

North Carolina Sheriffs' Association

Serving the Sheriffs and Citizens of North Carolina since 1922



Weekly Legislative Report

February 22, 2013

The General Assembly reconvened this week in joint session on Monday, February 18, 2013 at 7:00 p.m. for Governor McCrory's State of the State address.

Court Fines Lawsuit

The state Court of Appeals has ruled that a county school system can sue the state over control of court fines imposed through a new law. A three-judge panel ruled Tuesday that the Richmond County Board of Education does have standing to sue state office holders that typically have immunity from lawsuits. Lawmakers in 2011 created a \$50 fine for traffic violations resulting in a conviction for improper equipment which is used to partially fund the Statewide Misdemeanant Confinement Program. Lawyers for the Richmond County schools sued last year, claiming the new law violates language in the state Constitution that says court fines must be spent to benefit public education in the county where the fines are collected. The case will now be sent back to Richmond County Superior Court for a trial to be held on the merits of the schools' claim.

Gun Permit Records

The Senate Judiciary II Committee had a lively debate this week but didn't vote on a bill that would exempt pistol purchase permits, concealed carry permits, and pistol sales records from disclosure under the public records law. Under Senate Bill 28, the information would be available only upon request of law enforcement agencies or by court order, while exempting it from the Public Records Act. The legislation wouldn't apply to long guns and other rifles because those weapons don't require purchase permits.

The bill sponsor, Senator Stan Bingham, said the measure was aimed at reducing gun thefts. He argued that criminals may target homes where they know there are guns for the taking. Gregg Stahl, Director of Government Relations for the N.C. Sheriffs' Association, told the legislative committee that sheriffs across the state have also heard from residents who don't own guns who fear they would be targeted for thefts as well. "The list of gun owners also tells us where there are no guns," Stahl said.

Opponents argued that they had seen no data to suggest that criminals are using public information about gun ownership to help commit crimes. John Bussian, a lobbyist for the N.C. Press Association, told the committee that he was opposing "yet another government records secrecy bill."

Some of the best media reporting across the country on the flow of arms, he said, has been done using the types of records that the bill would exempt from the Public Records Act.

But others, including lobbyists for the N.C. Rifle and Pistol Association and the N.C. Firearms Dealers Group, supported the bill. Michael Mann of the Rifle and Pistol Association said

he believed there was "no legitimate reason" for anyone to have access to detailed information about gun owners. Professional burglars, he said, look for items they can steal and dispose of quickly, such as cash, jewelry and guns.

Budget Work

The Joint Committee on Justice and Public Safety continued their overview of state agencies this week with presentations by Fiscal Research Division staff on the Department of Justice, including the SBI. Jamie Markham from the School of Government also gave an overview of the Justice Reinvestment Act including the Statewide Misdemeanant Confinement Program. It is expected that the Committee will have presentations next week on the North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission.

Changes at the Department of Public Safety

Public Safety Secretary Kieran Shanahan has named retired U.S. Navy Rear Adm. Edward "Sonny" Masso as the new chief operating officer for the Department of Public Safety. Masso served 32 years in the U.S. Navy and Navy Reserve. Masso's military experience also includes overseeing prisons for the Navy and Marine Corps and emergency management in the Navy. Also, interim chief operating officer Frank Perry is assuming the role of commissioner of the Division of Law Enforcement, replacing Gerald "Rudy" Rudisill, who is retiring.

Medical Marijuana

A bill that would legalize medical marijuana in North Carolina appears dead after a vote by a House committee. The House Rules Committee took the unusual step of giving the bill an unfavorable report, meaning that its contents or any similar bill originating in the Senate are unlikely to be considered again by the House during this legislative session. The move came after a hearing in which several supporters spoke in favor of the bill.

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

BILLS OF INTEREST

HOUSE BILL 33, Cleveland/Polk/Rutherford Trapping Repeal, is identical to Senate Bill 80 summarized in last week's Weekly Legislative Report. **Introduced by Representatives Whitmire, Hager, Moore and Hastings, and referred to the House Committee on Government.**

HOUSE BILL 63, Support Right to Bear Arms, declares the House of Representative's support of the inalienable right for the people of North Carolina to keep and bear arms and opposes any infringement by the federal government on the state's right to guarantee the protection of the right of the people of North Carolina to keep and bear arms. **Introduced by Representative Speciale, and referred to the House Committee on Rules, Calendar, and Operations of the House.**

HOUSE BILL 66, Captivity License and Permit Amendments, clarifies that the Wildlife Resources

Commission may issue a captivity permit for the possession of wild animals or wild birds for scientific, educational, or exhibition purposes. **Introduced by Representatives West, Howard, Hager and Moore, and referred to the Senate Committee on Rules and Operations of the Senate.**

HOUSE BILL 102, Online Voter Registration, directs the State Board of Elections to develop an online application for voter registration that may be completed online or printed as a blank form. The registration form may then be mailed to the appropriate county board of elections. The bill provides that an individual who meets both of the following requirements: (1) is eligible to register to vote and (2) has a current and valid North Carolina driver's license, learner's permit, or provisional license, or a special identification card for non-operators issued under G.S. 20-37.7, may submit a voter registration application online. **Introduced by Representative Alexander, and referred to the House Committee on Elections.**

HOUSE BILL 108, Rowan Vehicle Personal Use Exemption, would allow a member of the Rowan County Sheriff's Office to use law enforcement vehicles for personal use under certain circumstances. The bill would allow the sheriff to determine, in writing, what circumstances a member of the office may use a vehicle for personal use. The county commissioners would retain the right, by simple majority vote of the Board, to overrule the sheriff. **Introduced by Representatives Warren and Ford, and referred to the House Committee on Finance.**

HOUSE BILL 109, Require Safety Helmets/18 and Under, would allow a person to operate a motorcycle without wearing a helmet only when the:

- operator is older than 18 years of age.
- operator has more than one year experience operating a motorcycle.
- operator has completed the Motorcycle Safety Instruction Program.
- operator has a motorcycle insurance policy of at least \$10,000 for medical benefits in case of an accident.

The bill also provides that a passenger 18 or older may ride on a motorcycle without a helmet if the operator has met the criteria set above in this paragraph. **Introduced by Representatives Torbett and Speciale, and referred to the House Committee on Transportation.**

HOUSE BILL 117, Revise Laws for Unoccupied School Buses, would allow unoccupied school or activity buses to operate at posted speed limits instead of the current limits of 45 mph for occupied or unoccupied school buses and 55 mph for activity buses. The bill would also provide that the drivers of unoccupied buses would not be required to operate warning flashers when traveling on interstate highways. **Introduced by Representatives Brody and Jeter, and referred to the House Committee on Transportation.**

HOUSE BILL 118, Consular Documents Not Acceptable as ID, would enact a new General Statute to declare that documents issued by a consulate or embassy of another country, including the matricula consular, are no longer acceptable to use as an identification card or as an indicator of residency by a justice, judge, clerk, magistrate, law enforcement officer, or other government official.

The bill would prohibit any local government from establishing by policy or ordinance the use of a matricula consular or similar document issued by a consulate or embassy of another country as a form of identification to determine the identity or residency of any person. The bill would also repeal any local government policy or ordinance that contradicts this provision. **Introduced by Representatives Cleveland, Hager, Millis and Szoka, and referred to the House Judiciary Subcommittee C.**

HOUSE BILL 123, Cumberland District Court Judges/Magistrates Funds, would provide funding for two additional district court judges, increasing the number from 10 to 12 and two additional magistrates, increasing the number from 19 to 21, to serve Cumberland County. **Introduced by Representatives Glazier, Szoka, Lucas and Floyd, and referred to the House Committee on Appropriations.**

HOUSE BILL 130, Mental Health Workers' Bill of Rights, would provide for a bill of rights for mental health workers, including the right to a safe workplace, the right to family-supporting wages, and the right to a grievance procedure. **Introduced by Representative Bell, and referred to the House Committee on Health and Human Services.**

HOUSE BILL 137, Reward Amount/Arrest of Fugitive From Justice, would increase the amount of a reward offered by the Governor for information leading to the arrest or apprehension of an individual from not exceeding \$10,000 to not exceeding \$100,000. **Introduced by Representatives Stevens, Faircloth, McNeill and Burr, and referred to the House Committee on Judiciary Subcommittee C.**

SENATE BILL 37, PED Study Occupational Licensing Boards Agency, would direct the Program Evaluation Division (PED) of the General Assembly to study the various independent occupational licensing boards to consider the feasibility of creating a single state agency to oversee the administration of the boards. This bill would apply to the North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission. **Introduced by Senator Hartsell, and referred to the Senate Committee on Rules and Operations of the Senate.**

SENATE BILL 60, The Opossum Right-to-Work Act, is identical to House Bill 66 summarized above in this week's Weekly Legislative Report. **Introduced by Senators Davis and Bingham, and referred to the Senate Committee on Rules and Operations of the Senate.**

SENATE BILL 82, Eliminate Straight Ticket, would repeal the General Statute that allows straight-party voting. **Introduced by Senator Newton, and referred to the Senate Committee on Rules and Operations of the Senate.**

SENATE BILL 91, Prohibit Expunction Inquiry, would prohibit any employer or educational institution, or state or local government agency from requesting information from an applicant for employment or admission in any application or interview regarding an arrest, criminal charge, or criminal conviction that has been expunged. Further, an applicant would not have to make reference to or provide any information concerning arrests, charges, or convictions that have been expunged in answer to any question.

The bill would also prohibit any state or local government agencies, officials, and employees from requiring any applicant for a license, permit, registration, or governmental service to disclose information related to any arrest, criminal charge, or conviction that has been expunged and would provide that no application will be denied solely because the applicant refuses or fails to disclose the above information. **Introduced by Senators Daniel, Goolsby and Kinnaird, and referred to the Senate Judiciary II Committee.**

SENATE BILL 100, EMS Immunity From Civil Liability, would provide that all emergency medical personnel as defined in G.S. 131E-155 shall not be liable for damages for personal injury or death alleged to have been sustained as a result of acts or omissions in the performance of their duties unless it is established that the injury or death was caused by gross negligence, wanton conduct or intentional wrongdoing on the part of the emergency medical personnel. **Introduced by Senator Gunn, and referred to the Senate Committee on Judiciary I.**

SENATE BILL 101, General Statutes Commission Technical Corrections 2013, is identical to House Bill 92 which was summarized in last week's Weekly Legislative Report. **Introduced by Senator Hartsell, and referred to the Senate Committee on Judiciary II.**

SENATE BILL 105, Clarify Political Sign Ordinance Authority, would provide that local ordinances enacted by municipalities that prohibit or regulate political signs on street right-of-ways maintained by the municipality would also apply to highways within the corporate limits of the municipality. **Introduced by Senator Tillman, and referred to the Senate Committee on Transportation.**

SENATE BILL 115, Pancreatic Cancer Awareness Special Plate, would authorize the Division of Motor Vehicles to produce a pancreatic cancer awareness special registration plate. **Introduced by Senator Tarte, and referred to the Senate Committee on Finance.**

SENATE BILL 116, YMCA Special Plate, would allow the Division of Motor Vehicles to create a specialized license plate for the YMCA which would bear the YMCA logo and the letters SA. **Introduced by Senator Gunn, and referred to the Senate Committee on Finance.**

SENATE BILL 117, Lily's Law, would provide that when a child is born alive but dies as a result of injuries inflicted before being born, the actions that caused the fatal injuries constitute murder in the first or second degree. **Introduced by Senators Gunn, Daniel and Randleman, and referred to the Senate Committee on Judiciary II.**

SENATE BILL 122, Sex Trafficking/Sex Offender Registration, would add Human Trafficking offenses to the list of criminal convictions that require registration under the Sex Offender and Public Protection Registration Program. **Introduced by Senators Goolsby, Bingham and Newton, and referred to the Senate Committee on Judiciary I.**

BILL STATUS

HOUSE BILL 15, Various Emergency Management Changes, was referred to the Senate Committee on Agriculture/Environment/Natural Resources.

HOUSE BILL 24, DV Abuser Treatment Program/Notifications, has been approved by the House and has been sent to the Senate Judiciary II Committee.

HOUSE BILL 29, Methamphetamine/Offense/Penalties, has been approved by the House and has been sent to the Senate Judiciary I Committee for further consideration. **This bill is supported by the North Carolina Sheriffs' Association.**

HOUSE BILL 34, Clarify Indecent Exposure Law, has been placed on the House calendar for a vote on February 26.

HOUSE BILL 75, Kilah's Law/Increase Child Abuse Penalties, has passed the House Judiciary Subcommittee C and was re-referred the House Committee on Appropriations.

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 or by calling the General Assembly's Printed Bills office at 919/733-5648.

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