

North Carolina Sheriffs' Association

Serving the Sheriffs and Citizens of North Carolina since 1922



Weekly Legislative Report

February 11, 2011

This legislative session has gotten off to an interesting start, partly because those members who previously were in a minority position are now in leadership positions and those who formerly were in leadership positions are now in minority positions. The legislators newly appointed to leadership positions are certainly interested in moving legislation that they have been interested in for many years but have not previously been able to get scheduled for debate. Those members who were formerly in leadership positions are trying to decide which issues of the new leadership they should oppose and which they should let go through without objection.

The other issue that is very much involved in many of the decisions on the most controversial bills is whether or not Governor Bev Perdue will veto the bill. In some cases the leadership is interested in pursuing legislation where they believe they can get enough votes in the House and Senate to override any veto of the Governor. In other cases the bill sponsors know that they can get enough votes to get the bill passed by the General Assembly but may not be able to get enough votes to override a veto by the Governor.

While those legislators who are now in leadership positions certainly want to get issues discussed that have been on their agenda for many years, they are also trying to make sure that they do not "over reach" in a way that generates a big backlash from the voters in 2012. Sometimes this means that a bill sponsor will willingly agree to an amendment from a member of the other political party in an effort to make the bill more acceptable to all members of the General Assembly and to avoid criticism from the other party or from the public.

As is customary, the General Assembly has invited Governor Bev Perdue to attend their session on Monday evening, February 14th, to deliver her State-of-the-State Address. This is the opportunity for the Governor to share her vision for the upcoming two years with the General Assembly, and the people of North Carolina. It is likely that Governor Perdue will outline some of her major budget issues and that then she will release her proposed budget later in the week.

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

BILLS OF INTEREST

HOUSE BILL 44, Prohibit Mobile Phone Use/Hands-Free Only, would make it unlawful to use a mobile telephone while driving a motor vehicle on a public street, highway or on a public vehicular area unless hands-free technology is used by the operator of the motor vehicle that is also using a mobile telephone. **Introduced by Representative Pierce, and referred to the House Committee on Commerce and Job Development Subcommittee on Science and Technology.**

HOUSE BILL 49, Laura's Law, would increase punishment for DWI offenders with three or more grossly aggravating factors, would authorize the court to require continuous alcohol monitoring for certain offenders and would increase the court costs for DWI offenders. **Introduced by Representatives Moore, Hastings, Torbett and Warren, and referred to the House Committee on Judiciary Subcommittee B.**

HOUSE BILL 52, The Castle Doctrine, is identical to Senate Bill 34 discussed in last week's Weekly Legislative Report and would clarify when a person may use force to protect against the unlawful and forcible entry into the person's dwelling. **Introduced by Representatives Spear, Owens and Crawford, and referred to the House Committee on Judiciary Subcommittee B.**

HOUSE BILL 54, Habitual Misdemeanor Larceny, would create a new criminal offense of "Habitual Misdemeanor Larceny" which would apply to any person convicted of three or more prior misdemeanor larceny offenses in any federal or state court and would make such person guilty of Habitual Misdemeanor Larceny. **Introduced by Representatives Crawford and Wray, and referred to the House Committee on Judiciary Subcommittee B.**

HOUSE BILL 59, Sex Offenders Can't Be Emergency Medical Services Personnel, would prohibit sex offenders from serving as emergency medical services personnel. **Introduced by Representatives McGrady, Mobley, Randleman and Haire, and referred to the House Committee on Judiciary Subcommittee B.**

HOUSE BILL 61, Speaker/Pro Tem Term Limits, would authorize the citizens of North Carolina to vote on a proposed constitutional amendment during the November 2012 general election that would limit the Speaker of the House of Representatives and the President Pro Tempore of the Senate by providing that they may not serve more than two terms. Since their terms are two years in length, it would limit each of them to serving a maximum of four years. **Introduced by Representatives Blust and Tillis, and referred to the House Committee on Judiciary.**

HOUSE BILL 63, Firearm in Locked Motor Vehicle/Parking Lot, would prohibit businesses, commercial enterprises and employers from adopting policies that prohibit the transportation or storage of a firearm or ammunition that is locked out of sight in a motor vehicle. If any business, commercial enterprise or employer adopted a policy in violation of this law, they would be civilly liable to anyone injured as a result of the unlawful prohibition. It would further specify that a business, commercial enterprise or employer would not be civilly liable for damages resulting from

another person's actions involving a firearm transported or stored in compliance with the law. **Introduced by Representatives Shepard, Hilton, Cleveland and Barnhart, and referred to the House Committee on Judiciary Subcommittee A.**

HOUSE BILL 64, Restore Partisan Judicial Elections, is identical to Senate Bill 47 discussed below. **Introduced by Representatives Sager, Dixon, Cleveland and Jones, and referred to the House Committee on Elections.**

HOUSE BILL 74, Castle Doctrine, would provide immunity from criminal prosecution and civil lawsuits when a person uses force, including deadly force, to defend themselves, others, their home, their vehicle, or in preventing the commission of a "forcible felony." Forcible felony is defined in the bill as: treason; murder; manslaughter; rape, sexual offense, sexual battery; robbery; burglary; arson; kidnapping; aggravated assault; felonious stalking; malicious use of explosive or incendiary device; and any other felony which involves the use or threat of physical force or violence against any individual. **Introduced by Representatives Hilton, Randleman, Cleveland and Brown.**

HOUSE BILL 79, Report on Mental Health Services Provided by Hospital Emergency Departments, would require the Department of Health and Human Services (DHHS) to provide a report on the utilization of hospital emergency departments by persons with mental illness. It would also require DHHS to develop a comprehensive plan for reducing the length of stays for persons with mental illness admitted to hospital emergency departments. **Introduced by Representatives Earle, Farmer-Butterfield, Brisson and Insko.**

HOUSE BILL 84, Expand Inpatient Psychiatric Beds/Funds, would appropriate over \$39 million for the expansion of local inpatient psychiatric beds or bed days. **Introduced by Representatives Insko, Farmer-Butterfield and Brisson.**

HOUSE BILL 87, Sunshine Amendment, proposes a constitutional amendment that could be voted on by the citizens of our state in the statewide election on November 6, 2012 that would expand the public records law governing which government agency records are available to the public. It would also expand the open meetings law governing which meetings of government agencies are open to the public. It would allow the General Assembly to enact legislation creating exemptions to the open records law. **Introduced by Representatives LaRoque and Moore.**

SENATE BILL 40, Forensic Sciences Act, is identical to House Bill 27 discussed in a previous Weekly Legislative Report. It would make various changes in the operation of the State Bureau of Investigation (SBI) crime lab as recommended by the Joint Select Committee on the Preservation of Biological Evidence. **Introduced by Senators Jones, Hartsell and McKissick, and referred to the Senate Committee on Judiciary I.**

SENATE BILL 42, Sex Offense/Child Witness Remote Testimony, would allow the court in a criminal case involving an alleged sexual offense against a child witness to rely solely on lay testimony to determine: (1) whether the child would suffer severe emotional distress by testifying in the defendant's presence; and (2) whether the child's ability to communicate with the court would be impaired by testifying. Based on the results of the analysis by the court, the court could decide whether or not to authorize remote testimony by the child witness. **Introduced by Senator Mansfield, and referred to the Senate Committee on Judiciary II.**

SENATE BILL 45, Emissions/Safety Inspection Changes, would prohibit a motor vehicle inspection station from failing a vehicle during the inspection solely because the “check engine light” had malfunctioned. It would also provide that a used vehicle is not required to be inspected prior to being offered for retail sale by a motor vehicle dealer if it has passed inspection within the previous 12 months. **Introduced by Senator East, and referred to the Senate Committee on Transportation.**

SENATE BILL 46, Surry Fox and Coyote Trapping Season, would establish an open season for trapping foxes and coyotes in Surry County from October 15 to March 1 of the following year. **Introduced by Senator East, and referred to the Senate Committee on State and Local Government.**

SENATE BILL 47, Restore Partisan Judicial Elections, would provide that all judicial elections held on or after January 1, 2012 would be held on a partisan political party basis and it would eliminate the current method for selecting judges in a non-partisan election. **Introduced by Senator Tillman, and referred to the Senate Committee on Judiciary I.**

SENATE BILL 49, Increase Fine for Speeding/School Zones, would increase the fine for speeding in a school zone from \$25 to \$250, and this fine would be in addition to the normal costs of court. **Introduced by Senator Allran, and referred to the Senate Committee on Judiciary II.**

SENATE BILL 53, Disapprove Closure of Dorothea Dix Hospital, is identical to House Bill 4 that was discussed in a previous Weekly Legislative Report and would disapprove of any plans to close Dorothea Dix Hospital in Raleigh. **Introduced by Senators Stein and Blue, and referred to the Senate Committee on Mental Health & Youth Services.**

SENATE BILL 54, Kappa Alpha Order Special Plate, would authorize the Division of Motor Vehicles to issue a special license plate for the Kappa Alpha Order Educational Foundation and the additional fee of \$10 would go to support educational and leadership opportunities for students attending North Carolina colleges and universities. **Introduced by Senators Stein and Hunt, and referred to the Senate Committee on Finance.**

SENATE BILL 57, Habitual Misdemeanor Larceny, is identical to House Bill 54 discussed in last week’s Weekly Legislative Report. **Introduced by Senator Berger, and referred to the Senate Committee on Judiciary II.**

SENATE BILL 61, Reward Amount/Arrest of Fugitive From Justice, would increase from a maximum of \$10,000 to a maximum of \$100,000 the amount of an award that the Governor could offer for: (1) the apprehension of a fugitive from justice; or (2) information leading to the arrest and conviction of a fugitive from justice. **Introduced by Senator East.**

BILL STATUS

HOUSE BILL 3, Exclusionary Rule/Good Faith Exception, has been approved by the House and sent to the Senate for further consideration.

HOUSE BILL 18, Restore Firearms Rights/Technical Corrections, passed the House and has been sent to the Senate for further consideration.

HOUSE BILL 27, Forensic Sciences Act, was considered by the House this week, withdrawn from the calendar and rescheduled for additional consideration on February 15, 2011.

SENATE BILL 7, Ban Mephedrone, passed the Senate and has been sent to the House for further consideration.

SENATE BILL 9, Make Synthetic Cannabinoids Illegal, has passed the Senate and has been sent to the House for further consideration.

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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