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# FINAL LEGISLATIVE REPORT

2005

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## North Carolina Sheriffs' Association



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## **NORTH CAROLINA SHERIFFS' ASSOCIATION**

### **Final Legislative Report 2005**

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The North Carolina General Assembly convened the 2005 Session on Wednesday, January 26<sup>th</sup> and adjourned on September 2<sup>nd</sup>. During this Session, 1,800 bills were introduced in the House and 1,184 bills were introduced in the Senate, for a total of 2,984 legislative bills introduced this Session. Of the bills introduced this Session, 521 were enacted into law which represents 17.5% of the introduced bills.

Much of the drama in this year's Session related to consideration of the bill to enact the lottery. On Tuesday, August 23<sup>rd</sup> the Senate began their session at 10:00 a.m. and the House began their session at 12 noon. Both chambers met throughout the day and night. Rumors were widespread about whether or not the Senate had enough votes to approve the lottery bill that had been approved earlier in the year by the House. After meeting all night, the House finally adjourned at 4:00 a.m. on Wednesday morning, August 24<sup>th</sup> and the Senate ended their all-night session at 6:30 a.m. the same day.

When the Senate left, the Senate leadership announced that the Senate had concluded its business for the year and would not return to consider other legislation, including the lottery bill. But, the old saying about "never say never" quickly came true. Only a few days later, it became apparent that the Senate may finally have the votes to pass the lottery with one Senator away on a honeymoon and another confined to home with a medical condition.

The Senate did, in fact, return to Session in Raleigh on August 30<sup>th</sup>, and by a one vote margin, passed the lottery bill. It was signed into law by Governor Easley the next day. The House and Senate then officially adjourned the 2005 Session on September 2, 2005. The General Assembly will reconvene next year on Tuesday, May 9, 2006 at 12:00 noon.

This Final Legislative Report of the North Carolina Sheriffs' Association summarizes items of interest to Sheriffs, Sheriff's Office personnel and other criminal justice professionals. Included in this Final Legislative Report are summaries of: (1) relevant bills enacted into law this Session; (2) relevant provisions of the 2005-2006 State budget bill; and (3) important legislation that was not enacted into law this year. For details about the legislative bills summarized below, please review the actual legislation.

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If you would like a copy of any of the legislation introduced or considered by this year's General Assembly, you may 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). Copies are also available on the General Assembly's World Wide Web site: <http://www.ncleg.net>.

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### **SHERIFFS' SUPPLEMENTAL PENSION FUND**

In early May, at the request of the North Carolina Sheriffs' Association, the Senate included changes to the Sheriffs' Supplemental Pension Fund in the Senate version of the budget bill. On July 16<sup>th</sup>, the House of Representatives adopted the House version of the budget bill which included the changes to the Sheriffs' Supplemental Pension Fund, as requested by the North Carolina Sheriffs' Association, that were identical to the changes approved earlier by the Senate.

On Saturday, August 13<sup>th</sup>, the State budget bill (Senate Bill 622) was signed into law by Governor Mike Easley. As enacted, the State budget bill includes the increase in the Sheriffs' Supplemental Pension Fund, as requested by the North Carolina Sheriffs' Association.

The changes will increase the amount of court costs going into the Fund from \$.75 each to \$1.25 each, an increase of \$.50. In addition, the \$1,200 monthly benefit cap will be increased to \$1,500. The per share amount calculation will remain in the law, so that Sheriffs who retire with many years of service as Sheriff are likely to get a larger benefit than those Sheriffs who retire with the minimum 10 years of service as Sheriff.

Over the last several years, many (but not all) Retired Sheriffs have seen their monthly benefit reduced, some as much as \$500 per month. This occurred because there was not enough court costs in the Fund to pay benefits at the prior level. According to the calculations of the N. C. Department of Justice, Sheriffs' Standards Division, this \$.50 increase in court costs should provide enough funding to restore the benefit that is being received by current Retired Sheriffs to approximately what the monthly benefit was several years ago, before the benefit for some Retired Sheriffs was reduced.

The changes are effective September 1, 2005. This will allow additional court costs to be collected during the remainder of 2005 so that when the Retired Sheriffs' benefit is calculated by the Sheriffs' Standards Division in January, 2006, there should be additional funds available to increase the monthly benefits at that time. Then, the increased court costs will be collected throughout calendar year 2006 and when the Retired Sheriffs' benefit amount is recalculated again in January, 2007, even more funds should be available to restore the benefit to prior levels. Of course, the calculation in January, 2007 is likely to include many newly retired Sheriffs after the election in November, 2006.

According to the calculations of the General Assembly staff, this increase in court costs should generate an additional \$187,000 for the Fund to be available for benefits paid in calendar year 2006 and should generate \$561,000 in additional funds to be used to pay benefits beginning January 1, 2007, and for future years.

In the Senate, the efforts to include the NCSA changes to the Sheriffs' Supplemental Pension Fund in the budget were led by Senator Scott Thomas and Senator Tony Rand. The other Senate Leaders who took an active role in being sure that this provision was included in the budget include Senate President Pro Tempore Marc Basnight, and Senators Kay Hagan, Linda Garrou, Walter Dalton and David Hoyle.

In the House the efforts to include the NCSA changes to the Sheriffs' Supplemental Pension Fund in the budget were led by Speaker of the House Jim Black and Representatives Bill Culpepper, Jim Crawford, Debbie Clary, Beverly Earle, Edd Nye, Bill Owens, Wilma Sherrill, and Mickey Michaux.

Sheriffs and Retired Sheriffs who have questions about this legislation should call Eddie Caldwell, NCSA Executive Vice President and General Counsel, at 919-SHERIFF (743-7433). For questions about how this legislation will affect your individual benefit from the Fund, call Julia Lohman, Director, Sheriffs' Standards Division at 919-716-6450.

**Enactment of the improvements to the Sheriffs' Supplemental Pension Fund was the top legislative priority of the North Carolina Sheriffs' Association for the 2005 Session of the General Assembly.**

### **STATE BUDGET BILL**

Senate Bill 622, 2005 Appropriations Act, is the State budget bill. This bill provides the details and the direction for spending the State's \$17 billion in annual revenue. The bill is 364 pages long with an additional budget document that exceeds another 100 pages. Provisions of interest to Sheriffs and the criminal justice system include:

1. Sheriffs' Supplemental Pension Fund — [Discussed in detail above.] Increases the court costs contribution by \$.50 to the Sheriffs' Supplemental Pension Fund and increases the maximum monthly benefit from \$1,200 to \$1,500. **This provision was supported by and was introduced at the request of the North Carolina Sheriffs' Association.**
2. State Prison System Reimburse Counties For Backlogged Prisoners — Reimburses counties \$40 per day for prisoners who are being held in the county jails and detention centers awaiting transfer to the State Prison System. This provision was initially enacted into law in 1996 at the request of the North Carolina Sheriffs' Association to obtain reimbursement for counties for the cost of housing convicted inmates that were backlogged for transfer to the state prison system. **At the request of the North Carolina Sheriffs' Association**, this provision was included again this year (as it has been included each year since 1996) in the State budget bill.

3. Public Defender Office — Provides funding for the Wake County Public Defender's Office (10<sup>th</sup> District).
4. Divide Courts-District 20 — Reconfigures Superior Court Districts 20A and 20B by moving Stanly County from 20B into 20A. These changes will become effective December 1, 2005. After the change, Superior Court District 20A will include Anson, Richmond and Stanly Counties and District 20B will include Union County. The Prosecutorial District will be realigned with the same county split effective January 1, 2007. District Court district 20 has been divided and new District 20A will include Stanly, Anson and Richmond Counties. New District 20B will include a part of Union County and new District 20C will include the remaining part of Union County.
5. Divide Courts-District 29 — Superior and District Court district 29 will be split effective December 1, 2005 into 29A (McDowell and Rutherford Counties) and 29B (Henderson, Polk and Transylvania Counties). The Prosecutorial District will be realigned with the same county split effective January 1, 2007.
6. DCI-PIN Fees Increased — Increases the fee for accessing the Division of Criminal Information-Police Information Network (DCI-PIN) from \$6 to \$12 per mobile data terminal per month, effective January 1, 2006. In addition, the Attorney General is authorized to charge an initial setup fee of \$2,650 for agencies to connect to the Police Information Network to offset the cost of the router and data circuit needed to access the Network. The Attorney General is also authorized to impose monthly fees on participating agencies which may be used to offset the cost of operating and maintaining the Police Information Network. The Attorney General was also authorized to impose a monthly circuit fee on agencies to access the Police Information Network of \$300, plus an additional \$25 per desktop computer (after the first seven) and an additional \$6 per month for laptop computers. The legislation authorizing these additional fees makes them effective August 13, 2005.
7. SBI's Meth Response Team — Expands the SBI's Methamphetamine Response Team by adding six sworn forensic drug chemists and two non-sworn drug technicians to respond to clandestine methamphetamine labs and perform drug analysis, effective June 1, 2006.
8. SBI's Computer Crimes Section — Expands the SBI's Computer Crime Section by funding two Computer Crimes Agents/Criminal Specialists and two Forensic Computer Analysts. The Computer Crimes Agents will partner with the FBI National Internet Crimes Against Children Task Force and will work primarily on child exploitation and sexual predator cases, effective January 1, 2006.
9. SBI's DNA Analysis — Expands the SBI Crime Lab's ability to effectively process DNA evidence by funding additional non-sworn positions for the SBI Lab to include six Geneticists and one Evidence Technician. Two geneticists and the evidence technician positions are effective January 1, 2006 and the remaining positions are effective June 1, 2006.
10. Juvenile Crime Prevention Councils — Allocates \$2 million to the Juvenile Crime Prevention Councils (JCPC) for gang prevention programs throughout the State.

11. Gang Violence Funding — Provides funding for gang violence and other crime prevention activities in the following law enforcement agencies:
  - Cumberland County Sheriff's Office – \$3,500
  - Fayetteville Police Department – \$11,000
  - Durham Police Department – \$40,000
  - Charlotte-Mecklenburg Police Department – \$50,000
12. Criminal Justice Partnership Program — Prohibits the Criminal Justice Partnership Program (CJPP) from spending more than 25% of a county's funds for a pre-trial release program in 2005-2006 and no funds may be used for pre-trial release services in 2006-2007. This provision also eliminates the \$1 million increase in the Governor's recommended continuation budget for CJPP.
13. VIPER Network Funding — Funds \$8 million for equipment for the Voice Interoperable Communications Plan for Emergency Responders (VIPER). **Adequate funding for the VIPER network was supported by the North Carolina Sheriffs' Association.**
14. SHP Motor Carrier Enforcement Officers — Funds the training and pay increases necessary to convert Motor Carrier Enforcement Officers (formerly DMV Enforcement Officers) to State Troopers, with the same level of arrest authority and pay.
15. Statewide Automated Fingerprint Identification System (SAFIS) Study — Requires the Department of Justice, in consultation with the Criminal Justice Information Network (CJIN) Board, to plan for the upgrade and replacement of the North Carolina Statewide Automated Fingerprint Identification System (SAFIS). A status report on this project must be submitted by November 1, 2005 to the General Assembly. **Adequate funding for replacement of SAFIS was supported by the North Carolina Sheriffs' Association.**
16. Training for Judges — Establishes a Judicial College within the UNC-Chapel Hill School of Government to provide training and continuing education for the State's 400 judges.
17. Prison Personnel Training Facility — Provides funding to Lenoir Community College for the fabrication of a simulated prison cell for use in training prison personnel for the new Greene County prison, and for other personnel in the surrounding areas.
18. Community Colleges Personnel — Provides funding for a Fire and Law Training Coordinator in the Workforce Development Division of the Community Colleges System office.
19. Mecklenburg Drug Treatment Court — Appropriates funds to the Administrative Office of the Courts to allow the Mecklenburg Drug Treatment Court to continue offering treatment services to pre-trial and DWI offenders.
20. Mecklenburg County Courthouse Telephone — Appropriates \$1.5 million to equip the new Mecklenburg County Courthouse with a telephone system.

21. Family Court in Wake County — Appropriates funding to establish a Family Court Program in Judicial District 10 (Wake County).
22. DARE Funding — Provides \$25,000 in one-time funds to the North Carolina DARE (Drug Abuse Resistance Education) Officers Association, Inc. to be used in the program's efforts to teach students the skills to help them make sound decisions about alcohol, tobacco, marijuana, and other drugs and to provide in-service training to enhance the effectiveness of law enforcement officers in the classroom.
23. Probation/Parole Officer Positions Reallocated — Eliminates 25 vacant Probation/Parole Officer I positions. The remaining 34 positions that are not needed may be reallocated for trainers, supervising officers and other positions as needed.
24. Parole Commission Membership Changes — Restructures the Parole Commission by reducing two of the three Commissioner positions from full-time to half-time positions. The Chair of the Commission will remain a full-time position.
25. DOC Fees Charged to Inmates — Increases the inmate co-pay for sick call for inmates in the Department of Correction from \$3 to \$5 and for sick call outside normal hours from \$5 to \$7. Increases the amount inmates of the Department of Correction pay towards the administration of the work release program from \$16 to \$18 a day in per diem and from \$2.50 per day to \$3.00 per day for transportation.
26. DOC Domestic Violence Program — Provides funding for the establishment of an intervention program for domestic violence offenders sentenced to prison.
27. New State Trooper Positions — Provides funding to add ten new trooper positions for the State Highway Patrol.
28. Additional Funding for Crime Victims Compensation Fund — Provides an \$800,000 increase from \$3.7 million to \$4.5 million to fund the Crime Victims Compensation Fund.
29. Unauthorized Substance Tax Division Personnel — Funds one additional Tax Enforcement Agent I in the Unauthorized Substance Tax Division of the Department of Revenue.
30. DMV Drivers License Offices — Provides funding for hardware and software at local DMV offices to access national databases for validating identification of people applying for drivers licenses.
31. Animal Shelter Regulation — Provides that the Board of Agriculture may adopt rules governing the euthanasia of animals which must require that the gas be delivered to individual animals.
32. State Employees Pay Raise — Provides funds to give state employees a pay raise of the greater amount of \$850 flat or a 2% annual increase. In addition, full-time permanent state employees on September 1, 2005, each will receive a one-time additional five days of annual leave.

33. Retired Employees Increase — Authorizes a 2% cost-of-living increase for retirees of the Teachers' and State Employees' Retirement System.
34. Consolidation of State-Funded Laboratories — Requires the Office of State Budget and Management to develop a plan to consolidate all State-funded laboratories, to include the SBI Crime Laboratories.
35. Long Range Plan For Mental Health Issues — Requires the Secretary of the Department of Health and Human Services (DHHS) to develop a long-range plan for addressing the mental health, developmental disabilities, and substance abuse service needs of the State.
36. Transfer of Patients From State Psychiatric Hospitals — Requires the Department of Health and Human Services (DHHS) to continue implementation of the plan for the transition of patients from State psychiatric hospitals to the community or to other long-term care facilities.
37. NC Controlled Substances Reporting System — Establishes the North Carolina Controlled Substances Reporting System which will require pharmacies and other dispensers of Schedule II through V controlled substances to electronically submit data when prescriptions are filled. This System was enacted to address North Carolina's epidemic of poisoning deaths from unintentional drug overdoses. Special Agents of the SBI assigned to the Diversion & Environmental Crimes Unit working on an investigation related to enforcement of the controlled substances laws can have access to the data contained in the System. **This new law was supported by the North Carolina Sheriffs' Association.** Effective: January 1, 2006.
38. AED's in Public Buildings — Provides funding for the Department of Health and Human Services, Division of Public Health, to develop a pilot program to place Automated External Defibrillators (AED) in public buildings that do not have an operational AED in place.
39. Concealed Weapons Permits Study — Requires the Department of Justice to report to the General Assembly on the receipts, costs for and number of criminal records checks performed in connection with applications for concealed weapons permits.
40. Criminal Records Checks Study — Requires the Office of State Budget and Management, in consultation with the Department of Justice, to study the feasibility of adjusting the fees charged for criminal records checks conducted by the Division of Criminal Information as a result of the increase in receipts from criminal record checks.
41. Reduction in SBI Backlog of Rape Kits — Directs the SBI to contract with private entities to reduce the backlog of rape kits in storage in local law enforcement agencies and to expedite other forensic DNA analysis. The SBI is required to contract with private entities to analyze bodily fluids, DNA evidence, or both in cases in which a suspect has not been identified.
42. SBI Use of Private Laboratories — The Office of State Budget and Management, in consultation with the Department of Justice, is required to study the costs of testing and analyzing DNA samples, to include a comparison of the cost of analysis performed by other labs, both public and private.



43. Local Juvenile Detention Centers --- Requires the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee to study the four juvenile detention centers located in Durham, Guilford, Forsyth and Mecklenburg Counties that are operated by the counties.
44. DOC Transfer of Inmates — Authorizes the Secretary of Correction to “extend the limits of confinement” (i.e, move from a prison to a hospital) a terminally ill inmate or a permanently and totally disabled inmate whom the Secretary finds no longer poses a significant public safety risk, after consultation with the Department of Correction’s Medical Director.
45. Cleveland Correctional Center — Requires the Department of Correction to study the feasibility of converting Cleveland Correctional Center from medium custody to minimum custody.
46. Electronic Monitoring of Sex Offenders — Requires the Department of Correction to report to the General Assembly on its efforts to increase the use of electronic monitoring of sentenced sex offenders in the community as an alternative to the incarceration of probation violators.
47. Trademark Violations Investigated by Secretary of State — Requires the Secretary of State to transfer a position to its General Administration Division to assist with investigations of trademark violations and training for other law enforcement personnel in the State and with investigations of violations of the Charitable Solicitation Licensing Act.
48. SHP Motor Carrier Enforcement Data Collection — Requires the State Highway Patrol Motor Carrier Enforcement Section to establish a pilot program comprised of two civilian data collection teams to supplement portable weight and inspection operations and to study the potential for increasing the effectiveness of Motor Carrier Enforcement Officers operating remotely from permanent weigh station facilities.
49. District Court Costs Increased — Effective September 1, 2005, District Court costs increased to \$110, except District Court costs are \$75 for violations of N.C. Gen. Stat. § 20-135.2A (seat belt violation) and N.C. Gen. Stat. § 20-140.4 (motorcycle helmet violation)
50. Fee For Electronic House Arrest — Requires persons placed on house arrest with electronic monitoring to pay a fee of \$90 for the electronic monitoring device.
51. Electronic Payment For Court Fees — The Judicial Department is required to study the feasibility of accepting electronic and online payments for court fees and other funds collected by the courts, and a report is due to the General Assembly by May 1, 2006.
52. Funding For DWI Task Force Recommendations — The General Assembly appropriated \$1,137,000 for 2005-2006 and \$1,869,834 for 2006-2007 to implement the Governor’s DWI Task Force recommendations, if such legislation was enacted into law this year. However, legislation to implement these recommendations was not enacted into law this year, but is likely to be considered during the 2006 Session of the General Assembly.

53. Killed In The Line-of-Duty Death Benefit Improvements — A provision in the statute that provides the killed in the line-of-duty death benefit also provides that when a fireman dies as the direct and proximate result of a myocardial infarction (heart attack) suffered while on duty or within 24 hours after participating in a training exercise or responding to an emergency situation, the fireman is presumed to have been killed in the line-of-duty. Previously, this provision only applied to firemen but this provision has been extended to now also include law enforcement officers, firemen, rescue squad workers and senior Civil Air Patrol members. **This legislation was supported by the North Carolina Sheriffs' Association.**

SENATE BILL 6, Ban Video Poker/All But Reservations, would prohibit the possession or operation of video gaming machines in North Carolina except on the tribal lands of the Eastern Band of Cherokee Indians. This bill is substantially identical to the legislation approved in 2003 by the Senate. The 2003 version of this legislation was drastically amended by the House in 2004 and was not enacted into law. **The North Carolina Sheriffs' Association supports Senate Bill 6 to outlaw video poker in North Carolina.** This bill was approved by the Senate Judiciary I Committee, was included in the Senate version of the State Budget bill, but was not enacted into law.

SENATE BILL 41, Criminal Records Checks/Long Term Care Changes, makes various changes in the procedure for conducting national criminal history record checks for long-term care facilities to conform with federal requirements, as recommended by the North Carolina Study Commission on Aging. Effective: March 23, 2005.

SENATE BILL 43, Monroe Charter Amendment, allows the City Manager for the City of Monroe to appoint the Monroe Chief of Police and repeals the current city charter provision requiring the City Council to appoint the Chief of Police. Effective: April 27, 2005.

SENATE BILL 88, Bent Tree Plantation Homeowners' Association Motor Vehicle Regulation, repeals a previous law that made the motor vehicle laws apply on the streets of the Bent Tree Plantation Homeowners' Association, Inc. in Brunswick County. The motor vehicle laws will no longer apply on the streets owned by that Association. Effective: July 5, 2005.

SENATE BILL 109, Handgun Permit Renewal/Deployed Military, allows military personnel who are deployed away from their county of residence to continue carrying a concealed weapon if their concealed weapon permit has expired for up to 90 days after they return from their deployment. During this 90 day extended period, the military personnel must carry with them and display to any law enforcement officer proof of their deployment. Also, military personnel who are deployed can obtain a 90 day extension of their concealed handgun permit while they are deployed upon application by them or their agent to the Sheriff. Effective: July 28, 2005.

SENATE BILL 148, Death Benefit for Part-Time Law Enforcement, **was supported by the North Carolina Sheriffs' Association** and extends the death benefit for law enforcement officers, firefighters, rescue squad workers and civil air patrol members to include law enforcement officers employed full-time, permanent part-time, or temporarily, whether paid or unpaid. Previous law only provided this death benefit for full-time officers killed in the line-of-duty. Additionally, this benefit is available to full-time, permanent part-time, and temporary detention officers employed by any county or municipality, whether paid or unpaid. Including detention officers in this benefit was added to this bill **at the request of the North Carolina Sheriffs' Association.**

When the bill was considered in the Senate Pensions and Retirement Committee, Sheriffs and their personnel were in Raleigh for the North Carolina Sheriffs' Association Legislative Day and were in attendance at this committee meeting. The Association's 2004-2005 President, Sheriff Dane Mastin of Wilkes County, spoke to the Committee in support of this legislation and told them of the Sheriffs' strong support for the legislation.

In addition, **at the request of the North Carolina Sheriffs' Association**, this bill was amended to make the effective date retroactive to November 1, 2004. This amendment will allow the families to apply for this benefit on behalf of a Forsyth County Deputy killed last November and a Boiling Spring Lakes Police Department (Brunswick County) officer who was killed this past January.

After being amended as requested, the bill was approved by the Committee. Then, later in the day, the Senate rules were suspended to allow the bill to be considered by the full Senate. It was unanimously approved by the full Senate and sent to the House Pensions and Retirement Committee for further consideration.

When this bill was considered in the House Pensions and Retirement Committee, we testified to the Committee about the importance of this legislation. This bill was unanimously approved by the House Pensions and Retirement Committee and referred to the House Appropriations Committee for further consideration.

**At the request of the North Carolina Sheriffs' Association**, the House Appropriations Committee agreed to schedule this bill for consideration before the Session adjourned. Prior to consideration of this bill in committee, each Sheriff whose county is represented by one of the six co-chairs of the House Appropriations Committee was requested to contact the co-chair to encourage their support for this legislation. The bill was passed by the House Appropriations Committee, then passed by the full House and then sent back to the Senate.

Shortly after midnight, late on Tuesday night, August 23, (actually early on Wednesday morning, August 24th) the bill was returned to the Senate and the Senate objected to a change that had been made by the House. For several hours, we met off and on with the bill sponsor, legislative staff and Appropriations leaders to resolve the issue. About 3:00 a.m. on Wednesday morning, an agreement was reached between the House and Senate and the bill was approved by both bodies and sent to Governor Easley for his signature so it could be enacted into law.

The technical questions raised about the bill early on Wednesday morning did not affect the provisions of the bill that will provide this benefit. As enacted, this bill will provide the killed in the line-of-duty death benefit to part-time law enforcement officers, just as it previously provided this benefit to full-time law enforcement officers. In addition, the bill will make the killed in the line-of-duty death benefit also apply to both full-time and part-time detention officers. **This legislation was supported by the North Carolina Sheriffs' Association. Effective: Retroactive to November 1, 2004.**

In addition to the changes described above in the killed in the line-of-duty death benefit, the State budget bill (Senate Bill 622) contains an additional improvement in this benefit for law enforcement officers and others. A provision in the statute that provides the killed in the line-of-duty

death benefit also provides that when a fireman dies as the direct and proximate result of a myocardial infarction (heart attack) suffered while on duty or within 24 hours after participating in a training exercise or responding to an emergency situation, the fireman is presumed to have been killed in the line-of-duty. Previously, this provision only applied to firemen but this provision has been extended to now also include law enforcement officers, firemen, rescue squad workers and senior Civil Air Patrol members.

SENATE BILL 149, Law Officers' 25-Year Retirement, would allow both state and local law enforcement officers to retire with unreduced retirement benefits after 25 years of service, and would allow these officers to also receive the Special Separation Allowance Benefit upon retirement after 25 years of service. **Twenty-five year retirement benefits are a top priority for the North Carolina Sheriffs' Association.** This bill was not enacted in 2005, but is eligible for consideration during the 2006 Session of the General Assembly.

SENATE BILL 166, Regulate Golf Carts/Seven Lakes Motor Vehicle Regulation, authorizes the towns of Elizabethtown, Bladenboro and Rose Hill to regulate golf carts and will allow any law enforcement officer acting within the officer's territorial jurisdiction to enforce the motor vehicle laws within the Seven Lakes Community in Moore County. Effective: April 21, 2005.

SENATE BILL 189, All-Terrain Vehicle Regulation, regulates the sales and operation of all-terrain vehicles, but would not require the registration of ATVs. This bill prohibits the operation of all-terrain vehicles by persons less than 8 years old, restricts the operation of all-terrain vehicles by persons 8 to 15 years old based on engine capacity, and prohibits sellers from knowingly selling all-terrain vehicles for use by persons less than 8 years old or for use by persons 8-15 years old in violation of the engine capacity limitations, requires safety training for ATV operators and makes a violation of this statute an infraction subject to a fine of up to \$200. Also, it is unlawful for a parent or legal guardian of a child under 16 years of age to allow that child to operate an ATV unless the child is under the continuous visual supervision of a person 18 years of age or older.

The bill also requires any person operating an all-terrain vehicle to wear eye protection and a safety helmet and the person cannot operate the ATV while under the influence of alcohol or any controlled substance, in a careless or reckless manner or on an interstate or limited-access highway. In addition, it shall be unlawful to operate an ATV on a public street, road or highway except for the purpose of crossing that street, road or highway and it is also unlawful to operate an ATV from one-half hour after sunset until one-half hour before sunrise, or during times of limited visibility, without displaying a lighted headlamp and tail lamp. The restrictions on ATV's do not apply while engaged in farming operations or while hunting or trapping. Effective: December 1, 2005.

SENATE BILL 321, Permanent Jury Exemptions/72 and Older. Previously, a person who is 65 years of age or older who was summoned as a juror could obtain an exemption from serving, but could be summoned to serve as a juror again in the future. This bill would allow a person summoned to serve as a juror who is 72 years of age or older to request either a temporary or permanent exemption from jury service. Effective: October 1, 2005.

SENATE BILL 348, North Wilkesboro/Land for Prisons, allows the Town of North Wilkesboro to acquire real and personal property and convey it to the State for use as a prison. Effective: August 11, 2005.

SENATE BILL 392, Raleigh Charter Amendment, amends the Charter of the City of Raleigh to allow the City to sell personal uniforms and equipment (excluding weapons) to public safety employees upon the end of their employment with the City. Effective: July 6, 2005.

SENATE BILL 428, No Lasers Pointed at Planes, makes it a Class H felony to willfully point a laser device at an aircraft while the aircraft is taking off, landing, in flight or otherwise in motion. Effective: December 1, 2005.

SENATE BILL 462, Charlotte Speed Camera Sunset Extended, extends until September 30, 2007 the law authorizing the City of Charlotte to use photographic speed-measuring instruments in a pilot program that was originally authorized in 2003. Effective: May 5, 2005.

SENATE BILL 472, Child Exploitation Prevention Act. Previously, it was a Class I felony to use a computer to solicit a child to commit an unlawful sex act, and this bill increases the penalty to a Class H felony.

In addition, this bill makes it a Class H felony to use a computer to solicit a person to commit an unlawful sex act who the perpetrator believes to be a child (whether the victim is actually a child or not.) This bill makes this offense apply to a perpetrator who thought that they were soliciting a sex act with a child when in fact they were communicating by computer with an undercover law enforcement officer or other adult.

This bill also gives the State Bureau of Investigation jurisdiction to investigate crimes involving unlawful sexual activity with children that are committed over the Internet. The language included in this bill was **agreed upon jointly among the North Carolina Sheriffs' Association**, the State Bureau of Investigation, and the Attorney General's Office. The agreed upon language provides that when the SBI investigation determines the location of a criminal violation, the SBI will promptly notify the Sheriff of the county in which the criminal violation is located. **This bill was supported by the North Carolina Sheriffs' Association.** Effective: December 1, 2005.

SENATE BILL 486, Rachel's Law. Previous law made it a Class E felony to discharge a firearm into any occupied vehicle or building. This bill increases the penalty for violation of this statute to discharge a weapon into an occupied dwelling or into an occupied vehicle, aircraft, watercraft or other conveyance, and makes such action a Class D felony. A violation of this law that results in serious bodily injury to any person makes the offender guilty of a Class C felony. Effective: December 1, 2005.

SENATE BILL 505, Medical Examiner Fee Increase, increases from \$75 to \$100 the fee paid to local medical examiners for each investigation conducted by the medical examiner. Effective: September 8, 2005.

SENATE BILL 507, Aggravating Factor/Add Social Worker, makes it an aggravating factor if the criminal offense was committed against or proximately caused serious injury to a social worker. Effective: December 1, 2005.

SENATE BILL 527, Campus Police Act, extends to campus police departments of a private college or university the same authority and jurisdiction that is currently available to campus police departments of the universities in the UNC System and the Community College System. Law enforcement officers employed by campus police departments of private colleges and universities are required to meet all entry level and in-service training requirements and standards that are required of other law enforcement officers by the North Carolina Criminal Justice Education and Training Standards Commission. Effective: July 28, 2005.

SENATE BILL 532, Construction Site Theft/Aggravate Penalty, makes a theft from a “permitted” construction site a Class I felony if the value of the property stolen is \$300 or more. It also makes possessing or receiving goods stolen from a “permitted” construction site a Class I felony. Effective: December 1, 2005.

SENATE BILL 559, Expunction/Convictions of Nonviolent Crimes, would allow criminal defendants to have their records expunged for convictions of misdemeanors, Class H and Class I felonies, except for those involving assault or possession or use of a firearm, those requiring registration as a sex offender or those involving drug trafficking. Expungement could only be granted to a person who had not previously been convicted of a felony or misdemeanor and could only be granted at least 15 years after the date of the conviction and only if the defendant has not been convicted of a felony or misdemeanor (other than a traffic violation) since the date of the conviction. **This bill is opposed by the North Carolina Sheriffs’ Association** and numerous other groups. This bill was passed by the Senate Judiciary II Committee and referred to the Senate Finance Committee. The bill sponsor, Senator Eleanor Kinnaird, has said that she intends to pursue enactment of this legislation during the 2006 Session of the General Assembly.

SENATE BILL 748, Drug Enforcement Improvement Act, amends the procedure for implementing an order for electronic surveillance to provide that under certain circumstances it would not be necessary to identify the place where the communication will be intercepted by electronic surveillance, and to also provide the time frame within which the electronic surveillance in an undisclosed location may begin. Effective: December 1, 2005.

SENATE BILL 763, Notary Public Official Recommendation, eliminates the requirement that an elected official submit a recommendation for a person to become a Notary Public. This change only applies in counties with more than 15,000 notaries public. Effective: January 1, 2006.

SENATE BILL 776, Amend Indecent Exposure Law, amends the Indecent Exposure Law to also prohibit exposure between persons of the same sex, with higher penalties for committing indecent exposure to persons under age 16 and it requires sex offender registration upon a felony conviction for indecent exposure. Effective: December 1, 2005.

SENATE BILL 778, Amend Private Protective Services Laws, was amended in committee to provide that a person licensed by the North Carolina Private Protective Services Board as an armed security

guard who has also successfully completed the armed security guard firearm registration process is considered to have satisfied the approved firearm safety and training course requirement to obtain a concealed handgun permit. Effective: July 20, 2005.

SENATE BILL 796, Criminal Record Checks/Archeological Operations, allows the Department of Justice to provide criminal record checks to the Department of Cultural Resources for applicants who wish to obtain a permit for salvage operations or archeological investigation on State lands. Effective: October 1, 2005.

SENATE BILL 832, Wreckers/Travel Mileage, authorizes wreckers towing heavy trucks that are disabled to tow the disabled truck to a place for repairs, parking or storage up to 50 miles from the point that the vehicle was disabled, and also authorizes the wrecker to tow a truck, tractor or other replacement vehicle to the site of the disabled vehicle. Effective: August 4, 2005.

SENATE BILL 844, Managed Hunts, authorizes the Wildlife Resources Commission to require that a person 16 years or older applying to participate in a managed hunt must have the required hunting license. It would also require that a person under 16 years of age who does not have the proper hunting license must apply as a member of a group that includes a properly licensed adult. Effective: June 14, 2005.

SENATE BILL 883, Mecklenburg County/Dispose of Seized Firearm, provides that if the owner of a seized firearm is not known, then the notice of the sale of the firearm may be published in a newspaper in Mecklenburg County and the firearm shall not be disposed of earlier than 30 days after the notice appears in the newspaper. Current law allows the judge to order the firearm turned over to be destroyed by the Sheriff of Mecklenburg County and this provision would extend that authority to destroy the weapon to the chief law enforcement officer of the agency storing the weapon (for example, Charlotte-Mecklenburg Police Department). Effective: June 22, 2005.

SENATE BILL 972, Break Into Place of Worship, creates the criminal offense of breaking or entering a building that is a place of religious worship and makes such a violation a Class G felony. It only applies to buildings that are a place of “religious worship” and includes a “church, chapel, meeting house, synagogue, temple, longhouse or mosque, or other building that is regularly used, and clearly identifiable, as a place for religious worship.” It requires proof of the defendant’s intent to commit a felony or larceny in a place of religious worship for the defendant to be guilty of a Class G felony. Effective: December 1, 2005.

SENATE BILL 974, Alcohol Sales-Campus Performing Arts Centers, authorizes the sale of beer and wine at performing arts centers located on property owned or leased by constituent institutions of The University of North Carolina if the seating capacity of the facility does not exceed 2,000 seats.

The ABC Commission is also required by this bill to issue permits for on-premise sales of beer and wine at any county-owned facility “that is located adjacent to or separated by a road right-of-way from a municipality where mixed beverages, on-premises beer, and on-premises wine sales are authorized by law.” This provision related to county-owned facilities expires on December 31, 2005 and only applies to a wine festival.

The bill also requires the ABC Commission to issue a special occasion permit to sports facilities occupied by major league professional sports teams with suites available for sale or lease to patrons of the facility so that patrons may make available alcoholic beverages in those suites as if the patron were a host of a reception, party or other special occasion. Effective: August 26, 2005.

SENATE BILL 1029, Clarify/Enhance Domestic Violence and Tenancy Laws, provides that a defendant in a domestic violence case requesting return of firearms that have been surrendered would not be able to obtain the return of the firearms if the court finds that the defendant has any pending domestic violence criminal charges in any state or federal court. This bill also authorizes a tenant who is a victim of domestic violence, sexual assault or stalking to get the locks changed on their residence or to terminate their rental agreement by providing the landlord with written notice at least 30 days in advance.

This bill also provides that when a defendant in a domestic violence order is ordered to stay away from a child's school, "a copy of the order shall be delivered promptly by the Sheriff to the principal of each school named in the order." Note: The requirement that the Sheriff deliver a copy of the order to the child's school only applies if the domestic order specifically directs the Sheriff to deliver a copy of the order to a school, and only if the order specifically names the school or schools to which a copy of the order must be delivered.

In addition, the current requirement that Sheriffs enter domestic violence orders into the National Crime Information Center (NCIC) is amended to include the requirement that renewals of domestic violence orders also be entered in NCIC. Effective: October 1, 2005.

SENATE BILL 1048, Identity Theft Protection Act of 2005, enacts the Identity Theft Protection Act of 2005 to authorize consumers to place a "security freeze" on the consumer's own credit report under certain circumstances; to authorize local law enforcement agencies to take complaints from victims of identity theft who reside within that agency's jurisdiction even though the jurisdiction for the actual investigation and prosecution of the identity theft crime may be in a different jurisdiction; and to prohibit state and local government agencies from obtaining a person's social security number except in very limited circumstances. **This bill was supported by the North Carolina Sheriffs' Association.** Effective: December 1, 2005.

SENATE BILL 1058, Amend Assault Assistance Animal, provides that a defendant who is convicted of assaulting a law enforcement agency animal or an assistance animal must be ordered to make restitution to the person responsible for the care of the animal, to include veterinary medical bills and boarding expenses and replacement and training or retraining expenses for the animal, as well as various other expenses specified in the statute. Effective: December 1, 2005.

SENATE BILL 1130, No Tobacco Use in Prisons, provides that no person may use tobacco products inside of a state correctional facility, except for authorized religious purposes. The bill further directs the Department of Correction to conduct one or more pilot programs banning smoking both inside buildings and on the grounds of the state correctional facility, and to submit a study with recommendations on the feasibility of a two-year phase-in program banning smoking by all inmates,



personnel and visitors in all buildings and on the grounds of state correctional facilities. Effective: January 1, 2006.

HOUSE BILL 50, Street Gang Prevention Act, as currently drafted, would make it unlawful for any person to participate in “criminal street gang” activity. It would also make it a Class E felony to discharge or attempt to discharge a firearm as a part of a pattern of criminal gang activity from within any building, structure, motor vehicle or other conveyance, erection or enclosure toward a person or persons not within that enclosure. This bill was passed by the House near the end of the 2005 Session of the General Assembly and was sent to the Senate. It was not enacted into law in 2005, but it may be considered during the 2006 Session of the General Assembly.

HOUSE BILL 85, Various Special License Plates, authorizes the Division of Motor Vehicles to issue special registration plates, as follows: (1) Air Medal Recipient; (2) Alpha Phi Alpha Fraternity; (3) ARC of North Carolina; (4) Autism Society of North Carolina; (5) Buddy Pelletier Surfing Foundation; (6) Coastal Conservation Association; (7) Cold War Veteran; (8) Corvette Club; (9) Guilford Battleground Company; (10) Marine Corps League; (11) National Multiple Sclerosis Society; (12) National Wild Turkey Federation; (13) NC Trout Unlimited; (14) North Carolina Libraries; (15) North Carolina Wildlife Habitat Foundation; (16) Shag Dancing; (17) Share the Road; (18) SCUBA; (19) Tarheel Classic Thunderbird Club; and (20) Watermelon. Effective: July 20, 2005.

HOUSE BILL 97, Terminating Parental Rights/Murder of Parent By Parent, authorizes the court to terminate the parental rights of a parent who murders the other parent of a child. Effective: June 30, 2005.

HOUSE BILL 142, Law Officers’ 25-Year Retirement, would allow state and local law enforcement officers to retire with unreduced retirement benefits after 25 years of service. This legislation would apply to officers who retire on or after July 1, 2005. This bill would also retain the Special Separation Allowance Benefit and would provide that officers would also be eligible for this benefit after completing 25 years of service. **Enactment of 25-year retirement benefits for law enforcement officers is a priority for the North Carolina Sheriffs’ Association.** This bill was not enacted in 2005, but is eligible for consideration in the 2006 Session of the General Assembly.

HOUSE BILL 217, Driving From/Leaving Scene of Accident. Under current law, if a vehicle is involved in an accident resulting in injury or death to any person, the driver of the vehicle is guilty of a Class H felony if the driver fails to stop or remain at the scene. In an accident that results in only property damage, the driver of the vehicle is guilty of a Class 1 misdemeanor if the driver fails to stop at the scene. In a recent court case, after the accident the driver and the passenger switched seats and the passenger drove the vehicle away from the scene of the accident. The court ruled that current law prohibits the driver from driving the vehicle away from the scene of the accident, but does not prohibit the passenger or another person from driving the vehicle away from the scene of the accident.

This bill requires that the driver of a vehicle involved in a motor vehicle accident must stay at the scene and must not allow the vehicle to be removed unless: (1) remaining at the scene places

the driver or others at significant risk of injury; (2) to call for a law enforcement officer; or (3) to call for medical assistance or medical treatment. If a driver does leave the scene for an allowed reason, the driver must return with the vehicle to the accident scene within a reasonable period of time.

This law also enacts a new requirement that the passenger of any vehicle involved in an accident shall not leave the scene by acting as the driver of a vehicle involved in the accident and the passenger may not “facilitate, allow, or agree” to the removal of the vehicle from the scene unless it is for the purpose of: (1) calling for a law enforcement officer; (2) calling for medical assistance or medical treatment; or (3) removing the passenger or others from a significant risk of injury. If the passenger does leave the scene of the accident by driving a vehicle involved in the accident for an allowed reason, the passenger must return with the vehicle to the accident scene within a reasonable period of time.

This law also requires passengers in vehicles involved in accidents to provide the passenger’s name, address, drivers license number and the license plate number of the vehicle the passenger was riding in to the person struck or the driver or occupants of any vehicle involved in the accident. Passengers in vehicles involved in accidents are also required to render assistance to any person injured, to include calling for medical assistance, if it is apparent that such assistance is necessary or is requested by the injured person. Effective: December 1, 2005.

HOUSE BILL 248, Meth. Lab Prevention Act, is intended to reduce the meth lab problem in North Carolina and requires that:

- (1) Products in which the sole active ingredient is pseudoephedrine in strength of 30 milligrams or more shall only be sold in blister packages and cannot be sold loose in bottles.
- (2) Pseudoephedrine products in tablets or caplets must be stored and sold behind a pharmacy counter. Pseudoephedrine products sold in liquid and gel cap forms, or pediatric products for children under 12 years of age, may remain available for sale on store shelves (and not behind pharmacy counters). However, if the North Carolina Commission for Mental Health, Developmental Disabilities and Substance Abuse Services determines that liquids and gels are being used in meth labs, the Commission can impose additional restrictions on these forms of pseudoephedrine also.
- (3) Purchasers of pseudoephedrine products must be at least 18 years of age, furnish a photo ID and enter their name and address into a record that is kept by the retail business selling the pseudoephedrine products.
- (4) It is unlawful to purchase more than two packages containing a combined total of more than six grams of any pseudoephedrine product at any one time.
- (5) It is unlawful to purchase more than three packages containing a combined total of more than nine grams of any pseudoephedrine product within any 30-day period.

- (6) Retail establishments selling pseudoephedrine products must post a sign providing certain notices to the public and must provide specified training for their personnel engaged in the sale of pseudoephedrine products.

This bill also provides that a person arrested for the manufacture of methamphetamine is under a rebuttable presumption that they should have no bond set for their release pending trial if they were arrested for manufacture of methamphetamine and are in any manner dependant upon methamphetamine or have a pattern of regular illegal use of methamphetamine.

In addition, the Legislative Commission on Methamphetamine Abuse was established, which includes 22 members representing a variety of organizations and officials interested in the meth lab issue and problem. One of the appointees to this Commission is a representative from the North Carolina Sheriffs' Association, Inc., as appointed by the Speaker of the House of Representatives.

**This legislation was supported by the North Carolina Sheriffs' Association.** Effective: January 15, 2006, except that the authority of the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services was effective September 27, 2005 and the creation of the Legislative Commission on Methamphetamine Abuse was also effective September 27, 2005.

HOUSE BILL 288, Motor Vehicle Move-Over Law Changes, increases some penalties for violations of the Move Over Law that requires drivers to move into a lane away from a stopped emergency vehicle. This bill makes it a Class I felony if a violation of this law causes serious injury or death to a law enforcement officer, a firefighter, an emergency vehicle operator, an Incident Management Assistance Patrol member, a public service vehicle operator or any other emergency response person. A "public service vehicle" is "a vehicle that has been called to the scene by a motorist or a law enforcement officer, is being used to assist motorists or law enforcement officers with wrecked or disabled vehicles, and is operating an amber-colored flashing light authorized by G.S. 20-130.2."

This law is a part of General Statute 20-157 that requires motorists to pull over and give the right-of-way to public safety vehicles when they are operating their blue or red lights and siren. The previous law on the books said that it applied to "police" vehicles and it has been universally understood that the term "police vehicle" included the vehicles of all other law enforcement agencies. In order to clarify this statute, and to avoid the possibility that a court case could be dismissed on a technicality, **at the request of the North Carolina Sheriffs' Association,** this bill amends this entire General Statute by removing the word "police" vehicle and substituting the words "law enforcement" vehicle. This will make it clear that this statute applies to the vehicles of police departments and also Sheriff's offices, the State Highway Patrol, the State Bureau of Investigation, Wildlife Officers, DMV Officers and all other law enforcement officers. Effective: July 1, 2006.

HOUSE BILL 320, Modify 2005 Appropriations Act, is a bill enacted at the end of the legislative session to make various changes to the State budget bill. It includes a provision that amends N.C. Gen. Stat. §14-309.15(d) to increase the maximum cash prize that may be offered or paid for any one raffle from \$10,000 to \$50,000. Effective: July 1, 2005.

HOUSE BILL 328, Omnibus Local Laws, adds the City of Albemarle and the towns of Beaufort and Southern Shores to the law authorizing only law enforcement officers to operate unregistered all-terrain vehicles on highways with speed limits of 35 miles per hour or less and includes the towns of Duck, Kill Devil Hills, Kitty Hawk and Nags Head in the law authorizing both law enforcement officers and municipal employees to operate unregistered all-terrain vehicles on highways with speed limits of 35 miles per hour or less. Effective: August 23, 2005.

The bill also adds Washington County to those counties in which it is unlawful to remove or destroy an electronic dog collar. Effective: October 1, 2005.

This bill exempts the Town of Leland from the requirement in current law that any ABC store in Brunswick County cannot be located closer than seven miles to a municipality which has an existing ABC store. Effective: August 23, 2005.

HOUSE BILL 345, Winston-Salem Police, requires each company police agency in Winston-Salem to notify the Winston-Salem Police Department in writing of the names of businesses that will receive services from the company police agency, and the notice must be given prior to the agency providing any services. It also requires that company police agencies provide notice within 48 hours of an arrest to the Winston-Salem Police Department of an arrest within the City of Winston-Salem. Effective: July 1, 2005.

HOUSE BILL 355, Restrict Use of Blue and Red Vehicle Lights, prohibits the installation of a red light or a blue light on any non-law enforcement or non-public safety vehicle in a forward facing position, including red or blue “windshield washer lights” frequently mounted on the hood of vehicles. Effective: December 1, 2005.

HOUSE BILL 392, Amend Definition Of Malt Beverage In ABC Law, increases from six percent (6%) to fifteen percent (15%) alcohol by volume that is permitted in a “malt beverage” (i.e., beer). Effective: August 13, 2005.

HOUSE BILL 395, Division of Forest Resources/Emergency Response, designates the Division of Forest Resources as an emergency response agency to support the Division of Emergency Management in responding during “all-risk” incidents. Effective: June 29, 2005.

HOUSE BILL 399, Unified Government, allows the voters in Currituck and Hyde Counties to determine if they would like to have a unified city and county government so that there would be no cities or towns incorporated within those two counties. After House Bill 399 was enacted into law, it was amended by House Bill 787, Various Local Acts, to also include Camden County, except for the small portion (less than 100 acres) of Elizabeth City that is located in Camden County.

As originally introduced, this bill would have allowed the establishment of a county police department in each of these counties. **At the request of the North Carolina Sheriffs’ Association**, amendments were made to the bill to ensure that the Sheriff would remain as the chief law enforcement officer in the county and that a county police department could not be established as a result of the enactment of this legislation. Effective: May 12, 2005.

HOUSE BILL 422, Forsyth Fishing License, allows residents of Forsyth County to fish in the waters of Triad Park without a fishing license. Effective: August 11, 2005.

HOUSE BILL 451, Adoptive Families/DHHS/Criminal Records Checks, requires criminal background checks for any person 18 years of age or older who resides in the household of a prospective adoptive parent. Effective: June 24, 2005.

HOUSE BILL 490, False Report/Destructive Device, amends the law that makes it unlawful to make a false report concerning a destructive device ( i.e. bomb). Under current law, the false report must be that the destructive device is located “in” a building, house, other structure, vehicle, aircraft, vessel or boat. This bill amends that law to make it unlawful to make a false report of a destructive device that is located “in sufficient proximity to cause damage to” any building, house, other structure, vehicle, aircraft, vessel or boat. Effective: December 1, 2005.

HOUSE BILL 529, Suspend Executions for Two Years, as originally introduced, would suspend executions of persons on death row for two years. During that two year period, the General Assembly “or its designees” would study issues related to the death penalty. Most studies that are authorized by the General Assembly are conducted by General Assembly members or are conducted by persons appointed by or representing specific groups detailed in the legislation. This legislation contains no explanation of who might be the General Assembly’s “designees” that conduct this study.

The current version of the bill establishes a Study Commission on Capital Punishment that would consist of five Senators, five Representatives, and five members of the public.

This bill would also allow a defendant facing the death penalty, for whom an execution date has been set, to file a motion in Superior Court asking a Superior Court Judge to consider whether or not the execution should be delayed. If the Superior Court Judge finds certain facts, the Judge would be required to postpone the execution until the General Assembly’s Study Commission completes its study. **The North Carolina Sheriffs’ Association is opposed to a death penalty moratorium.** This bill was not enacted into law, but could be considered in 2006.

HOUSE BILL 569, Domestic Violence Recommendations, creates a Joint Legislative Committee on Domestic Violence to study a variety of issues related to domestic violence, to include the authority to “examine law enforcement and judicial responses to domestic violence.” Effective: September 7, 2005.

HOUSE BILL 601, Carolina Lakes Motor Vehicle Regulation, provides that the motor vehicle law (G.S. Chapter 20) applies on the streets owned by the Carolina Lakes Property Owners’ Association, Inc. in Harnett County. Effective: August 11, 2005.

HOUSE BILL 669, Oversize/Overweight Vehicle Changes, makes various changes to the law concerning over-size and over-weight vehicles, to include:

- a. Adds a property-hauling vehicle with an oversize or overweight load to the list of vehicles that a law enforcement officer may seize and detain.
- b. Amends N.C. Gen. Stat. § 20-117 to provide that the load on a vehicle cannot extend more than 14 feet beyond the rear of the bed or body of the vehicle. This provision does not apply to vehicles transporting forestry products or utility poles. This law also requires a vehicle with a load that extends more than 4 feet beyond the rear of the bed or the body of the vehicle to display a red or orange flag at least 12 inches square and if the vehicle is being operated after sunset and before sunrise, the vehicle must display a red or amber light that is plainly visible for at least 200 feet from the rear of the vehicle. Effective: October 1, 2005.

HOUSE BILL 670, Commercial Drivers License Changes, makes various changes to the laws governing the issuance of commercial driver's licenses. Effective: September 30, 2005.

HOUSE BILL 687, Pirating Movies, makes it unlawful to operate an "audio visual recording" device in a motion picture theater. This law does not apply to a law enforcement officer who is operating an audio visual recording device in a motion picture theater as part of lawfully authorized law enforcement activities. Effective: December 1, 2005.

HOUSE BILL 702, Personal Watercraft Changes, increases the minimum age for persons to operate personal watercraft (i.e., jet skis) from 12 to 14 years of age. This increased age requirement does not apply to persons who are 12 years of age or older prior to November 1, 2005. Effective: November 1, 2005.

HOUSE BILL 740, Transit Drug Testing, requires public transit operators and other employers of persons who operate commercial motor vehicles to report to the Division of Motor Vehicles any federally required positive drug and alcohol test results, and disqualifies those persons who tested positive from operating a commercial motor vehicle or other public transit vehicle until they successfully complete appropriate treatment. Effective: December 1, 2005.

HOUSE BILL 761, Motor Carrier Amendments, amends the Motor Carrier Safety statutes to make it clear that a for-hire motor vehicle that is in violation of the registration or insurance verification requirements "shall be placed out of service until the motor carrier is in compliance." Effective: May 26, 2005.

HOUSE BILL 772, Ban Internet Hunting, makes it unlawful for a person to engage in computer-assisted remote hunting and makes it unlawful to provide or operate a facility that allows others to engage in computer-assisted remote hunting. "Computer-assisted remote hunting" is defined by this bill to mean the "use of a computer or other device, equipment, or software to remotely control the aiming and discharging of a firearm or other weapon, that allows a person, not physically present at the location of that firearm or other weapon to hunt or shoot a wild animal or wild bird." Effective: December 1, 2005.

HOUSE BILL 779, Increase the Penalty for Truancy, increases the penalty from a Class 3 misdemeanor to a Class 1 misdemeanor for any person who aids or abets a student's unlawful absence from school. Effective: December 1, 2005.

HOUSE BILL 787, Various Local Acts, makes changes to local laws that affect various counties and towns, to include:

- Clarifies that in Cedar Point the no-wake zone on the Intracoastal Waterway is between Waterway Marker 44 and Waterway Marker 46B.
- In Chowan County, prohibits hunting on the land of another without the written permission of the owner or lessee of the land. Effective: September 22, 2005.

HOUSE BILL 798, Repeal Harnett County Fox Hunting Law, repeals the law enacted in 1977 regulating fox hunting in Harnett County. Effective: May 9, 2005.

HOUSE BILL 811, Amend Pitt County Hunting Law, amends the law enacted in 2002 regulating hunting in Pitt County. Previously, the law made it unlawful to release dogs on or to allow them to run on posted property without permission. This amendment deletes the language "or allow them to run on" so that the only unlawful action would be to "release" dogs on posted land without permission. Effective: May 16, 2005.

HOUSE BILL 813, Prohibiting Solicitations on State Highways, authorizes local governments to enact ordinances restricting or prohibiting persons from standing on any street, highway or right-of-way (excluding sidewalks) while soliciting or attempting to solicit any employment, business or contribution from the driver or occupants of any vehicle. Effective: August 16, 2005.

HOUSE BILL 820, Amend Person Fox Trapping, lengthens the fox trapping season in Person County. Previously, the law allowed fox trapping from January 2nd through January 31st and this bill changes those dates to September 1 through September 30 and from December 1 through February 20 of each year. It would also eliminate the season bag limits. Effective: August 11, 2005.

HOUSE BILL 821, Evidence/Speed-Measuring Instruments, amends the statutes governing admissibility of evidence from speed-measuring instruments (Radar, Lidar, etc.) to modify the standards for testing speed-measuring devices and the required qualifications of the technicians testing the devices. Effective: October 1, 2005.

HOUSE BILL 822, Blakely Decision/Conform State Law, amends State law concerning the determination of aggravating factors in a criminal case to conform North Carolina law with the United States Supreme Court decision in *Blakely v. Washington*. This bill makes it clear that only a jury (and not a judge) may determine if an aggravating factor is present in an offense unless the defendant admits to the existence of the aggravating factor. It also requires the State to prove the existence of an aggravating factor beyond a reasonable doubt. This legislation includes numerous other procedural changes related to this court case. Effective: June 30, 2005.

HOUSE BILL 827, Town of Caswell Beach-Regulate Golf Carts, authorizes the Town of Caswell Beach to regulate the operation of electric golf carts on any public street or road within the Town. Effective: May 24, 2005.

HOUSE BILL 862, Prohibit Removal of Electronic Collars, makes the law apply statewide that prohibits the removal of electronic collars from dogs. Currently, it only applies in certain counties. Effective: December 1, 2005.

HOUSE BILL 888, Cockfighting/Increase Penalty, increases the penalty for cockfighting from a Class 2 misdemeanor to a Class I felony. Effective: December 1, 2005.

HOUSE BILL 890, Crime Lab Costs Recovery Fee, requires the court to assess a fee of \$300 for the cost of the services of a crime laboratory operated by a local government or group of local governments. This fee can only be assessed in cases where the local government crime laboratory performs: (1) DNA analysis; (2) a test of bodily fluids of the defendant for alcohol or controlled substances; or (3) an analysis of a controlled substance possessed by the defendant or by the defendant's agent. In addition, these costs can only be assessed if the court finds that the work performed at the local government's laboratory is the equivalent of the same kind of work performed by the State Bureau of Investigation. The court can waive or reduce the amount of the \$300 fee upon a finding of just cause to grant a waiver or reduction. Effective: October 1, 2005.

HOUSE BILL 891, Master Keys/Lock-Picking Devices Regulated, makes it unlawful to possess a motor vehicle master key, manipulative key, or other motor vehicle lock-picking device or hot-wiring device with the intent to commit a felony, larceny or unauthorized use of a motor vehicle. This law does not apply to a new or used motor vehicle dealer, a car rental agent, a locksmith, an employee of a towing service, an employee of an automotive repair business, a person who is lawfully repossessing a vehicle, or a law enforcement officer when that person is acting within the scope of the person's official duties or employment. Effective: December 1, 2005.

HOUSE BILL 921, Currituck Deer Hunting, amends the Currituck Deer Hunting Law to allow the taking of deer of either sex with shotguns, bow and arrow, and muzzle-loading firearms. Effective: April 25, 2005.

HOUSE BILL 922, Beaufort County Vacancies Filled Under General Law, provides that vacancies in the offices of Register of Deeds, Sheriff and County Commissioner in Beaufort County will be filled in accordance with the General Statutes. This bill repeals a local law enacted in 1997 that only applied to Beaufort County. Effective: August 11, 2005.

HOUSE BILL 926, Concealing a Death/Criminal Offense, makes it unlawful to conceal the death of a person, fail to notify law enforcement authorities of the death, or secretly bury or otherwise secretly dispose of a dead human body, or to aid and abet another person in doing so. Effective: December 1, 2005.



HOUSE BILL 982, Vance County Hunting, prohibits hunting and the discharge of high powered rifles from the right-of-way of public roads in Vance County and increases the fines for unlawful hunting on registered land in Vance County. Effective: October 1, 2005.

HOUSE BILL 1010, Wilson County and Orange County Hunting, prohibits hunting on the property of another person without written permission in Wilson County and in Orange County. Effective: October 1, 2005.

HOUSE BILL 1012, Hunting and Fishing on Tribal Land, allows members of state-recognized Indian tribes to hunt, trap, or fish on tribal lands without obtaining a license issued by the Wildlife Resources Commission. Effective: August 11, 2005.

HOUSE BILL 1016, Dispose of Firearms/Benefit Law Enforcement, amends several different statutes concerning the disposition of firearms that come into the possession of law enforcement agencies. It makes the language uniform in all of the statutes, making it clear that the Judge can order the firearm turned over to be destroyed by the Sheriff or order the firearm turned over to a law enforcement agency for the official use of the agency or for “sale, trade, or exchange by the agency to a federally licensed firearms dealer.” If a firearm was “seized property” pursuant to N.C. Gen. Stat. §15-11.1 or “confiscated property” pursuant to §14-269.1, then if it is sold the proceeds must go to the local school system. However, if it is an “unclaimed” firearm pursuant to N.C. Gen. Stat. §15-11.2 and is sold, the proceeds shall be retained by the law enforcement agency and used for law enforcement purposes. Effective: August 11, 2005.

HOUSE BILL 1032, Placing Students in Seclusion, specifies the circumstances in which school personnel may use physical restraint, mechanical restraint or seclusion when dealing with students. The new law specifically states that it shall not be construed to create a criminal offense. Effective: July 1, 2006.

HOUSE BILL 1048, Governor’s DWI Task Force Recommendations, would implement the recommendations of the Governor’s Task Force on Driving While Impaired and would make numerous changes in the laws governing DWI and in the statutes that govern the trial of DWI cases in court. The current version of the bill is designed to close various gaps (also known as “loopholes”) in the current law that have allowed defendants to have their cases dismissed in court. This bill was approved by the House and is currently pending in the Senate Judiciary I Committee. It was not enacted into law in 2005 but is eligible for further consideration in 2006.

HOUSE BILL 1052, Brunswick-Trash Trucks Stopped on Highways, permits vehicles collecting garbage in Brunswick County to stop on the pavement of highways outside of municipal limits. Effective: August 11, 2005.

HOUSE BILL 1084, Expunge Nonviolent Felonies/Young Offenders, would provide that a person who was convicted of a felony when they were under 18 years of age could have the conviction expunged under certain circumstances if they had no other felony or misdemeanor convictions. As introduced, this bill would have allowed 16 and 17 year olds to expunge G, H and I felonies. It was amended to remove the G felonies from the bill. Now, the bill would allow 16 and 17 year olds to

obtain expungement of H and I felonies. The bill passed the House and was received in the Senate and assigned to the Senate Rules Committee. **This bill is opposed by the North Carolina Sheriffs' Association**, and the Chiefs of Police, Law Enforcement Officers Association, Police Executives, District Attorneys, Victim's Network, Press Association, Bankers, Realtors, NC Citizens for Business and Industry, Convenience Store Owners, County Commissioners and School Boards Association. This legislation was not enacted into law but is eligible for consideration in the 2006 Session of the General Assembly.

HOUSE BILL 1086, General Assembly Police Jurisdiction. As originally introduced, this bill would have extended the jurisdiction of the General Assembly Police to "any part of the State while they are present in that location during the performance of their official duties." **At the request of the North Carolina Sheriffs' Association**, and in cooperation with the General Assembly Police, this bill was amended to give jurisdiction to the General Assembly Police: within the area of the City of Raleigh and Wake County surrounded by the innermost right-of-way of Interstate 440 (the inner beltline); and elsewhere in North Carolina while accompanying a member of the General Assembly on official duties or while preparing for or providing security to a Session of the General Assembly that is being held at a location other than the main legislative building. Effective: August 23, 2005.

HOUSE BILL 1112, Central Registry/Mental Health Beds/Involuntary Commitment, requires the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to develop a central listing of mental health facilities designed for the placement of individuals to be involuntarily committed to assist law enforcement officers and others. The listing shall be accessible on the Internet not later than October 1, 2005. **This bill was supported by the North Carolina Sheriffs' Association.** Effective: August 23, 2005.

HOUSE BILL 1168, Prohibit Deceptive Marketing/Banking Services, makes it unlawful to use the name or logo of any banking entity in connection with the sale, offering for sale or advertising of any financial product or service without the express written consent of the banking entity. Effective: December 1, 2005.

HOUSE BILL 1174, Alcoholic Beverage Control Permit Issuance and Compliance, would expand the definition of the "premises" of an ABC permittee to include all areas inside or outside the licensed premises where the permittee has control of the area because of a lease, deed or other legal authority. It would also require the ABC Commission, prior to issuing a permit, to determine whether or not operation of the business would be detrimental to the neighborhood based on certain criteria. It would also require the ABC Commission to revoke permits if a permittee or employee has violated certain laws two or more times in a 12 month period. Effective: December 1, 2005.

HOUSE BILL 1176, Property Exempt From Enforcement Actions, increases the limits on property of a judgment debtor that is free from the enforcement of the claims of creditors and adds additional types of property to the list of property that is exempt from enforcement. Effective: January 1, 2006.

HOUSE BILL 1199, Involuntary Commitment Affidavit, allows a physician or psychologist to file an affidavit for involuntary commitment with the Clerk of Court or Magistrate either by hand-delivery of the original affidavit or by facsimile transmission of a paper copy of the affidavit. Effective: June 23, 2005.

HOUSE BILL 1206, Dog Training With Water Fowl and Game Birds, allows the use of domestically bred waterfowl and game birds in dog training under certain circumstances. Effective: June 1, 2005.

HOUSE BILL 1207, 2005 Appointments, makes appointments to various state boards and commissions, to include:

- Sheriff Stephen Bunn of Bladen County is reappointed to the North Carolina Sheriffs' Education and Training Standards Commission for a term expiring on June 30, 2007, upon the recommendation of Speaker of the House Jim Black.
- Sheriff Rodney Midgett of Dare County is appointed to the North Carolina Sheriffs' Education and Training Standards Commission for a term expiring on June 30, 2007, upon the recommendation of Senate President Pro Tempore Marc Basnight.
- Chief Gary Mason, Vernon Bryant, and Kevin Wallace are reappointed and retired Chief Jim Festerman is appointed to the North Carolina Criminal Justice Education and Training Standards Commission for terms expiring on June 30, 2007, upon the recommendation of Speaker of the House Jim Black.
- Wade Anders, Terry Waterfield, Bob Lewis and Bonnie Boyette are reappointed to the North Carolina Criminal Justice Education and Training Standards Commission for terms expiring on June 30, 2008, upon the recommendation of Senate President Pro Tempore Marc Basnight.
- Leslie Stanfield is appointed to the Criminal Justice Information Network (CJIN) Governing Board for a term expiring on June 30, 2009, upon the recommendation of Speaker of the House Jim Black.

Effective: September 22, 2005.

HOUSE BILL 1209, Sexual Battery/Sex Offender Registry/DNA, amends the sex offender registration program to include sexual battery as a reportable offense, and requires inmates convicted of sexual battery to provide a DNA sample. Effective: December 1, 2005.

HOUSE BILL 1213, Expunge Multiple Charges/Occur Within 1 Year, allows a person to have their criminal records expunged in situations where the person was charged with multiple offenses during a 12-month period if the charges were subsequently dismissed or if the defendant was found not guilty, all during the same term of court. This option for expungement would apply even though the multiple criminal offenses did not arise out of the same transaction or occurrence. It is important to note that this bill allows for "charges" to be expunged when the charges were dismissed or the defendant was found not guilty, but this bill does not apply to criminal "convictions." Additionally, this bill does not apply to a person who has previously received an expungement. **This bill was supported by the North Carolina Sheriffs' Association.** Effective: October 1, 2005.

HOUSE BILL 1256, Rights for Accused and Ex-Offenders, as originally introduced would have required the State Board of Elections, the Department of Correction, and the Administrative Office

of the Courts to jointly develop a procedure for criminal defendants to apply to register to vote after they had served their sentence. It would have also required those same groups to work with the Sheriffs of North Carolina to develop a procedure for citizens who are incarcerated in county jails and detention centers to vote by absentee ballots. **At the request of the North Carolina Sheriffs' Association**, the House Election Law Committee amended the bill to delete the provision relating to Sheriffs and prisoners in county jails and detention centers. This bill was re-referred to the House Rules Committee and was not enacted into law.

HOUSE BILL 1261, 911 Wireless Service, makes various administrative changes in the authority of the Wireless 911 Board. In addition, it amends N.C. Gen. Stat. § 62A-8(b) to make it clear that money from the Fund cannot be used for any expense unless that expense is specifically authorized under N.C. Gen. Stat. § 62A-8(a). The bill also requires the Joint Legislative Utility Review Committee to study several issues, to include: (1) modification of what constitutes an authorized expenditure from a local Emergency Telephone System Fund; and (2) whether to designate the Community College System as the preferred provider of training for public safety answering point staff. Effective: September 27, 2005.

HOUSE BILL 1279, Speeding to Elude Arrest, provides that if a person dies due to a misdemeanor fleeing to elude arrest offense the violator is guilty of a Class H felony. The bill also provides that if the death resulted from a felony speeding to elude arrest, the defendant would be guilty of a Class E felony. Effective: December 1, 2005.

HOUSE BILL 1297, MRC and CERT Volunteers Qualified Immunity, provides qualified immunity from civil liability for any volunteer who serves in a medical reserve corps unit or on a community emergency response team while engaged in providing emergency services. Effective: October 1, 2005.

HOUSE BILL 1311, Domestic Violence Victims Empowerment Act, is the bill that, as originally introduced, would have required Sheriffs to issue carry concealed handgun permits to persons with domestic violence orders even if the person was not legally eligible to obtain the permit nor to carry a weapon. The bill was amended **at the request of the North Carolina Sheriffs' Association** to delete the requirement that a Sheriff issue a permit to persons who are disqualified by law from receiving the permit.

As enacted, this bill does not change current law which allows a Sheriff to issue a temporary concealed handgun permit to a person whom the Sheriff reasonably believes is in an emergency situation that may constitute a risk of safety to the person, the person's family or property, so long as the person is not otherwise disqualified by law from possessing a firearm or obtaining the permit.

This bill states that the applicant for a temporary carry concealed handgun permit may submit proof of a domestic violence protective order to the Sheriff as evidence of an emergency situation, which was also allowed under prior law. However, submission of the domestic violence protective order for consideration by the Sheriff does not require the Sheriff to issue the temporary permit if, based on all of the information available to the Sheriff: (1) the Sheriff does not reasonably believe that an emergency situation exists; or (2) the applicant is prohibited by law from possessing a firearm.

This bill also requires the Clerk of Superior Court to provide a person when they receive a domestic violence protective order with an information sheet developed by the Administrative Office of the Courts that explains that person's right to apply for a carry concealed handgun permit. Effective: October 1, 2005.

HOUSE BILL 1323, Establish NC Innocence Inquiry Commission, would establish the North Carolina Innocence Inquiry Commission as recommended by the North Carolina Actual Innocence Commission. This bill would allow a claim to be filed with the Commission by or on behalf of a person who had a claim of factual innocence. This bill was approved by the House after numerous **changes were made to the bill at the request of the North Carolina Sheriffs' Association** and the North Carolina Conference of District Attorneys. The bill was received by the Senate, but not considered and not enacted into law. It may be considered during the 2006 Session of the General Assembly.

HOUSE BILL 1328, Pardon/Expunction of Record, requires the expunction of a defendant's criminal history records when the defendant receives a pardon of innocence from the Governor. **This bill was supported by the North Carolina Sheriffs' Association.** Effective: August 25, 2005.

HOUSE BILL 1346, Interstate Compact for Juveniles, would enact an interstate compact for juveniles that would include a procedure to regulate the movement across state lines of juveniles who are under court supervision. Effective: Only When 35 States Have Adopted the Interstate Compact for Juveniles.

HOUSE BILL 1390, Amend Alcoholic Beverage Control Transportation Limit, increased from 20 to 50 liters the amount of unfortified wine that may be transported without a permit. Effective: August 26, 2005.

HOUSE BILL 1392, Failure to Return Hired Motor Vehicles, makes it a Class H felony to fail to return a rented motor vehicle if the value of the motor vehicle exceeds \$4,000. This bill also sets out certain steps that may be taken by the car rental company to contact the renter of the vehicle. If these steps are taken and the car is not returned, it is prima facie evidence that the person who rented the car intended to commit a crime in violation of this statute.

This bill also contains a provision similar to current law for stolen vehicles requiring law enforcement officers to enter the offense into the NCIC system, and to report the recovery of any such vehicle to NCIC as well. A law enforcement officer receiving a report that a vehicle has been returned that was previously entered into NCIC is also required to attempt to notify whomever reported the unreturned vehicle of the location and condition of the recovered vehicle by telephone, if the telephone number of that person is available or readily accessible. Effective: December 1, 2005.

HOUSE BILL 1395, Amend Bear Baiting Prohibition, would allow the Wildlife Resources Commission to adopt rules prohibiting the placement of processed food products in areas frequented by black bears. Effective: October 1, 2005.

HOUSE BILL 1400, School Bus Safety Act, increases the penalty from a Class 2 misdemeanor to a Class 1 misdemeanor to pass a stopped school bus and makes it a Class I felony offense if the defendant strikes a person causing serious bodily injury. This bill also keeps the requirement that there be a plainly visible sign on the front and rear of the bus that says "School Bus," but it removes the requirement that the sign be in letters of at least eight inches in height. Effective: September 1, 2005.

HOUSE BILL 1401, Concealed Carry By Law Enforcement Officers, as originally introduced would have allowed law enforcement officers in North Carolina, while off-duty, to carry a concealed weapon as long as the officer was not "impaired by alcoholic beverages." The off-duty officers would have been allowed to carry a concealed weapon after consuming alcoholic beverages so long as "the officer was not impaired." **At the request of the North Carolina Sheriffs' Association**, the bill sponsor amended this bill to provide that off-duty law enforcement officers can carry a concealed weapon in North Carolina as long as they are not consuming and do not have any alcoholic beverages or unlawful controlled substances remaining in the officer's body. This bill removes the requirement in the previous law that allowed off-duty officers to carry concealed handguns only if their employing agency filed regulations with the Clerk of Superior Court. This legislation extends to North Carolina law enforcement officers the same authority within our State as officers have throughout the United States due to federal HR 218 enacted in 2004 by the United States Congress. Effective: August 26, 2005.

HOUSE BILL 1404, Seizure of Documents and Plates, authorizes the Division of Motor Vehicles to issue a revocation order for a motor vehicle registration plate or other documents that have been revoked, cancelled, suspended or determined to be fictitious. Members of the State Highway Patrol and other law enforcement officers with jurisdiction are authorized to seize a Certificate of Title, registration card, permit, license, or registration plate if the officer has electronic (i.e., DCI-PIN message) or other notification from DMV that the item has been revoked or cancelled, or if the officer otherwise has probable cause to believe that the item has been revoked or cancelled under any law or statute, including for a failure to maintain proper insurance on the vehicle. If a criminal proceeding relating to the item is pending, the law enforcement officer in possession of that item shall retain the item until the entry of a final judgment by a court. If there is no criminal proceeding pending, the law enforcement officer shall deliver the item to DMV. Any law enforcement officer who seizes a registration plate under this statute shall report the seizure to DMV within 48 hours of the seizure. Effective: December 1, 2005.

HOUSE BILL 1409, Bail Bonds/Bond Source, authorizes a judge or other judicial official to conduct a hearing to determine the source of money or property being posted for an appearance bond. The court may refuse to accept the money or property offered as bond as security for the defendant's appearance because of its source, if the court determines it will not reasonably assure the appearance of the person as required. Effective: December 1, 2005.

HOUSE BILL 1415, Pistol Permit/Check with Home County Sheriff would provide that if a person who applies for a pistol purchase permit has an out-of-county address, the Sheriff shall consult with the Sheriff of the applicant's home county prior to issuing the pistol purchase permit. Note: Under current law, a Sheriff cannot issue a pistol purchase permit to anyone other than a resident of that Sheriff's county. Therefore, it appears that this proposed new provision of law would never apply.

The bill was amended to require the State Bureau of Investigation (SBI) to establish a database that can be used by Sheriffs to record certain information when a person is denied a pistol purchase permit. The sponsors of this bill were involved in detailed discussions with the North Carolina Sheriffs' Association and the N. C. Department of Justice about this bill. **At the request of the North Carolina Sheriffs' Association**, the bill sponsors agreed that the Sheriff would not be required to enter into the database the reason that the pistol purchase permit was denied, and would only be required to enter sufficient information to identify the applicant, the date of the denial of the permit, and the county in which the permit was denied.

This bill as amended was approved by the House Judiciary III Committee and sent to the House Appropriations Committee for an evaluation of the costs to the SBI of establishing this new database. It was not enacted into law, but is eligible to be considered during the 2006 Session of the General Assembly.

HOUSE BILL 1416, An Act To Amend The Alcoholic Beverage Control Election Law, would allow any city or town that is the "passenger terminus" of a railroad that carries at least 60,000 passengers annually, to hold an election to determine whether or not to allow on-premises sale of beer and unfortified wine. Effective: August 26, 2005.

HOUSE BILL 1430, Obstructing Use of Boat Ramp, makes the penalty for obstructing a boat launching area an infraction with a fine of \$50. This bill also allows Wildlife Enforcement Officers and other law enforcement officers to have a vehicle towed at a public boating access area owned or operated by the Wildlife Resources Commission if the vehicle: (1) is parked in an area other than one designated for parking; or (2) is left by an individual for a purpose other than launching, operating, or retrieving a vessel. Effective: December 1, 2005.

HOUSE BILL 1434, Electronic Signature Under Rule 4, amends Rule 4(j) of the Rules of Civil Procedure to allow service of civil process by mailing it via the United States Postal Service using "signature confirmation" mail. This is a new mail service provided by the United States Postal Service similar to registered or certified mail but instead of the recipient's signature being contained on the "green card," the recipient's signature is maintained in an electronic database of the United States Postal Service. **This bill was supported by the North Carolina Sheriffs' Association.** Effective: October 1, 2005.

HOUSE BILL 1436, Death Penalty/Add Aggravating Factor, directs the North Carolina Sentencing and Policy Advisory Commission to study whether or not there should be an aggravating factor in a death penalty case if the jury determines that the defendant's behavior was prohibited by a valid domestic violence protective order. Effective: August 22, 2005.

HOUSE BILL 1466, Exploitation/Elderly or Disabled Adult, increases the penalty for exploitation of an elderly person or disabled adult. Effective: December 1, 2005.

HOUSE BILL 1485, Search Warrants/Audio & Video Transmission, allows search warrants to be obtained by oral testimony under oath from a sworn law enforcement officer provided to the issuing magistrate or other judicial official by means of an audio and video transmission in which both

parties can see and hear each other. Audio visual equipment utilized for this purpose must be approved by the Administrative Office of the Courts. Effective: October 1, 2005.

HOUSE BILL 1504, Law Enforcement Officer Discipline, is a variation of the Peace Officers Bill of Rights legislation that has been introduced previously. Under this legislation, when a law enforcement agency “considers matters” that could reasonably lead to significant disciplinary action, the agency must give the officer a right to a hearing before a “fair and impartial board or hearing officer”, with the right to be represented by an attorney at the officer’s expense, the right to examine witnesses testifying against the officer and the right to call witnesses and present evidence. Additionally, all meetings would be required to be recorded.

Currently in North Carolina, all local government law enforcement personnel, all other local government personnel, and all employees of private businesses are “employees-at-will.” While many employers provide various procedures before disciplining employees, the exact procedures to be followed are determined by the employer. This legislation would drastically change the “employment-at-will” status of law enforcement officers and would, by law, require certain disciplinary procedures similar to those provided to labor union employees.

This bill was considered in the House Judiciary IV Committee. After some discussion and debate, the bill was defeated. **This bill is opposed by the North Carolina Sheriffs’ Association** and many other groups. Those in attendance who spoke against this legislation included: Sheriff Dane Mastin (Wilkes County), 2004-2005 President of the North Carolina Sheriffs’ Association; Chief Glen Allen (Henderson Police Department), President of the North Carolina Association of Chiefs of Police; Raymond Boutwell, on behalf of Wake County Sheriff Donnie Harrison and the Wake County Board of Commissioners; and Andy Romanet, on behalf of the NC League of Municipalities. This bill is not eligible for consideration during the 2006 Session of the General Assembly.

HOUSE BILL 1517, Clarify Definition of Childcare, provides that sex offenders are restricted from providing babysitting services under certain circumstances. This bill provides that a babysitting service cannot be offered in a home where a resident of the home is a sex offender, and that a registered sex offender cannot be a provider of care for the babysitting service, if the babysitting service meets the definition contained in the statute. The definition contained in the statute for “babysitting service” means that the service must be: (1) for profit; (2) for a child under the age of 13 years; (3) for a child who is unrelated to the provider; (4) for more than two hours a day; and (5) while the child’s parents or guardian are not on the premises. There appears to be no prohibition in this new law to prevent registered sex offenders from babysitting children unless all of these detailed requirements apply. Effective: December 1, 2005.

HOUSE BILL 1518, Alcoholic Beverage Control Licensees to Recycle Beverage Containers, requires ABC permittees with on-premises beer and wine and mixed beverages permits to recycle all recyclable containers of all beverages sold at the premises. Effective: January 1, 2008.

HOUSE BILL 1543, Autopsy Records Not Public, provides that autopsy photographs and video and audio recordings are not public records, but it allows limited access for viewing the photographs. Effective: December 1, 2005.



