



NORTH CAROLINA SHERIFFS' ASSOCIATION

Weekly Legislative Report

March 18, 2005

Many legislative bills were introduced this week, especially in the House because of the deadline requiring that all bills recommended by study commissions and all bills being introduced at the request of a state agency must have been filed by Wednesday, March 16th. It is likely that a lot of bills will be introduced between now and next week because the Senate deadline for filing bills is next Wednesday, March 23rd.

Including the bills that have been pre-filed for introduction next Monday, there are 826 House bills and 717 Senate bills so far this Session, for a total of 1,543. The House and Senate Appropriations Subcommittees continue meeting to review budget requests from various state agencies and many of the other committees are meeting regularly to consider legislation that has been introduced and referred to those committees.

Legislators remain in their temporarily assigned offices where they have been since the beginning of the Session, but there is speculation that permanent office assignments will be announced soon. If this year is like previous years, when the new office assignments are released the State Legislative Building and the Legislative Office Building will resemble a college campus on the first day of the Semester. There will be dozens of people moving furniture and possessions from place to place and many legislators busily trying to get settled into their new offices. It is likely that the permanent office assignments will find some legislators moving into much smaller offices without windows and other legislators moving into larger offices with lots of windows. And, there will be many legislators who will remain in their current office.

The task of assigning legislators to specific offices must be complex since some legislators want to be in the State Legislative Building while others prefer the Legislative Office Building; some prefer to be very close to the front door of the building and others prefer a back hall away from all of the hustle and bustle; and many legislators prefer to have their office located in close proximity to good friends of theirs (who are often in the same political party.)

When the process is complete, many will be pleased and some will be disappointed. Either way, these office assignments will remain in effect for the remainder of this General Assembly Session which includes both this year and next year. While all legislators have individual telephone numbers for their respective office, all members of both the House and the Senate can be reached by calling the General Assembly switchboard at (919) 733-4111.

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

BILLS OF INTEREST

SENATE BILL 486, Rachel's Law. Current law makes it a Class E felony to discharge a firearm into any occupied vehicle or building. This bill would increase the penalty for violation of this statute to a Class C felony if the building is a dwelling or if the vehicle is traveling upon a public street or a public vehicular area. It also would increase the penalty to a Class B2 felony if the violation results in serious injury to any person. **Introduced by Senator Allran and referred to the Senate Judiciary II Committee.**

SENATE BILL 492, Jury Exhibits, would give the presiding judge in a civil or criminal trial the sole discretion to determine whether jurors may take exhibits that have been introduced into evidence into the jury room. **Introduced by Senator Hagan and referred to the Senate Judiciary I Committee.**

SENATE BILL 493, Guilford Battleground Special Plate, would authorize the Division of Motor Vehicles to issue a "Guilford Battleground Company" vehicle registration plate if the Division receives 300 or more applications for the registration plate. **Introduced by Senator Hagan and referred to the Senate Finance Committee.**

SENATE BILL 505, Medical Examiner Fee Increase, would increase from \$75 to \$100 the fee paid to local medical examiners for each investigation conducted by the Medical Examiner. **Introduced by Senator Purcell and referred to the Senate Finance Committee.**

SENATE BILL 507, Aggravating Factor/Add Social Worker, would make it an aggravating factor if the criminal offense was committed against or proximately caused serious injury to a social worker. **Introduced by Senator Dalton and referred to the Senate Judiciary II Committee.**

SENATE BILL 513, Mental Health Court Funds, would appropriate \$132,000 each year for the mental health court programs in Mecklenburg and Orange Counties. **Introduced by Senator Clodfelter and referred to the Senate Appropriations Committee.**

SENATE BILL 515, Mecklenburg ADA Funds, would appropriate \$148,342 per year to continue funding eight temporary assistant district attorney positions that have previously been funded through various grants in Mecklenburg County. **Introduced by Senator Clodfelter and referred to the Senate Appropriations Committee.**

SENATE BILL 520, Court Fee Changes, would increase the cost of court by \$5. A portion of that money would go to the Judicial Public Financing Campaign Fund and a portion would go to the North Carolina State Bar for a program that provides legal representation for indigent persons in certain kinds of civil matters. **Introduced by Senator Clodfelter and referred to the Senate Finance Committee.**

SENATE BILL 523, En Banc Procedure. Currently, there are 15 judges on the North Carolina Court of Appeals and they sit in panels of three judges each to hear cases before the court. This bill would

allow, upon a majority vote of the judges of the court, the court to sit “En Banc” which means that the court would be authorized to hear a case by a majority of the 15 judges rather than by a three judge panel. **Introduced by Senator Clodfelter and referred to the Senate Judiciary I Committee.**

SENATE BILL 526, Deter Juvenile Auto Larceny, would provide stricter penalties for juveniles who commit larceny of a motor vehicle or who are in possession of a stolen motor vehicle. **Introduced by Senator Clodfelter and referred to the Senate Judiciary I Committee.**

SENATE BILL 527, Campus Police Act, would extend 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. **Introduced by Senator Clodfelter and referred to the Senate Judiciary I Committee.**

SENATE BILL 532, Construction Site Theft/Aggravate Penalty, would make a theft from “permitted” construction site a Class H felony if the value of the property stolen is \$300 or more. It would make possessing or receiving goods stolen from a “permitted” construction site a Class H felony regardless of the value of the property stolen. **Introduced by Senator Phil Berger and referred to the Senate Judiciary I Committee.**

SENATE BILL 538, Statewide ADA Funds, would appropriate funds to establish 75 new assistant district attorney positions throughout the State. **Introduced by Senator Clodfelter and referred to the Senate Appropriations Committee.**

SENATE BILL 542, Blakely Decision/Amend Aggravating Factors, would amend State law to comply with the United States Supreme Court decision in the case of Blakely v. Washington. That case required that the determination of whether or not an aggravating factor is present be made by a jury, unless the defendant admits the existence of the aggravating factor. However, if the determination of whether or not an aggravating factor applies is based upon a previous “adjudication of delinquency,” the determination shall be made by the court and not by the jury. The existence of an aggravating factor must be proven by the State beyond a reasonable doubt. **Introduced by Senator Clodfelter and referred to the Senate Judiciary I Committee.**

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. **Introduced by Senator Kinnaird and referred to the Senate Judiciary II Committee.**

SENATE BILL 560, Amend Certain Criminal Offenses, would amend the criminal law definition of “prostitution” to comply with the United States Supreme Court decision in the case of Lawrence v. Texas and would make it a criminal offense to engage in certain sexual activity in a public place. **Introduced by Senator Kinnaird and referred to the Senate Judiciary II Committee.**

SENATE BILL 564, Drug Treatment Court/DART Referral, would provide that a defendant who is enrolled in a drug treatment court program shall be referred to residential treatment in the Drug Alcohol Recovery Treatment (DART) Program without undergoing a second assessment. **Introduced by Senator Boseman and referred to the Senate Judiciary I Committee.**

SENATE BILL 574, Amend Post-Release Supervision Laws, would make various changes in the structured sentencing laws regarding post-release supervision. **Introduced by Senator Hartsell and referred to the Senate Judiciary II Committee.**

SENATE BILL 585, Two-Year Vehicle Registration/Eight-Year Drivers License, would change the renewal period for vehicle registration plates to two years and would change the renewal period for drivers licenses to eight years. **Introduced by Senator Albertson and referred to the Senate Transportation Committee.**

SENATE BILL 588, Expunge White-Collar Crime Convictions, would allow a person to have their criminal conviction expunged for certain “white-collar” criminal offenses if the person has not previously been convicted of a felony or misdemeanor (other than a traffic violation) and if ten years had passed since the conviction, and the defendant had not been convicted of a felony or misdemeanor (other than a traffic violation) since the date of the conviction. **Introduced by Senator Weinstein and referred to the Senate Judiciary II Committee.**

SENATE BILL 591, False Report/Destructive Device, This bill is identical to House Bill 490 discussed in a previous week’s Weekly Legislative Report. **Introduced by Senator Allran and referred to the Senate Judiciary II Committee.**

SENATE BILL 597, Oversize/Overweight Vehicle Changes, would make various changes in the laws concerning over-size and over-weight vehicles. **Introduced by Senator Jenkins and referred to the Senate Transportation Committee.**

SENATE BILL 598, Commercial Drivers License Changes, would make various changes in the laws governing commercial drivers licenses. **Introduced by Senator Jenkins and referred to the Senate Commerce Committee.**

SENATE BILL 603, Light-Duty Road Exemption-Building Supplies, would exempt transportation of certain building supplies from the light-duty road weight limitations. **Introduced by Senator Jenkins and referred to the Senate Commerce Committee.**

SENATE BILL 610, High Occupancy Vehicle (HOV) Lane Penalties, would provide that a violation of the HOV lane restrictions would be punishable as an infraction with a penalty of \$100 and 2 drivers license points. **Introduced by Senator Jenkins and referred to the Senate Judiciary I Committee.**

SENATE BILL 624, Automated Discovery System Funds, would appropriate \$1 million to the courts for an automated discovery system to allow district attorneys to catalogue and track the inventory of discovered documents. **Introduced by Senator Thomas and referred to the Senate Appropriations Committee.**

SENATE BILL 642, Mandatory Education for Inmates, would establish a mandatory education program for inmates in the custody of the Department of Correction (DOC), would require inmates who have not obtained a high school diploma or GED to participate in the program and would provide disciplinary action against inmates who do not participate as required. **Introduced by Senator Shaw and referred to the Senate Education Committee.**

SENATE BILL 648, 25-Year Retirement For First Responders, would allow law enforcement officers, career firefighters and career emergency medical services workers to retire with unreduced retirement benefits after completing 25-years of service. This bill would allow law enforcement officers to qualify for the Special Separation Allowance Benefit after 25 or more years of creditable service, but would not extend this benefit to career firefighters or career emergency medical services workers. **Introduced by Senator Brock and referred to the Senate Pensions and Retirement Committee.**

SENATE BILL 659, Scuba Special Registration Plate, would authorize the Division of Motor Vehicles to issue a “scuba” special registration plate if there are 300 applicants. **Introduced by Senator Jenkins and referred to the Senate Finance Committee.**

SENATE BILL 675, Establish Mounted Horse/Caisson Patrol Unit, would establish the Honorary Liston B. Ramsey Mounted Horse/Caisson Patrol Unit within the State Highway Patrol and provide a horse-drawn caisson procession at the funeral services of certain law enforcement personnel and other “fallen heros and heroines.” **Introduced by Senator Nesbitt and referred to the Senate Appropriations Committee.**

HOUSE BILL 601, Carolina Lakes Motor Vehicle Regulation, would provide 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. **Introduced by Representative Sauls and referred to the House Local Government I Committee.**

HOUSE BILL 611, Rachel’s Law, This bill is identical to Senate Bill 486 summarized above in this week’s Weekly Legislative Report. **Introduced by Representatives Hilton, Setzer and Hollo and referred to the House Judiciary II Committee.**

HOUSE BILL 614, Child Solicitation by Computer, would increase the penalty from a Class I felony to a Class E felony for a defendant who solicited a child by computer to commit an unlawful

sex act. It would also make it unlawful to solicit a person whom the defendant believes to be under the age of 16 to commit an unlawful sex act, even if the person was not actually under 16 (i.e., an undercover law enforcement officer.) **Introduced by Representatives Wiley and Walend and referred to the House Judiciary II Committee.**

HOUSE BILL 620, Funds For ALE Agents, would appropriate funds for 10 new Alcohol Law Enforcement Agents. **Introduced by Representative Wright and referred to the House Appropriations Subcommittee on Justice and Public Safety.**

HOUSE BILL 624, License Suspension for Pending DWI Charge, would require that a drivers license that has been immediately suspended under the Implied Consent Law shall be held until all pending impaired driving charges are resolved against the driver. **Introduced by Representative Holloway and referred to the House Judiciary I Committee.**

HOUSE BILL 626, Raleigh Charter Amendment. This bill is identical to Senate Bill 392 discussed previously and would amend the Charter of the City of Raleigh to allow the city to sell uniforms and equipment to public safety employees when their employment with the city ends. **Introduced by Representative Martin and referred to the House Local Government I Committee.**

HOUSE BILL 633, Electronic Court Filing, would amend the Rules of Civil Procedure to allow the North Carolina Supreme Court to adopt rules permitting pleadings and other documents to be filed electronically in court cases. **Introduced by Representative Tolson and referred to the House Science and Technology Committee.**

HOUSE BILL 634, Judicial Department Criminal Background Checks, would authorize the Department of Justice to provide criminal history record checks to the Judicial Department concerning any current or future employee, volunteer or contractor. **Introduced by Representative Tolson and referred to the House Judiciary IV Committee.**

HOUSE BILL 643, Speed and Traffic Defeating Devices, would prohibit the use of any device to prevent the use of traffic monitoring and detection systems. This legislation would specifically include, but not be limited to, chemical sprays or plate covers designed to defeat traffic monitoring devices or electronic devices designed to defeat speed detection radar systems and speed detection laser systems. The legislation specifically does not include radar or laser detecting devices. **Introduced by Representative Miller and referred to the House Judiciary I Committee.**

HOUSE BILL 649, Straight Ticket For President, would amend the law governing the design of an official election ballot, provide that a vote for a straight-party ticket on an election ballot will include the offices of President and Vice-President, which are not included in a straight-party ticket vote under current law. **Introduced by Representatives Moore, McGee, LaRoque and Daughtridge and referred to the House Election Law and Campaign Finance Reform Committee.**

HOUSE BILL 650, Business Court Cases/Fee, would allow the Chief Justice of the Supreme Court to designate one or more of the special superior court judges to hear and decide complex business

cases. **Introduced by Representatives Glazier and Haire and referred to the House Judiciary IV Committee.**

HOUSE BILL 652, Exempt REACT/Charitable Solicitations, would exempt Radio Emergency Associated Communications Teams (REACT) from the law governing the solicitation of charitable contributions. **Introduced by Representatives Church and Gillespie and referred to the House Ways and Means Committee.**

HOUSE BILL 666, High Occupancy Vehicle Lane Penalties, would amend the penalties for violation of High Occupancy Vehicle (HOV) lane restrictions and would provide that a violation is an infraction punishable by a penalty of \$100 and 2 drivers license points. **Introduced by Representative Cole and referred to the House Transportation Committee.**

HOUSE BILL 669, Oversize/Overweight Vehicle Changes, would make various changes to the law concerning over-size and over-weight vehicles. **Introduced by Representative Cole and referred to the House Transportation Committee.**

HOUSE BILL 670, Commercial Drivers License Changes, would make various changes to the laws governing the issuance of commercial drivers licenses. **Introduced by Representative Cole and referred to the House Transportation Committee.**

HOUSE BILL 680, Mandatory Jail For Blood Alcohol Level Over 0.20, would require mandatory jail time of either 24 hours or a 6 months active sentence for any person convicted of driving while impaired with a blood alcohol content level of 0.20 or more. **Introduced by Representative Capps and referred to the House Judiciary I Committee.**

HOUSE BILL 682, Operation IRAQI Freedom Registration Plates, would authorize the Division of Motor Vehicles to issue “Operation IRAQI Freedom” special registration plates. **Introduced by Representative Capps and referred to the House Finance Committee.**

HOUSE BILL 686, Update Disability Statutes/Service Animals. Current law allows a person to be accompanied by a “service animal” if the person is mobility impaired, visually impaired, hearing impaired, or has a seizure disorder. This bill would broaden the definition of persons authorized to be accompanied by a service animal to include any person with any disability as defined by G.S. 168-A-3(7a). **Introduced by Representative Gibson and referred to the House Health Committee.**

HOUSE BILL 687, Pirating Movies, would make it a criminal offense to operate an “audio visual recording” device in a motion picture theater. **Introduced by Representatives Gibson, Wright, Brubaker and McComas and referred to the House Judiciary IV Committee.**

HOUSE BILL 690, Anson County 911 Funds, would expand the allowable uses of 911 funds in Anson County to allow these funds to be used on mobile or portable radio receivers and transmitters, base stations, communications towers and other equipment necessary for interconnectivity between

public safety agencies and to be used for the training of telecommunications dispatchers or the remodeling or renovating of the 911 Dispatch Center. **Introduced by Representative Gibson and referred to the House Public Utilities Committee.**

HOUSE BILL 692, Guilford Battleground Special Plate. This bill is identical to Senate Bill 493 summarized above in this week's Weekly Legislative Report. **Introduced by Representative Jeffus and referred to the House Finance Committee.**

HOUSE BILL 702, Personal Watercraft Changes. This bill is identical to Senate Bill 397 and would increase the minimum age for persons to operate personal watercraft from 12 to 14 years of age. **Introduced by Representative Crawford and referred to the House Judiciary I Committee.**

HOUSE BILL 708, Funds to Expand Mental Health Community, would appropriate \$90 million a year to be used by the Department of Health and Human Services to provide good mental health services. **Introduced by Representative Insko and referred to the House Appropriations Committee.**

HOUSE BILL 709, 25-Year Retirement for First Responders, would allow law enforcement officers, career firefighters and career emergency medical services workers to retire with unreduced retirement benefits after 25-years of service. This would allow law enforcement officers to become eligible for the Special Separation Allowance Benefit after 25 years or more of creditable service, but would not extend this benefit to career firefighters or career emergency medical services workers. **Introduced by Representative Howard and referred to the House Pensions and Retirement Committee.**

HOUSE BILL 711, Retirement System Cost-of-Living Allowances, would provide a 3.3% increase in benefits to retired members of the State and Local Government Retirement Systems. **Introduced by Representative Bell and referred to the House Pensions and Retirement Committee.**

HOUSE BILL 714, State Agencies May Withhold Certain Information, would allow the head of a state department or agency to withhold any information from disclosure under the public records law that "he or she believes is in the best interests of the health, safety or security of the employee or the department." **Introduced by Representative Coleman and referred to the House State Personnel Committee.**

HOUSE BILL 715, Protect State Employee Records, would expand the current law that prohibits disclosure of state employees' personnel file information to make it clear that information cannot be disclosed regarding any "employment-related or personal information" or if it relates to any employee benefits or any "potential or actual disciplinary actions." **Introduced by Representative Coleman and referred to the House State Personnel Committee.**

HOUSE BILL 723, UNC/Criminal Record Checks/Fee, would permit the University of North Carolina to obtain criminal history record checks from the Department of Justice concerning any person who has applied for employment or a promotion, if the applicant consents to the record

check. This bill would also make it a Class A1 misdemeanor to willfully furnish, supply or give false information on an employment application that is the basis for a criminal history record check. **Introduced by Representatives Glazier and referred to the House Judiciary IV Committee.**

HOUSE BILL 740, Transit Drug Testing, would require 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 would disqualify those persons who tested positive from operating a commercial motor vehicle or other public transit vehicle until they had successfully completed appropriate treatment. **Introduced by Representatives Coates and Cole and referred to the House Transportation Committee.**

HOUSE BILL 745, Wild Turkey Federation Special Plate, would authorize the Division of Motor Vehicles to issue a “National Wild Turkey Federation” registration plate if 300 or more applications for this special registration plate are received. **Introduced by Representative Coates and referred to the House Finance Committee.**

HOUSE BILL 761, Motor Carrier Amendments, would amend 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.” **Introduced by Representative Williams and referred to the House Transportation Committee.**

HOUSE BILL 763, Fire and Rescue Workers’ Retirement, would add career firefighters and career rescue squad workers to the retirement statutes that currently allow law enforcement officers to have an unreduced retirement benefit if they are 55 years of age and have completed five years of creditable service or if they are 50 years of age and have completed 15 or more years of creditable service. This bill would also require the employer to contribute five percent (5%) of the salary of a career firefighter or career rescue squad worker to that employees’ Supplemental Retirement Income Plan (401K). This legislation does not make career firefighters and career rescue squad workers eligible for the Special Separation Allowance Benefit that is currently available to law enforcement officers. **Introduced by Representative Culpepper and referred to the House Pensions and Retirement Committee.**

HOUSE BILL 772, Ban Internet Hunting, would make it unlawful for a person to engage in computer-assisted remote hunting and make 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.” **Introduced by Representatives Williams and Steen and referred to the House Wildlife Resources Committee.**

HOUSE BILL 782, Foothills Airport Authority Land Acquisition, would authorize the Foothills Regional Airport Authority (located in Burke and Caldwell Counties) to acquire land and to convey

that land to the State of North Carolina for use as a correctional facility as a part of the State Prison System. **Introduced by Representatives Church and Gillespie and referred to the House Rules Committee.**

HOUSE BILL 784, Creditable Service/Workers' Compensation, would provide that creditable service in the Local Governmental Employees' Retirement System would include the period of time when the employee was on an approved leave of absence while receiving worker's compensation benefits. **Introduced by Representative Wright and referred to the House Pensions and Retirement Committee.**

HOUSE BILL 788, Crime Victims Restitution Improvement Act, would make various changes to the Crime Victims Compensation Fund to improve the collection and distribution of restitution to crime victims. **Introduced by Representatives Eddins and Holliman and referred to the House Judiciary I Committee.**

HOUSE BILL 794, Voter Identification, would require every person attempting to vote in person to present a current and valid photo identification or a copy a current utility bill, bank statement, government check, paycheck or other government document which contains the person's name and address. **Introduced by Representatives Allred, Moore, Current and Hollo and referred to the House Election Law Committee.**

BILL STATUS

SENATE BILL 348, North Wilkesboro/Land for Prisons, was approved by the Senate and will next be considered by the House.

HOUSE BILL 217, Driving From/Leaving Scene of an Accident, was approved by the House and has been referred to the Senate Judiciary II Committee for consideration.

HOUSE BILL 252, Highway Patrol Anniversary, would honor the 75th Anniversary of the State Highway Patrol and pay tribute to State Highway Patrol Troopers who have died in the line of duty. This bill has received a favorable report from the House Rules Committee and it is scheduled for consideration by the full House of Representatives on Monday, March 21, 2005.

HOUSE BILL 399, Unified Government, would allow the citizens in Currituck County and Hyde County to vote on whether or not they would like to approve a Unified Government which would give the Board of County Commissioners all of the authority in the General Statutes that is currently authorized for cities and towns and would prohibit the incorporation of any cities or towns within those two counties. At the request of Currituck County Sheriff Susan Johnson and the North Carolina Sheriffs' Association, the bill's sponsor and the House Local Government I Committee agreed to amend the bill to make it clear that a county police department cannot be established and that law enforcement services will continue to be provided by the Sheriff in each of the two counties. This bill, as amended, was approved by the House Local Government I Committee and referred to the House Finance Committee

HOUSE BILL 529, Suspend Executions for Two Years, was withdrawn from the House Rules Committee and referred to the House Judiciary I Committee. One of the primary sponsors of this bill is Representative Joe Hackney who is also Chair of the House Judiciary I Committee.

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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