



## NORTH CAROLINA SHERIFFS' ASSOCIATION

### Weekly Legislative Report

March 25, 2005

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Speaker of the House Jim Black announced this week the appointment of a Select Committee on the Lottery. The Speaker made it clear that he would appoint people to this Committee who favor a straight up or down vote on the lottery by the General Assembly. He expects this Committee to approve a bill that would allow the General Assembly to vote on whether or not to have a lottery in the North Carolina. That vote could come as early as next week.

There is much speculation about whether or not the lottery legislation will pass the House. It has passed the Senate in several previous legislative sessions. The supporters of the lottery state that they have 50 confirmed and solid votes, but in order to be successful they will need at least 61 votes. One reason given for going ahead and holding the lottery vote early in the Session is so that the budget writers can determine whether or not they will have any additional revenue from the lottery to use in preparing their budget for 2005-2006.

The Senate deadlines for introducing new bills passed on Wednesday. A total of 1,163 Senate bills have been introduced so far this Session with 483 of them being introduced this week. Of those, 118 are summarized in this report because they affect the Office of Sheriff or the Criminal Justice System. The House bill introduction deadlines continue for the next several weeks.

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

#### **BILLS OF INTEREST**

SENATE BILL 686, Methamphetamine Lab Prevention Act, was introduced at the request of Attorney General Roy Cooper and would add pseudoephedrine to the list of Schedule V controlled substances. This would allow the purchase of pseudoephedrine tablets without a prescription, but they could only be purchased from a licensed pharmacist and not over-the-counter in drug stores, grocery stores and convenience stores. It would also require anyone buying pseudoephedrine to show a photo identification and have their name and address from the identification entered on the pharmacist's sales records. This bill would also fund 13 additional positions for the State Bureau of Investigation. It would also authorize the Legislative Research Commission to study the issues relating to the abuse of methamphetamine. Among the representatives on the study commission would be one representative, appointed by the Speaker of the House, from the North Carolina Sheriffs' Association. **Introduced by Senator Dalton and referred to the Senate Judiciary II Committee.**

SENATE BILL 689, Copies of Files/Appointed Appellate Attorneys, would clarify that the Clerk of Superior Court is responsible for providing copies of the trial file to appointed appellate counsel in indigent cases. **Introduced by Senator Kinnaird and referred to the Senate Judiciary II Committee.**

SENATE BILL 693, Jurors May Not Profit From Service, would provide that jurors may not profit from their jury service, such as making movies, writing books or appearing (for a fee) on a TV talk show. **Introduced by Senator Rand and referred to the Senate Judiciary I Committee.**

SENATE BILL 705, Amend NC Substance Abuse Act, would provide for the licensure of “substance abuse professionals” and would establish the credentials of “certified criminal justice addictions professionals.” **Introduced by Senator Nesbitt and referred to the Senate Judiciary I Committee.**

SENATE BILL 706, District 23 Family Court Funds, would appropriate funds to establish a family court pilot program in District Court 23 (Alleghany, Ashe, Wilkes and Yadkin Counties). **Introduced by Senator Garwood and referred to the Senate Appropriations Committee.**

SENATE BILL 710, Fire and Rescue Workers’ Retirement, is identical to House Bill 763 summarized in last week’s Weekly Legislative Report. **Introduced by Senator Swindell and referred to the Senate Pensions and Retirement Committee.**

SENATE BILL 733, Street Gang Prevention Act, is identical to House Bill 50 summarized previously in a Weekly Legislative Report. **Introduced by Senator Graham and referred to the Senate Judiciary II Committee.**

SENATE BILL 735, Amend Definition of Malt Beverage in ABC Law, would remove the maximum percentage of alcohol that a malt beverage (i.e., beer) can contain. **Introduced by Senator Rand and referred to the Senate Commerce Committee.**

SENATE BILL 737, County Government Criminal Records Checks, would amend the law to authorize the Department of Justice to perform criminal check records for any person applying for employment with a county, which is identical to the authority currently allowed for cities. **Introduced by Senator Rand and referred to the Senate Judiciary I Committee.**

SENATE BILL 738, DWI Sentencing Enforcement, would require defendants convicted of driving while impaired to serve the full prison sentence imposed by the judge. **Introduced by Senator Rand and referred to the Senate Judiciary I Committee.**

SENATE BILL 745, Amend Investigative Grand Jury Authority, would expand the authority of an investigative grand jury from drug offenses to also include a variety of other serious criminal offenses. **Introduced by Senator Rand and referred to the Senate Judiciary I Committee.**

SENATE BILL 746, Take DNA Sample On Arrest For Certain Crimes, would require that a DNA sample be taken from any person arrested for a violent felony (Class A through E) or for an assault on a handicapped person or for stalking. Under this bill, it would be the duty of the arresting law enforcement officer to be sure that the arrested person's DNA sample was taken and to forward it to the appropriate laboratory for analysis and testing. The sample could only be taken by a "qualified member of the health profession." **Introduced by Senator Rand and referred to the Senate Judiciary I Committee.**

SENATE BILL 748, Drug Enforcement Improvement Act, would amend 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. **Introduced by Senator Rand and referred to the Senate Judiciary I Committee.**

SENATE BILL 754, Funds for Highway Patrol Aircraft, would appropriate \$6.7 million for the first year and \$10 million for the second year to the State Highway Patrol for aircraft operations. **Introduced by Senator Nesbitt and referred to the Senate Appropriations Committee.**

SENATE BILL 759, ADA/Victim Witness Funds, would appropriate funds to employ 45 new assistant district attorneys and 22 new victim witness legal assistants. **Introduced by Senator Thomas and referred to the Senate Appropriations Committee.**

SENATE BILL 763, Notary Public Official Recommendation, would eliminate the requirement that an elected official submit a recommendation for a person to become a Notary Public. This change would only apply in counties with a population of 250,000 or more and the change would not apply to counties with a smaller population. **Introduced by Senator Cowell and referred to the Senate Judiciary I Committee.**

SENATE BILL 774, Seat Belt Use Enhancements, would increase the penalties for a violation of the seatbelt law and would require that motor vehicle safety inspections include an inspection of seatbelts. **Introduced by Senator Purcell and referred to the Senate Judiciary II Committee.**

SENATE BILL 776, Amend Indecent Exposure Law, would amend the Indecent Exposure Law to also prohibit exposure between persons of the same sex, with enhanced penalties for committing indecent exposure to persons under age 16. **Introduced by Senator Snow and referred to the Senate Judiciary II Committee.**

SENATE BILL 780, Macon/Graham Magistrate Funds, would appropriate funds to establish new Magistrates for Macon and Graham Counties. **Introduced by Senator Snow and referred to the Senate Appropriations Committee.**

SENATE BILL 781, Assistance to District Attorneys/Funds, would appropriate funds to establish 75 new district attorney positions throughout North Carolina, establish 39 new victim witness assistant positions, begin funding of an automated discovery system and provide additional steps and longevity pay for district attorneys and assistant district attorneys. **Introduced by Senator Snow and referred to the Senate Appropriations Committee.**

SENATE BILL 783, Report Hacker/Fraudulent Access to ID Data, would require that data aggregators and other businesses immediately notify individuals of unauthorized or fraudulent access to personal information following information security breaches. **Introduced by Senator Forrester referred to the Senate Commerce Committee.**

SENATE BILL 785, Prohibit Removal of Electronic Collars, would make the law apply statewide that prohibits the removal of electronic collars from dogs. Currently, that law only applies in certain counties. **Introduced by Senator Garwood and referred to the Senate Judiciary II Committee.**

SENATE BILL 792, Clarify Public Records Laws, would make various changes in the public records law to include a provision that telephone numbers of cellular telephones and pagers provided by law enforcement agencies to sworn law enforcement officers for official use are not public records subject to disclosure under the public records law. **Introduced by Senator Phil Berger and referred to the Senate Judiciary I Committee.**

SENATE BILL 793, Government Agencies Limit Release of SSNs, would amend the State Privacy Act to provide that social security numbers cannot be used on citations issued by law enforcement officers. **Introduced by Senator Phil Berger and referred to the Senate Judiciary I Committee.**

SENATE BILL 795, Installing Motor Vehicle Parts and Air Bags, makes it unlawful to install or reinstall any object in lieu of an air bag into a vehicle where an air bag is required. **Introduced by Senator Thomas and referred to the Senate Commerce Committee.**

SENATE BILL 796, Criminal Record Checks/Archeological Operations, would allow 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. **Introduced by Senator Thomas and referred to the Senate Judiciary II Committee.**

SENATE BILL 797, Bail Bonds/Forfeitures & Remittances, would provide that a forfeiture of a bail bond would be set aside if the defendant was incarcerated at the time of his failure to appear, would provide that the bond shall not be forfeited unless the bonding agent had actual knowledge that the defendant had failed to appear on two or more occasions on the same charge, and would allow the bond to be remitted if the defendant receives a prayer for judgement continued or a deferred prosecution. **Introduced by Senator Thomas and referred to the Senate Judiciary II Committee.**

SENATE BILL 809, Foreclosure Notice of Sale/Disposition of Proceeds, would amend Chapter 45 of the General Statutes, Mortgages and Deeds of Trust, to provide that all notices of sale must indicate that the sale may be delayed pursuant to G.S. 45-21.23 and would change the allocation of any surplus remaining after the proceeds of the sale are applied. **Introduced by Senator Apodaca and referred to the Senate Judiciary II Committee.**

SENATE BILL 810, Conference of Clerks of Superior Court, would establish the Conference of Clerks of Superior Court which would operate similar to the Conference of District Attorneys. **Introduced by Senator Apodaca and referred to the Senate Judiciary II Committee.**

SENATE BILL 811, Divide Judicial District 29, would divide Superior Court, District Court and Prosecutorial District 29 into District 29A and District 29B. McDowell and Rutherford Counties would be placed in District 29A and Henderson, Polk and Transylvania Counties would be placed in District 29B. **Introduced by Senators Apodaca and Dalton and referred to the Senate Appropriations Committee.**

SENATE BILL 817, Allow Personalized Dealer Plates, would allow the Division of Motor Vehicles to issue personalized dealer license plates. **Introduced by Senator Hoyle and referred to the Senate Finance Committee.**

SENATE BILL 823, Insurance Discount for Safe Driving Class, would require the North Carolina Rate Bureau and the Commissioner of Insurance to adopt rules that require insurance companies to give insurance discounts to persons who complete driver safety courses. **Introduced by Senator Jenkins and referred to the Senate Commerce Committee.**

SENATE BILL 827, Judicial College Funds, would provide funding for a North Carolina Judicial College at the School of Government at the University of North Carolina in Chapel Hill. **Introduced by Senator Dalton and referred to the Senate Appropriations Committee.**

SENATE BILL 828, ABC Stores to Sell North Carolina Wines, would permit the sale of North Carolina wines at ABC stores in North Carolina. **Introduced by Senator Hagan referred to the Senate Commerce Committee .**

SENATE BILL 834, Administration of Lethal Injection, would require the use of a short-acting barbiturate in executing a death sentence by lethal injection. **Introduced by Senator Kinnaird and referred to the Senate Judiciary II Committee.**

SENATE BILL 841, Transporter Plates, is an act “to ensure that the restrictions concerning the use of transporter plates are enforced.” This bill was filed without any content (a blank bill). Often “blank” bills are amended later to provide more definite language. **Introduced by Senator Kerr and referred to the Senate Rules Committee.**

SENATE BILL 844, Managed Hunts, would authorize 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. **Introduced by Senator Albertson and referred to the Senate Agriculture/Environment/Natural Resources Committee.**

SENATE BILL 846, Modernize Bail Bondsman Registration, would require the Commissioner of Insurance and the Administrative Officer of the Courts to establish a statewide Electronic Bondsmen Registry for all licenses, powers of appointment and powers of attorney that must be registered by bail bondsmen. **Introduced by Senator Swindell and referred to the Senate Judiciary II Committee.**

SENATE BILL 849, Additional District Court Judges/District 10/Funds, would provide funding to establish two new district court judges in District Court 10 (Wake County). **Introduced by Senator Malone and referred to the Senate Appropriations Committee.**

SENATE BILL 850, Mecklenburg Courthouse Technology Funds, would appropriate \$1.5 million to provide information technology infrastructure in the new Mecklenburg County Courthouse. **Introduced by Senator Clodfelter and referred to the Senate Appropriations Committee.**

SENATE BILL 851, Mecklenburg Courthouse Internet Funds, would appropriate \$33,000 to Mecklenburg County to enhance courtroom productivity and efficiency by funding a third data network. **Introduced by Senator Clodfelter and referred to the Senate Appropriations Committee.**

SENATE BILL 853, Death By Distribution of Drugs, would create a Class E felony for a death that results from distribution of certain drugs. **Introduced by Senator Clodfelter and referred to the Senate Judiciary I Committee.**

SENATE BILL 855, Judicial Appointment/Voter Retention, would allow the people of North Carolina to vote on whether or not to amend the North Carolina Constitution to provide that Justices of the Supreme Court and Judges of the Court of Appeals are appointed by the Governor and then are subject to a retention election in which the ballot asks whether or not that judge should be retained in office. **Introduced by Senator Clodfelter and referred to the Senate Ways and Means Committee.**

SENATE BILL 856, Access to Public Trial Preparation Records, establishes a procedure for the disclosure of public records that are also a part of trial preparation records. **Introduced by Senator Clodfelter and referred to the Senate Judiciary I Committee.**

SENATE BILL 857, Chief Justice Selection, would allow voters to vote on whether or not to amend the Constitution of North Carolina to allow the selection of North Carolina's Chief Justice of the Supreme Court to be made from among the Associate Justices. **Introduced by Senator Clodfelter and referred to the Senate Ways and Means Committee.**

SENATE BILL 860, Military Vet-Free Special Registration Plate, would allow all military war-time veterans to obtain special registration plates without paying an additional fee. **Introduced by Senator Holloman and referred to the Senate Finance Committee.**

SENATE BILL 861, District 6A Judicial Personnel Funds, would appropriate over \$100,000 to increase the number of district court judges in District 6A (Halifax County) from two to three. **Introduced by Senator Holloman and referred to the Senate Appropriations Committee.**

SENATE BILL 881, Insurance Points for Lapse in Auto Coverage, would require the Commissioner of Insurance and the North Carolina Rate Bureau to adopt rules to assign insurance points for lapses in motor vehicle liability insurance. **Introduced by Senator Garrou and referred to the Senate Commerce Committee.**

SENATE BILL 883, Dispose of Firearm/Modify Notice Requirement, would allow the notification of the disposition of the certain unclaimed firearms to be done by posting a notice at the headquarters or at the website of the appropriate law enforcement agency rather than by publication in a newspaper. **Introduced by Senator Goodall and referred to the Senate Judiciary I Committee.**

SENATE BILL 889, Blank Bill-Open Discovery, was filed without any content (a “blank” bill). Often “blank” bills are amended later to provide more definite language. **Introduced by Senator Rand and referred to the Senate Rules Committee.**

SENATE BILL 890, DWI Processing Court, would provide funding for three short-term DWI processing courts in areas of the State that have a large backlog of DWI cases. **Introduced by Senator Rand and referred to the Senate Appropriations Committee.**

SENATE BILL 891, Transfer of Inmates, is entitled an Act “regarding the transfer of inmates to federal prisons.” This bill was filed without any content (a “blank” bill). Often “blank” bills are amended later to provide more definite language. **Introduced by Senator Rand and referred to the Senate Rules Committee.**

SENATE BILL 892, Trafficking of Illegal Handguns Commission, would establish the Study Commission on the Trafficking of Illegal Handguns. This bill would establish a Commission on the Trafficking of Illegal Handguns comprised of 18 members to include: the Director of the SBI, a representative of the North Carolina Sheriffs’ Association, a representative of the North Carolina Association of Chiefs of Police and a representative of the North Carolina Conference of District Attorneys. **Introduced by Senator Rand and referred to the Senate Rules Committee**

SENATE BILL 897, Restructure Parole Commission, would restructure the Parole Commission to consist of one full-time member and two half-time members. **Introduced by Senator Rand and referred to the Senate Judiciary I Committee.**

SENATE BILL 910, Retirement Beneficiary Designation, would amend both the State and Local Retirement Systems to provide that when a member of the retirement system dies prior to retirement

the member's spouse would receive the return of the member's contributions unless the member provided otherwise before the member's death. **Introduced by Senator Dorsett and referred to the Senate Pensions and Retirement Committee.**

SENATE BILL 918, Sportsmen's Bill of Rights, would recognize the right to hunt and fish in North Carolina by amending various laws. This bill would: (1) authorize a person with a concealed handgun permit to possess a handgun at any time while hunting, traveling to hunt, training dogs, or traversing a refuge, public hunting area or wildlife management area; (2) make it unlawful for a person to intentionally distract or displace a hunting dog while that dog is running, hunting, "on point" or in training; (3) make it unlawful to take possession of or transport any dog wearing an electronic collar or any other dog that the person knows to be a hunting dog without immediately notifying the owner of the dog or without prior permission; and (4) would make it a statewide law that it is unlawful to intentionally remove or destroy an electronic collar placed on a dog by its owner. Currently this law only applies in selected counties. **Introduced by Senator Hoyle and referred to the Senate Judiciary I Committee.**

SENATE BILL 923, Labor/Mandatory Lunch Break, would require the Commissioner of Labor to adopt rules that provide, at a minimum, every employer must allow each employee to take at least one work break for a meal during the employee's workday or shift. **Introduced by Senator Clodfelter and referred to the Senate Commerce Committee.**

SENATE BILL 929, Prison Escape/Juvenile Detention Facility, would make it a criminal offense to breakout of a juvenile detention facility or youth development center. **Introduced by Senator Clodfelter and referred to the Senate Judiciary I Committee.**

SENATE BILL 932, Protect Confidential Information of Public Agencies, would amend the Public Records Law to provide that the following types of records are not public records: (1) documents that have been retained solely by the author of the document and have not been distributed to anyone else other than the author's clerical support staff; (2) documents of state and local government agencies that would otherwise be protected by the attorney-client privilege; (3) documents that reveal the identity, social security number, address, telephone number, bank account or employer of a donor of a gift or contribution to a public agency; (4) documents that reveal the identity of or contact information for a juvenile enrolled in a recreational program operated by a state or local government agency; (5) documents that reveal the home or private cellular telephone number of any employee of a public agency without the employee's consent; (6) records comprising a volunteer file of an agency; (7) documents of a constituent institution of The University of North Carolina prepared as a result of study, research, analysis, etc.; (8) the identity of participants in studies, research or analysis conducted by a constituent institution of The University of North Carolina; and (9) information about the location of property to be acquired, the identity of owners of property to be acquired and the intended uses of the property to be acquired. **Introduced by Senator Clodfelter and referred to the Senate Judiciary I Committee.**

SENATE BILL 933, Immunity/Certain Public Officers/Individuals, was filed in response to a recent Court of Appeals case that was upheld by the Supreme Court of North Carolina that exposed public

officers and employees to liability in their individual capacities for reporting suspected criminal activity to law enforcement authorities. This bill would make the law clear that certain public officers and employees are not liable in their individual capacities for reporting suspected criminal activity to law enforcement authorities. The types of officers and employees that would be governed by this new law would include: (1) officers and employees of local boards of education; (2) county officers and employees; (3) city officers and employees; and (4) state officers and employees. **Introduced by Senator Hartsell and referred to the Senate Judiciary II Committee.**

SENATE BILL 939, Deter Juvenile Escapes, would allow a juvenile's term of commitment to be extended if the juvenile escaped or attempted to escape and would make it unlawful for any person to aid or assist in the escape or attempted escape of a juvenile from the custody of the Department of Juvenile Justice and Delinquency Prevention. **Introduced by Senator Thomas and referred to the Senate Judiciary II Committee.**

SENATE BILL 953, Repeal Felony Murder Rule, would repeal the Felony Murder Rule. The Felony Murder Rule currently provides that a person is guilty of first degree murder if the murder is committed in the perpetration or attempted perpetration of any arson, rape or a sex offense, robbery, kidnaping, burglary, or other felony committed or attempted with the use of a deadly weapon. **Introduced by Senator Lucas and referred to the Senate Judiciary I Committee.**

SENATE BILL 954, Same Day Registration at One-Stop Sites, is similar to House Bill 851 summarized below. **Introduced by Senator Lucas and referred to the Senate Judiciary I Committee.**

SENATE BILL 966, Definite Release Dates for Inmates, would require the Department of Correction to establish a definite release date for each inmate in its custody at least thirty days prior to the inmate's release so that victims and the public would have sufficient advanced notice of an inmate's release from custody. **Introduced by Senator Bingham and referred to the Senate Judiciary II Committee.**

SENATE BILL 971, North Carolina Libraries Special Plate, would authorize the Division of Motor Vehicles to issue a North Carolina Libraries special registration plate bearing the international logo for libraries if 300 applications were received. **Introduced by Senator Kinnaird and referred to the Senate Finance Committee.**

SENATE BILL 972, Break Into Place of Worship, would create the criminal offense of breaking or entering a building that is a place of worship and would make such a violation a Class F felony. **Introduced by Senator Smith and referred to the Senate Judiciary I Committee.**

SENATE BILL 974, Alcohol Sales-Campus Performing Arts Centers, would authorize 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. **Introduced by Senator Dannelly and referred to the Senate Commerce Committee.**

SENATE BILL 975, Retirement System Cost-of-Living Adjustment Increases, would increase the retirement allowance for retired state and local government employees by 3.3%. **Introduced by Senator Dannelly and referred to the Senate Pensions and Retirement Committee.**

SENATE BILL 980, Public Defenders/Judicial Retirement System, would include public defenders as members of the Consolidated Judicial Retirement System. **Introduced by Senator Atwater and referred to the Senate Pensions and Retirement Committee.**

SENATE BILL 991, Authorize Judge/Concealed Weapon in Courthouses, would authorize a district court or superior court judge who has a concealed handgun permit to carry or possess a concealed handgun while in a courthouse in the discharge of the judge's official duties. **Introduced by Senator Apodaca and referred to the Senate Judiciary II Committee.**

SENATE BILL 996, Personal Information Privacy Study, would authorize the Legislative Research Commission to study issues related to privacy and personal information protection. **Introduced by Senator Cowell and referred to the Senate Rules Committee.**

SENATE BILL 1008, 911 Centers Fund Access, would expand the uses of 911 funds to allow them to be used for training, continuing education, certification and re-certification of personnel and for the installation and maintenance and required upgrades for security and environmental health systems related to operation of the communications center. **Introduced by Senator Hagan and referred to the Senate Commerce Committee.**

SENATE BILL 1029, Clarify/Enhance Domestic Violence and Tenancy Laws, would provide that a domestic violence protective order could be entered by consent of the parties. It would also provide 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 would also authorize a tenant who is a victim of domestic violence, sexual assault or stalking or who has a victim in their household to terminate their rental agreement by providing the landlord with written notice at least 14 days in advance. **Introduced by Senator Cowell and referred to the Senate Judiciary I Committee.**

SENATE BILL 1032, Protection of Inherently Dangerous Animals, would make it unlawful to own, possess or have custody or control of an "inherently dangerous animal", except with a permit issued by the Department of Environment and Natural Resources. This bill contains a lengthy list of which animals are defined as "inherently dangerous animals." **Introduced by Senator Garwood and referred to the Senate Judiciary II Committee.**

SENATE BILL 1039, Increase Penalties/2nd Degree Rape, would amend the 2<sup>nd</sup> Degree Rape and 2<sup>nd</sup> Degree Sexual Offense statutes to remove the current element of the crime which requires a defendant to "use force" and would make it an offense if the act was committed "against the will" of the victim without force. It would also provide an enhanced penalty for felony convictions of rape

or sexual offense if the defendant used “date rape drugs” in the commission of the crime. **Introduced by Senator Jenkins and referred to the Senate Judiciary I Committee.**

SENATE BILL 1045, Establish NC Innocence Inquiry Commission, would establish the North Carolina Innocence Inquiry Commission as an independent commission located under the Judicial Department for administrative purposes and staffed by the Administrative Office of the Courts. A claim could be filed with the Commission by or on behalf of a person who had a claim of factual innocence. The Commission members shall include: a superior court judge, a prosecuting attorney, a victim advocate, a criminal defense lawyer, a public member who is not an attorney and is not an officer or employee of the courts and two additional members, all of whom would be appointed by the Chief Justice of the North Carolina Supreme Court. **Introduced by Senator Clodfelter and referred to the Senate Judiciary I Committee.**

SENATE BILL 1048, Identity Theft Protection Act of 2005, would enact 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 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. **Introduced by Senator Clodfelter and referred to the Senate Judiciary I Committee.**

SENATE BILL 1066, Clarify Sex Offender Registry. This bill was introduced as a “blank” bill. Frequently “blank” bills are amended later to provide more definite language. **Introduced by Senator Rand and referred to the Senate Judiciary I Committee.**

SENATE BILL 1069, DWI Task Force Recommendations, would implement various recommendations from the Governor’s Task Force on Driving While Impaired to: (1) require the Administrative Officer of the Courts to collect additional data about DWI cases and record that information in the court’s database; (2) make it more difficult for ABC permit holders who commit violations to obtain a new permit in someone else’s name; (3) standardize the criteria for law enforcement highway safety checkpoints; (4) allow alco-sensor results to be admitted at trial; (5) provide increased penalties for DWIs resulting in death or injury; (6) provide law enforcement officers with access to DWI suspects who are receiving medical care and would require the health care provider to provide certain information to the investigating law enforcement officer; (7) would require all appellate court justices and all trial court judges to attend a minimum of 2 hours continuing education every two years concerning driving while impaired offenses; and (8) make various other technical changes relating to the DWI laws.

Also, this bill would require that a DWI defendant ordered to serve a term of imprisonment of 48 hours or more must serve 48 continuous hours in order to get credit for time served. Additionally, DWI defendants serving jail time would only be given credit hour-for-hour for time actually served. The jail or detention center would be required to maintain a log showing the number of hours served by each DWI defendant.

The jail and detention staff would be required to refuse entrance to a DWI defendant who arrives to serve his sentence if it appears that the defendant has any alcohol or controlled substance remaining in his body when he reports to serve his sentence. If the court finds that a DWI defendant appeared at the jail or detention center to serve his sentence while alcohol or control substances remained in his body, the judge must order the defendant to serve his jail time immediately and the defendant would not be eligible to serve jail time on weekends. **Introduced by Senator Rand and referred to the Senate Judiciary I Committee.**

SENATE BILL 1070, Balance Fair Sentencing/Structured Sentencing, would balance fair sentencing and structured sentencing to keep inmates who pose great risks to society in prison. **Introduced by Senator Rand and referred to the Senate Judiciary I Committee.**

SENATE BILL 1077, Motorcycle Learner's Permit, would shorten from eighteen months to six months the duration of a motorcycle learner's permit and would establish the fee of \$50 for each motorcycle learner's permit. **Introduced by Senator Rand and referred to the Senate Transportation Committee.**

SENATE BILL 1080, Criminal Changes, would increase the penalty for discharging a firearm into a moving vehicle, create the offense of aggravated assault on a female, amend the false report of a bomb statute, increase the penalty for sale or delivery of two pounds of marijuana, and increase the regulations covering registered sex offenders. **Introduced by Senator Phil Berger and referred to the Senate Judiciary I Committee.**

SENATE BILL 1082, Health Benefits for Disabled Local Law Enforcement Officers, would require local governments to provide health insurance benefits for their disabled law enforcement officers if health insurance benefits are provided to retirees of the local government employer. **Introduced by Senator Phil Berger and referred to the Senate Commerce Committee.**

SENATE BILL 1087, Limited Driving Privilege For Driving While License Revoked, would allow a person convicted of driving while license revoked to obtain a limited driving privilege if the court finds that the person is supporting dependants and must have a driver's license to be gainfully employed. **Introduced by Senator Kerr and referred by Senate Judiciary II Committee.**

SENATE BILL 1088, Medical Release For Ill and Disabled Inmates, would require the Department of Correction and the Parole Commission to provide for the medical release of low-risk inmates who are either permanently and totally disabled or terminally ill. **Introduced by Senator Kerr and referred to the Senate Judiciary II Committee.**

SENATE BILL 1097, DNA Crime Lab Investigators/Funds, would appropriate funding to the State Bureau of Investigation to fund 7 new DNA investigators to expedite DNA analysis. **Introduced by Senator Boseman and referred to the Senate Appropriations Committee.**

SENATE BILL 1098, No Third Party Release of Social Security Number, would prohibit the release of an individual's social security number without the individual's consent. **Introduced by Senator Boseman and referred to the Senate Judiciary I Committee.**

SENATE BILL 1118, Torts By State Law Enforcement Employees, would clarify the procedures when a civil action is brought against a State law enforcement officer or State employee, the Attorney General refuses to defend the officer or employee on the grounds that the acts complained of did not occur within the scope and course of employment, and a court later determines that the officer or employee did act within the scope and course of their employment. **Introduced by Senator Rand and referred to the Senate Judiciary I Committee.**

SENATE BILL 1130, No Smoking in Prisons, would prohibit smoking in State prisons effective January, 2006. **Introduced by Senator Albertson and referred to the Senate State and Local Government Committee.**

SENATE BILL 1142, Motor Vehicle Law Move-Over Law Changes, would amend the law requiring a driver of a motor vehicle to move over when approaching an authorized emergency vehicle and would provide increased penalties if an accident results involving property damage, or injury or death to a law enforcement officer, firefighter, an emergency vehicle removal operator, an Incident Management Assistance Patrol member or any other emergency response person. It would also require the revocation of the driver's license if the driver is convicted for a violation of this statute that causes injury or death to one of the specified categories of personnel. **Introduced by Senator Snow and referred to the Senate Judiciary II Committee.**

SENATE BILL 1143, Immunity for Certain City/County Officers, would restore the law providing immunity protection to municipalities and counties and their officers and employees when performing public safety duties and when performing building inspection duties. **Introduced by Senator Hartsell and referred to the Senate Judiciary II Committee.**

SENATE BILL 1161, Central Registry/Mental Health Beds/Involuntary Commitment, would require the Department of Health and Human Services to develop a central registry of available beds in mental health facilities for the placement of persons who are involuntarily committed. **Introduced by Senator Apodaca and referred to the Senate Health Care Committee.**

SENATE BILL 1162, Appointment/Reappointment of Magistrates, would allow the voters of North Carolina to vote on a constitutional amendment to have Magistrates appointed by the Chief District Court Judge from nominations submitted by the Clerk of Superior Court. **Introduced by Senator Apodaca and referred to the Senate Ways and Means Committee.**

HOUSE BILL 798, Repeal Harnett County Fox Hunting Law, would repeal the law enacted in 1977 regulating fox hunting in Harnett County. **Introduced by Representatives Lewis, Sauls and Lucas and referred to the House Wildlife Resources Committee.**

HOUSE BILL 808, Local/State Control of Alcoholic Beverage Control Regulation, would clarify that the ABC laws do not limit the authority of local governments to regulate the location or concentration of ABC permits through normal planning and zoning authority and procedures. **Introduced by Representative Bernard Allen and referred to the House Alcoholic Beverage Control Committee.**

HOUSE BILL 811, Amend Pitt County Hunting Law, would amend the law enacted in 2002 regulating hunting in Pitt County. Currently the law makes it unlawful to release dogs on or allow them to run on posted property without permission. This amendment would delete the language “or allow them to run on” so that the only unlawful action would be to “release” dogs on posted land without permission. **Introduced by Representatives Williams, Warren and McLawhorn and referred to the House Local Government I Committee.**

HOUSE BILL 812, Scuba Special Registration Plate, would require the Division of Motor Vehicles to issue a special registration plate with the phrase “SCUBA” and a logo of the Diver Down Flag if DMV receives at least 300 applications. **Introduced by Representative Preston and referred to the House Finance Committee.**

HOUSE BILL 813, Prohibiting Solicitations on State Highways, would authorize local governments to enact ordinances restricting or prohibiting solicitation on State highways. **Introduced by Representative Allred and referred to the House Transportation Committee.**

HOUSE BILL 814, Burlington Charter Amendment, would amend the Charter of the City of Burlington to allow the Burlington City Council to adopt ordinances placing additional restrictions or prohibitions on persons soliciting on State highways and streets in Burlington. **Introduced by Representative Allred and referred to the House Rules Committee.**

HOUSE BILL 820, Amend Person Fox Trapping, would lengthen the fox trapping season in Person County. Currently the law allows fox trapping from January 2nd through January 31st and this bill would change those dates to June 30<sup>th</sup> [this date in the bill may be a typographical error] through February 28<sup>th</sup>. It would also eliminate the season bag limits. **Introduced by Representative Wilkins and referred to the House Wildlife Resources Committee.**

HOUSE BILL 821, Evidence/Speed-Measuring Instruments, would amend the statutes governing admissibility of evidence from speed-measuring instruments to modify the standards for testing speed-measuring devices and the required qualifications of the technicians testing the devices. **Introduced by Representatives Glazier and Kiser and referred to the House Judiciary IV Committee.**

HOUSE BILL 822, Blakely Decision/Conform State Law, would amend 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 would make it clear that only a jury may determine if an aggravating factor is present in an offense unless the defendant admits to the

existence of the aggravating factor. It would also require 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. **Introduced by Representatives Glazier, Haire, Ross and Starnes and referred to the House Judiciary IV Committee.**

HOUSE BILL 827, Town of Caswell Beach-Regulate Golf Carts, would authorize the Town of Caswell Beach to regulate the operation of electric golf carts on any public street or road within the Town. **Introduced by Representative Stiller and referred to the House Local Government II Committee.**

HOUSE BILL 834, North Wilkesboro/Land for Prisons, would authorize the Town of North Wilkesboro to acquire and convey property to the State of North Carolina for use as a prison. **Introduced by Representative Walker and referred to the House Local Government II Committee.**

HOUSE BILL 835, Concealed Carry for Law Enforcement Officers, would reduce the application fee from \$80 to \$45 and reduce the renewal fee from \$75 to \$40 for sworn law enforcement officers who apply for a permit to carry a concealed weapon. The funds received would be remitted to the North Carolina Department of Justice to cover the cost of performing the criminal record checks. The amount of fee that is currently collected by the Sheriff's Office for doing the background check and issuing the permit would not be collected and paid to the Sheriff's Office as it is under current law. This legislation would also require a Sheriff to issue a temporary concealed handgun permit to a sworn law enforcement officer, for a period not to exceed 90 days, if the officer provided certain written documentation to the Sheriff at the time of the application. **Introduced by Representatives McGee, Moore and Brown and referred to the House Judiciary II Committee.**

HOUSE BILL 838, Catawba County 911 Fees, would expand the allowable uses of 911 fees in Catawba County to permit the fees to be used for "mobile radio equipment receivers and transmitters, base stations, communication towers, and any additional equipment necessary for "interconnectivity" between police, fire, rescue units and individuals. **Introduced by Representative Setzer and referred to the House Public Utilities Committee.**

HOUSE BILL 845, Law Enforcement All-Terrain Vehicles Use In Surry County, would allow law enforcement officers to use all-terrain vehicles on public highways in Surry County. **Introduced by Representative Harrell and referred to the House Local Government II Committee.**

HOUSE BILL 851, Same Day Registration at One-Stop Sites, would allow persons to register to vote and then to immediately vote at One-Stop Early voting sites. **Introduced by Representatives Ross, McComas, Parmon and Holliman and referred to the House Election Law and Campaign Finance Reform Committee.**

HOUSE BILL 855, Required Registration For Kegs, would require a permit for the purchase and transportation of draft beer in kegs and would require labels containing certain information to be affixed to the kegs. **Introduced by Representative Insko and referred to the House Finance Committee.**

HOUSE BILL 858, Motorcycle Awareness Month, would designate May of each year as Motorcycle Awareness Month. **Introduced by Representatives Hill and Stiller and referred to the House Rules Committee.**

HOUSE BILL 862, Prohibit Removal of Electronic Collars, would make the law apply statewide that prohibits the removal of electronic collars from dogs. Currently, it only applies in certain counties. **Introduced by Representative Wilson and referred to the House Judiciary III Committee .**

HOUSE BILL 870, Buddy Pelletier Surfing Foundation Plate, would require the Division of Motor Vehicles to issue a “Buddy Pelletier Surfing Foundation” license plate bearing the logo of the Foundation upon receipt of 300 or more applications for the plate. **Introduced by Representative Preston and referred to the House Finance Committee.**

HOUSE BILL 872, Law Enforcement Use of All-Terrain Vehicles in Beaufort, would add the Town of Beaufort to the list of cities in which law enforcement officers may operate unregistered all-terrain vehicles on highways with speed limits of 35 miles per hour or less. **Introduced by Representative Preston and referred to the House Rules Committee.**

HOUSE BILL 877, Foreclosure Notice of Sale/Disposition of Proceeds, is identical to Senate Bill 809 summarized above. **Introduced by Representative Justus and referred to the House Judiciary IV Committee.**

HOUSE BILL 878, Conference of Clerks of Superior Court, is identical to Senate Bill 810 summarized above. **Introduced by Representative Justus and referred to the House Judiciary IV Committee.**

HOUSE BILL 888, Cockfighting/Increase Penalty, would increase the penalty for cockfighting from a Class 2 misdemeanor to a Class I felony. **Introduced by Representative Allred and referred to the House Judiciary III Committee.**

HOUSE BILL 890, Crime Lab Costs Recovery Fee, is identical to Senate Bill 468 summarized in a previous week’s Weekly Legislative Report. **Introduced by Representative Alexander and referred to the House Finance Committee.**

HOUSE BILL 891, Master Keys/Lock-Picking Devices Regulated, is identical to Senate Bill 477 summarized in a previous week's Weekly Legislative Report. **Introduced by Representative Alexander and referred to the House Judiciary I Committee.**

HOUSE BILL 892, Regulate Sale of Malt Beverage Kegs, is identical to Senate Bill 476 summarized above. **Introduced by Representative Alexander and referred to the House Commerce Committee.**

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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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— Eddie Caldwell  
Executive Vice President and General Counsel  
North Carolina Sheriffs' Association

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