffs' Association for immigration enforcement services so that the Association can continue the Illegal Immigration Project as requested by the General Assembly. **This provision was supported by the North Carolina Sheriffs' Association.**
4. Divides Prosecutorial District 11 into District 11A (Harnett County and Lee County) and District 11B (Johnston County).
5. Requires the Law Enforcement Support Services (LESS) Division of the Department of Crime Control and Public Safety to charge fees for equipment provided to local law enforcement agencies that employ more than 25 officers and to charge a fee for any agency for whom LESS stores evidence.

6. Requires the Office of State Budget and Management to study the feasibility of consolidating the law enforcement agencies of all State government agencies. The study shall evaluate where consolidation will “generate efficiencies and economies and improve the coverage of the required enforcement function.” Any consolidation of law enforcement agencies recommended by the study would be 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 must be completed and a report filed by February 1, 2010 with the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee.
7. Provides that the \$250,000 appropriated to the Governor’s Crime Commission in 2008 for grants to Sheriffs’ Offices to assist with the enforcement of the sex offender registration law be provided by the Governor’s Crime Commission in a grant to the North Carolina Sheriffs’ Association to assist with training and technical assistance in the enforcement of the sex offender registration law by the Sheriffs’ offices. **This provision was supported by the North Carolina Sheriffs’ Association.**

SENATE BILL 203, DMV Handicap Placard Enforcement, was amended to require an expiration date on handicap placards that is visible from at least 20 feet. This bill has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

SENATE BILL 252, Comply with Melendez-Diaz Decision, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

SENATE BILL 262, Expunctions/Purge Online Databases, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

SENATE BILL 368, Various Changes in Motor Vehicle Law, has been signed into law by Governor Beverly Perdue. **Effective: Some provisions of this Act were effective on July 31, 2009 and other provisions become effective October 1, 2009.**

SENATE BILL 423, Waive CDL Test Requirement for Military Personnel, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

SENATE BILL 458, GED HS Diploma/No Drug Convict/Bail Bondsman, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

SENATE BILL 461, North Carolina Racial Justice Act, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

SENATE BILL 464, Prevent Racial Profiling, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

SENATE BILL 488, Establish Proportionate Sentence Lengths, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature. **This bill was supported by the North Carolina Sheriffs’ Association** and the North Carolina Conference of District Attorneys.

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SENATE BILL 489, Even Out Prior Criminal Record Points, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature. **This bill was supported by the North Carolina Sheriffs' Association** and the North Carolina Conference of District Attorneys.

SENATE BILL 514, Magistrates Provide Appointment of Counsel, has been enacted into law. **Effective: July 1, 2009.**

SENATE BILL 563, Pyrotechnics Safety Permitting Act, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

SENATE BILL 628, Release Control Substance Reporting Data To Chief Medical Examiner, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

SENATE BILL 631, DMV Bureau of License and Theft/Vehicles, authorizes the Division of Motor Vehicles, Bureau of License and Theft, to retain and use vehicles seized by the Bureau of License and Theft that are forfeited to the Division by a court of competent jurisdiction.

SENATE BILL 713, Removal of Electronic Monitoring Device, has been enacted into law. **Effective: December 1, 2009.**

SENATE BILL 726, Amend House Arrest Laws/Adult/Juvenile, was amended so that if a person is sentenced to house arrest with electronic monitoring, the defendant must execute a secured appearance bond. The bill has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

SENATE BILL 820, Create New Titling Categories, has been enacted into law. **Effective: December 1, 2009.**

SENATE BILL 851, Supervision of Certain Defendants, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

SENATE BILL 929, No Set Aside of Bond Forfeit/Actual Notice, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

SENATE BILL 931, Commercial Drivers License Changes, has been enacted into law. **Effective: March 31, 2010.**

SENATE BILL 978, Firearms Qualify Sites/Expand Commission Powers, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

SENATE BILL 984, Access to Juvenile Records/Violent Offenders, has been enacted into law. **Effective: December 1, 2009.**

SENATE BILL 990, Increase Penalty/Timber Theft, has been approved by the General Assembly and sent to Governor Beverly Perdue for her signature.

SENATE BILL 1062, Strengthen Domestic Violence Protective Orders/Pets, has been enacted into law. **Effective: August 5, 2009.**

SENATE BILL 1078, Delay Bond/Probationer Arrested For Felony, has been enacted into law. **Effective: December 1, 2009.**

SENATE BILL 1088, Funeral Expenses State Highway Patrol, passed the Senate and has been referred to the House Committee on Homeland Security, Military, and Veteran Affairs.

SENATE BILL 1109, Adjournment Resolution, provides that the North Carolina General Assembly will reconvene on Wednesday, May 12, 2010 at 12 Noon.

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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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[www.ncsheriffs.org](http://www.ncsheriffs.org)