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# FINAL LEGISLATIVE REPORT

2007

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## North Carolina Sheriffs' Association



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The 2007-2008 Session of the North Carolina General Assembly convened at 12:00 noon on Wednesday, January 24, 2007 and adjourned at approximately 10:35 p.m. on Thursday, August 2, 2007. During this Session, 2,072 House bills and 1,573 Senate bills were introduced, for a total of 3,645 Legislative bills.

Of the 3,645 legislative bills introduced this Session, 551 laws were enacted, which is a 19 percent increase from the 2005 long session of the General Assembly. In addition, 68 joint resolutions were enacted by this year's General Assembly. Therefore, 619 legislative bills were enacted this Session. Governor Easley vetoed one bill.

This Final Legislative Report of the North Carolina Sheriffs' Association summarizes bills of interest to Sheriffs, Sheriffs' 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 2007-2008 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. Copies of any of the legislation introduced or considered by this year's General Assembly is available on the General Assembly's world wide website: [www.ncleg.net](http://www.ncleg.net). You may also receive one copy of as many bills as you are interested in, free of charge, by calling the General Assembly's Printed Bills Office at 919-733-5648. They will need to know if it is a House Bill or Senate Bill and the bill number. (For example, Senate Bill 8.)

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### **STATE BUDGET BILL**

#### **IMPORTANT JUSTICE AND PUBLIC SAFETY PROVISIONS**

1. Will fund 40 additional Victim Witness/Legal Assistants in 2007 and 40 additional Victim Witness/Legal Assistants in 2008, for a total of 80 new Victim Witness/Legal Assistants.
2. Will fund 30 additional Assistant District Attorneys in 2007 and 28 additional Assistant District Attorneys in 2008, for a total of 58 new Assistant District Attorneys.

3. Will fund 150 additional Deputy Clerk positions in 2007 and 147 additional Deputy Clerk positions in 2008, for a total of 297 new Deputy Clerk positions.
4. Will fund 21 additional Magistrate positions in 2007 and 21 additional Magistrate positions in 2008, for a total of 42 new Magistrate positions, allocated among 25 counties.
5. Will fund 6 additional District Court Judge positions in 2008 and 3 additional District Court Judge positions in 2009, for a total of 9 new District Court Judges in the following districts: Mecklenburg (2); Wake (2); Johnston/Lee/Harnett; Cumberland; Guilford; Forsyth; and New Hanover/Pender.
6. Will fund 9 additional District Court Judicial Assistant I positions in 2008 and 7 additional District Court Judicial Assistant I positions in 2009, for a total of 16 additional District Court Judicial Assistant I positions.
7. Will fund one Department of Justice position to support the operation of the Sex Offender Registry.
8. Will fund one position in the Department of Justice at the North Carolina Justice Academy to develop and administer uniform school safety and gang prevention programs for school resource officers.
9. Will fund a \$750,000 grant to the North Carolina Sheriffs' Association to provide technical assistance to Sheriffs' offices throughout the State concerning the 287(g) Immigration Program of the Immigration and Customs Enforcement agency (ICE), as well as to fund the salaries of Sheriffs' office personnel who attend the four week ICE 287(g) training program.
10. Will provide funding for the Eastern NC School for the Deaf and the NC School for the Deaf in Morganton to contract for school resource officers.
11. Will fund 2 new Special Superior Court Judges, effective January 1, 2008.
12. Will fund 5 new Superior Court Judicial Assistant I positions in 2008.
13. Will fund 3 sworn SBI agents to investigate drugs, violent crimes, and gang related cases.
14. Will fund 2 sworn SBI agents to investigate child exploitation and sexual predator cases.
15. Will fund 3 Information Processing Technicians at the SBI to receive, analyze and upload DNA samples into the database.
16. Will fund 12 positions for the SBI Piedmont Triad Regional Crime Laboratory that is scheduled to open in April, 2008.

17. Will fund 4 additional Public Safety Officers for the State Capitol Police to respond to calls for law enforcement services from state agencies in the greater Raleigh/Wake County area.
18. Will provide funding, effective January 1, 2009, to divide Judicial District 22 into two new districts as follows: District 22A will include Alexander and Iredell Counties and District 22B will include Davie and Davidson Counties.
19. Will fund \$1.9 million for the construction of a firing range and classroom at the Western Campus of the North Carolina Justice Academy in Ednyville.
20. Will authorize the design and construction of a 252 bed minimum security addition to Alexander Correctional Institution.
21. Will authorize the design and construction of a 504 bed medium security addition to Scotland Correctional Institution.
22. Will continue funding at the rate of \$40 per day for the Department of Correction to reimburse counties for the cost of housing convicted inmates, parolees and post-release supervisees who are “backlogged” and are awaiting transfer to the State Prison System. This provision has been included in each biennial budget for over a decade at the request of the North Carolina Sheriffs’ Association.
23. Will fund \$3.6 million to the State Highway Patrol to replace an obsolete helicopter and to establish a dedicated Airborne Unit that can perform search and rescue operations during disasters.
24. Will fund 24 additional positions to support the Voice Interoperability Plan for Emergency Responders (VIPER).
25. Will fund 5 additional Trooper positions per year for a total of 10 new State Highway Patrol Trooper positions.
26. Authorizes the State Highway Patrol to use up to \$10 million to continue building the Voice Interoperability Plan for Emergency Responders (VIPER) System.
27. Will fund \$4.76 million to the Governor’s Crime Commission to award grants to local government and community agencies for gang prevention, intervention and suppression initiatives.
28. Will fund \$136,175 for warehouse rental costs for the Law Enforcement Support Services Division of the Department of Crime Control and Public Safety.
29. Will provide capital planning funds for the proposed 5 new 32 bed Youth Development Centers. The total cost for the 5 new facilities is \$37 million.

## **NEW RETIREMENT OPTION PROVIDED TO LAW ENFORCEMENT OFFICERS**

At the request of the North Carolina Sheriffs' Association, the General Assembly gave final approval to an additional retirement benefit option for law enforcement officers.

Background --- Some, but not all, law enforcement officers hired before 1986 received an annuity benefit paid by their employer. Under the pre-1986 law, those officers who had an annuity had the option, upon retirement, to transfer their annuity to the retirement system and have it added to their regular retirement account for a combined benefit.

In 1986, the changes to law enforcement officers' retirement benefits resulted in a conversion of the annuity of these officers into the NC 401(k) plan. By law, these officers retained the option, upon retirement, to transfer their NC 401(k) plan funds into their regular retirement account and to receive a combined benefit.

2007 Discovery --- In mid - 2007, a Wilkes County Deputy Sheriff was getting ready to retire and he wanted to take advantage of the option to transfer his NC 401(k) plan funds into his regular retirement account and to receive a combined benefit. When he contacted the Retirement Systems Division of the State Treasurer's Office, he learned that this benefit was not available to him. After researching his situation, they determined that the law only provided this optional benefit for those law enforcement officers who had an annuity prior to 1986. By law, this option was not available for officers employed prior to 1986 who were not provided an annuity by their employer, and this retirement benefit option was not available to officers hired after 1986.

Solution --- At a meeting of the North Carolina Sheriffs' Association's Executive Committee on July 22, 2007, Wilkes County Sheriff Dane Mastin raised this issue for discussion. The NCSA Executive Committee voted to ask the North Carolina General Assembly to extend this retirement benefit option to all law enforcement officers by enactment of legislation before adjournment of this year's General Assembly Session. At that time, we did not know that adjournment was only 11 days away.

Recognizing that this would be a change to the retirement laws that are administered by State Treasurer Richard Moore, NCSA Association leaders contacted Treasurer Moore and requested his support for this legislative change. Treasurer Moore immediately lent his support to the effort. Senator Dan Clodfelter of Mecklenburg County was also contacted by Association leaders and immediately agreed to assist in guiding the legislation through in the remaining few days of this year's General Assembly Session.

With Senator Clodfelter's help, we found one of his bills (Senate Bill 580) that dealt with retirement issues that had already passed the Senate and passed out of House Committees and was getting ready to be voted on by the full House. Senator Clodfelter agreed to postpone the vote on his bill for several days while the General Assembly staff obtained an actuarial note to document that this benefit would not require any state funding.

Senate Bill 580 was being handled in the House by Representative Drew Saunders of Mecklenburg County. Representative Saunders agreed to make sure that the bill did not come up for a vote by the full House until our amendment was ready. Once the amendment was ready, Representative Saunders offered it as an amendment to Senate Bill 580 on the floor of the House on July 31<sup>st</sup> and the amendment and the bill were both approved by the House by a vote of 114 to 0. The bill then went back to the Senate for approval of the House changes and received tentative approval in the Senate on August 1<sup>st</sup> by a vote of 48 to 0 and received final approval in the Senate on August 2<sup>nd</sup> by a vote of 48 to 0.

It was then ratified by the General Assembly and delivered to Governor Easley for his signature later in the day on August 2<sup>nd</sup>, prior to adjournment of the General Assembly Session later that night. Governor Easley signed it into law and it became effective on August 19, 2007.

The Option --- This bill will provide an optional retirement benefit for all North Carolina law enforcement officers when they are eligible to retire, both State and local. It is a totally voluntary option, and upon retirement, officers will be able to decide whether or not they would like to take advantage of the option. Officers who do not wish to take advantage of this optional benefit will get their regular monthly retirement payment from the Retirement Systems Division and will be able to access their NC 401(k) funds under the terms of that plan.

Officers who elect to receive this optional combined benefit will be able to transfer their NC 401(k) funds to the Retirement Systems Division and will receive a higher monthly retirement payment that will include the value of their regular retirement benefit plus an increased amount that reflects the value of their NC 401(k) funds that were transferred to the retirement system. This option will be particularly beneficial for retired officers who do not wish to be responsible for managing the investment of their NC 401(k) funds after retirement.

Effective Date --- This law became effective when Governor Easley signed it into law. This option becomes available to retiring law enforcement officers once the Board of Trustees of both the State and local Retirement Systems make the appropriate calculations to determine the proper conversion rate of NC 401(k) funds to an increased retirement systems benefit.

**CAUTION:** Officers who are intending to retire soon that are interested in this option should not retire until after consulting with the Retirement Systems Division to discuss how this new optional benefit will apply to the retiring officer. The Retirement Systems Division can be reached at 919-733-4191 or toll free at 877-733-4191. The NC 401(k) Plan can be contacted toll free at 866-624-0151.

Bill Drafting Assistance --- One of the challenges in getting this legislation enacted was getting the bill amendment drafted quickly. This was a particularly difficult challenge because the language needed for this year's legislation needed to be consistent with the law that was on the books prior to 1986. Tim Bryan, Plan Director of the NC 401(k) Plan came to our rescue.

He volunteered to go to the archives at the Retirement Systems Division and research the 1986 law and draft the bill amendment. Tim was particularly well suited to assist us with this assignment because he was working in the Retirement Systems Division in the mid-1980s and

knew exactly where to find the old law. Additionally, he was personally familiar with the details of the changes that were made in 1986 and agreed to assist us in obtaining the pre-1986 language.

Stanley Moore, Fiscal Analyst on the General Assembly staff, made final changes to the proposed language and quickly obtained an actuarial note to verify that this change did not require any funding from the General Assembly. Stanley's ability to quickly get the actuarial note prepared was critical to our efforts because our amendment could not be added to the bill, under the House rules, unless we had obtained an actuarial note.

Please Say Thank-You --- Please take a minute to send a note of thanks to those persons who made it possible for this benefit to be enacted into law within only 11 days:

State Treasurer Richard Moore - [Richard.moore@nctreasurer.com](mailto:Richard.moore@nctreasurer.com)

Senator Dan Clodfelter - [Danielc@ncleg.net](mailto:Danielc@ncleg.net)

Representative Drew Saunders - [Drews@ncleg.net](mailto:Drews@ncleg.net)

Tim Bryan - [tim.bryan@prudential.com](mailto:tim.bryan@prudential.com)

Stanley Moore - [stanleym@ncleg.net](mailto:stanleym@ncleg.net)

Senate Bill 580 --- Senate Bill 580, State Treasurer/Local OPEB Investments, contains several other provisions, but the provisions that relate to this particular benefit for law enforcement officers are in Sections 10.1 through 10.6 of the bill. Additionally, Sections 6-9 of the bill authorize the creation of the Local Government Law Enforcement Special Separation Allowance Fund in the Office of the State Treasurer. This Fund can be utilized by counties and cities to accumulate funds that will be invested by the State Treasurer and that can be used in the future to pay the Special Separation Allowance Benefit for eligible law enforcement officers who retire from the city or county that has paid the money into the fund. This Fund has been created as a mechanism for counties and cities to save up money necessary to make future payments of the Special Separation Allowance Benefit. This Fund is for their convenience, and it does not make any changes whatsoever in the Special Separation Allowance Benefit that is available to law enforcement officers.

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## HOUSE BILLS

HOUSE BILL 24, Smoking in State Government Buildings/Prohibition, prohibits smoking inside State government buildings. The new law specifically states that a violation "shall not be punishable as a criminal violation." This law also authorizes local governments to adopt an ordinance that would restrict smoking in buildings owned or leased by the local government.  
Effective: July 8, 2007

HOUSE BILL 27, Duty to Report Child Pornography, requires persons who process film and computer technicians who discover an image of a minor engaging in sexual activities, to report the name and address of the customer who requested the development of the film or was in possession of the computer to the Cyber Tip Line at the National Center for Missing and Exploited Children, or to an appropriate local law enforcement officer. The law provides immunity from any civil or criminal liability for a person complying with this law in good faith. Effective: September 1, 2007

HOUSE BILL 29, Sex Offender GPS/DOC Requests, clarifies the procedure for satellite-based monitoring of sex offenders and makes other changes to the sex offender laws. This legislation establishes a procedure requiring the District Attorney to present certain evidence in specified cases so that the court can determine whether or not the offender should be enrolled in a satellite-based monitoring program. If the court has not made this determination, a procedure is established requiring the Department of Correction to make the determination, and to schedule a court hearing if necessary. Effective: December 1, 2007

This legislation also makes it a Class E felony to intentionally interfere with the proper functioning of the satellite-based monitoring device. It also provides that sex offender defendants placed on unsupervised probation must submit, at reasonable times, to warrantless searches of the defendant's person, vehicle and premises for purposes specified by the court. Effective: December 1, 2007

At the request of the North Carolina Sheriffs' Association, this bill requires registered sex offenders who move from one county to another to notify both the Sheriff of the county they are currently registered in that they are departing, and to notify the Sheriff of the new county into which they are moving. Effective: July 11, 2007

HOUSE BILL 36, Hazardous Materials Task Force Recommendations, enacts recommendations of the Governor's Hazardous Materials Task Force regulating commercial hazardous waste facilities. This bill requires the facilities to get input on their contingency plans from local government and emergency response agencies and to verify that each local government and emergency response agency's resources and equipment are available and adequate to respond to an emergency at the facility as described in the contingency plan.

The legislation requires the emergency response agencies that receive this information to respond to the facility in writing within sixty days about the adequacy of the contingency plan, and the availability and adequacy of resources and equipment to respond. This legislation also clarifies that municipal 911 data is confidential just like county 911 data, and it also clarifies that data contained in a reverse 911 emergency notification system is confidential. Effective: June 26, 2007

HOUSE BILL 42, Amend Domestic Violence Laws/Homicide Reporting. G.S. 15A-534.1 specifies certain criteria that must be imposed by a judge when releasing a defendant on bond when the defendant is charged with a domestic violence offense. This statute is amended by this bill to include domestic violence offenses where the defendant was stalking the victim. Effective: December 1, 2007



This bill also requires the Attorney General's Office, in consultation with the North Carolina Council for Women/Domestic Violence Commission, North Carolina Sheriffs' Association and the North Carolina Association of Chiefs of Police to develop a reporting system and a database that reflects the number of homicides in the State where the offender and the victim had a "personal relationship." All State and local law enforcement agencies are required to report information to the Attorney General's Office upon determining that a homicide meets the reporting system's requirements. This reporting requirement applies to offenses occurring on or after July 1, 2007.

HOUSE BILL 46, Domestic Violence Victims/Security, requires that a secure area, segregated from the general population of the courtroom, be made available, where practical, to a domestic violence victim upon the victim's request. The legislation designates the responsibility for making the space available to the Clerk of Superior Court, in coordination with the Sheriff, and requires the Clerk to notify the judge on the hearing date that the victim is present and is in a segregated location. This provision does not require the construction of any special facilities at a courthouse for this purpose. This only applies in domestic violence cases "upon the victim's request." Therefore, if no request is made by the victim, there is no responsibility on the Clerk of Court to provide the secure area. There is no requirement that this secure area actually be in the courthouse, and it could be in an office at the Sheriff's Office across the street or any other nearby facility. The bill requires the Administrative Office of the Courts to report to the Joint Legislative Committee on Domestic Violence by May 1, 2008 on the progress of providing the space in each courthouse.

Effective: April 12, 2007

HOUSE BILL 47, Violate Order/Possess Deadly Weapon Felony, makes the penalty for possessing a deadly weapon while knowingly violating a domestic violence protective order a Class H felony.

Effective: December 1, 2007

HOUSE BILL 61, Child Restraint Systems/Federal Compliance, amends the Child Restraint Law to bring North Carolina law into compliance with federal guidelines that must be complied with to receive federal funding. It also deletes the exception that is currently in our Child Restraint Law that allows children to be out of the child seat when "the child's personal needs are being attended to."

Effective: June 1, 2007

HOUSE BILL 91, Registration and Voting at One-Stop Sites, will allow in-person registration and voting at one-stop absentee voting sites.

Effective: July 20, 2007

HOUSE BILL 105, Modify Laws for Desecrating Graves, increases the penalty to a Class I felony for disturbing or tampering with graves, if the damage is \$1,000 or more. This law does not apply to the ordinary maintenance and care of a cemetery.

Effective: December 1, 2007

HOUSE BILL 118, Sex Offenders/HIV Test Within 48 Hours, requires that a person charged with a sex offense who is ordered to be tested for HIV must be tested within 48 hours of the court order, and must be tested using the HIV-RNA Detection Test for determining HIV infection.

Effective: December 1, 2007

HOUSE BILL 135, Motorcycle Manufacturer Plates, authorizes the Division of Motor Vehicles to issue a “dealer” license plate to motor vehicle “manufacturers.” It also requires the Division of Motor Vehicles to produce “suitably reduced sized license plates for motor vehicle dealers and manufacturers.”

Effective: July 28, 2007

HOUSE BILL 181, Regulate Golf Carts. Under a previous specific local law, the towns of Benson, Bladenboro, Chadbourn, Clarkton, Elizabethtown, Rose Hill and Tabor City were all authorized to adopt an ordinance that would allow electric golf carts to operate on any public street or road in the town. This bill adds the town of Four Oaks to that list. Also, this bill deletes the requirement that the golf carts be “electric”, and therefore authorizes the regulation of golf carts that are powered by any source of energy. Therefore, gasoline-powered golf carts could be permitted by these towns, if allowed by their local ordinance.

Effective: April 19, 2007

HOUSE BILL 183, Ban Cell Phone Use by School Bus Drivers, makes it unlawful for a driver of a public or private school bus, school activity bus, or while transporting students for hire in any vehicle, to use a cell phone, or additional technology, while operating the bus which is in motion on a public street or highway or public vehicular area. Additional technology is defined as “any technology that provides access to digital media such as a camera, electronic mail, music, the Internet or games.” Driver’s license points and insurance surcharges are not assessed for violations and a violation does not constitute negligence by the driver.

Effective: December 1, 2007

HOUSE BILL 189, Pyrotechnics Permits by Cities, allows a board of county commissioners to authorize a city council to permit pyrotechnics (fireworks) within the corporate limits of the city and to issue city permits for the use of pyrotechnics.

Effective: May 11, 2007

HOUSE BILL 203, Extend Johnston Rabbit Season, extends the rabbit hunting season in Johnston County, through February 15<sup>th</sup> of each year to coincide with the rabbit hunting season in the other counties in North Carolina.

Effective: June 7, 2007

HOUSE BILL 206, Bronze Star Special Plate Changes, distinguishes between special license plates issued by DMV to Bronze Star recipients that are issued for meritorious service and those that are issued for valor in combat.

Effective: August 31, 2007

HOUSE BILL 254, Allow Conover to Regulate Golf Carts, allows the City of Conover to adopt ordinances regulating golf carts and utility vehicles on public streets and roads.

Effective: July 23, 2007

HOUSE BILL 267, ABC Law Changes, allows the issuance of off-premises malt beverage and unfortified wine permits in incorporated municipalities which have voted to allow the sale of mixed drinks. It also allows the holder of an unfortified winery permit to allow winemaking on site.

Effective: August 21, 2007

HOUSE BILL 279, Regulation of Golf Carts/North Topsail Beach, allows the town of North Topsail Beach to adopt ordinances regulating golf carts and utility vehicles on public streets and highways.

Effective: July 10, 2007

HOUSE BILL 328, Flexible Payment/Law Enforcement Separation Allowance, allows employers to make a change in the way they pay retired law enforcement officers the Special Separation Allowance Benefit. Current law requires the payment to be made monthly in twelve equal installments on the last day of each month. This legislation would allow for the benefit to be paid at the beginning of the month the officer retires instead of on the last day of the month the officer retires. It would also allow the employer to pay the benefit in equal installments on the employer's regular payroll frequency (such as, every two weeks) instead of in 12 equal monthly installments.

Effective: July 1, 2007

HOUSE BILL 343, Charlotte-Mecklenburg Police Jurisdiction, allows Charlotte-Mecklenburg Police Department officers to arrest persons anywhere in North Carolina for offenses committed within the CMPD's territorial jurisdiction. The current statute only allows law enforcement officers of counties to arrest persons at any place in the state based upon a felony committed within their county. This bill was amended to delete the reference to the Charlotte-Mecklenburg Police Department and to specify that it applies to "consolidated county-city law enforcement agencies."

Effective: May 16, 2007

HOUSE BILL 353, Public Health Information Access/HIPAA Clarification, requires health care providers and persons in charge of health care facilities to permit the State Health Director to examine, review and copy records containing privileged medical information deemed necessary to prevent, control or investigate a disease or health hazard that may present a clear danger to the public health. The State Health Director must keep any such information confidential, and it is not a public record under the public records act. However, this information can be released to a court or law enforcement officer for the purpose of investigating a disease or public health hazard.

Also, when a health care provider is requested to withdraw blood or collect urine to be subjected to "chemical analysis", the health care provider may refuse to do so only if it reasonably appears that the procedure cannot be performed without endangering the safety of the

person collecting the sample or the safety of the person from whom the sample is being collected. If the law enforcement officer requesting the blood or urine requests a written justification for the refusal, the health care provider who determined the sample could not be collected safely must provide written justification at the time of the refusal.

Effective: June 27, 2007

HOUSE BILL 367, Increase Criminal Penalty/Theft of Metals, requires that the seller of regulated metals property provide the physical address where the regulated metals were obtained by the seller. The secondary metals recycler who is purchasing the metals must obtain the motor vehicle license plate number of the vehicle used to deliver the regulated metals and a photocopied or electronic scan of the driver's license of the person delivering the regulated metals. A secondary metals recycler must make receipts for the purchase of regulated metals available for pickup each regular work day if requested by the Sheriff of the county or the Chief of Police of the municipality in which the secondary metals recycler is located.

The bill also increases the penalty from a Class 1 misdemeanor to a Class I felony if wires or other telephone, telegraph, electrical power fixtures, or cable fixtures are injured. This bill also provides that vehicles used to convey or transport the unlawfully obtained regulated metals property may be forfeited.

Effective: December 1, 2007

HOUSE BILL 454, Identity Theft, authorizes law enforcement officers to take a photograph of persons who are issued a citation for a motor vehicle moving violation that occurred on a street or highway if the person does not produce a valid driver's license upon the request of the law enforcement officer and the law enforcement officer has a reasonable suspicion concerning the true identity of the person. "Motor vehicle moving violation" is defined in this new law to specifically exclude offenses listed in the third paragraph of G.S. 20-16(c) for which no points are assessed and does not include equipment violations specified in Part 9 of Article 3 of Chapter 20 of the General Statutes. Any photograph taken pursuant to this new statute shall: (1) only be taken of the operator of the motor vehicle, and only from the neck up; (2) be taken at either the location where the citation is issued, or at the jail if an arrest is made; (3) be retained by the law enforcement officer or agency until the final disposition of the case; (4) not be used for any purpose other than to confirm the identity of the alleged offender; and (5) be destroyed by the law enforcement officer or agency upon a final disposition of the charge.

Effective: December 1, 2007

HOUSE BILL 485, Information on Lawful Abandonment, requires local Boards of Education to adopt policies by August 1, 2008 for providing annual information to students in grades 9-12 on the lawful abandonment of newborn babies. The law on lawful abandonment of newborn babies was enacted in a prior legislative session to authorize mothers of newborn children to abandon them in the care of certain specified medical or public safety personnel to discourage the abandonment of newborn babies in dangerous situations.

Effective: June 27, 2007

HOUSE BILL 514, Increase Length Limits for Transit Buses, allows passenger buses owned by local governments that are up to 45 feet in length to operate on public streets and highways in North Carolina.

Effective: August 30, 2007

HOUSE BILL 535, Criminal Background Reviews- EMS Personnel, requires all applicants for initial or renewal EMS credentials to obtain a criminal background records check at the request of the Department of Health and Human Services.

Effective: October 1, 2007

HOUSE BILL 538, Regulation of Golf Carts by Various Towns, allows the towns of Badin, Carolina Beach, Emerald Isle, Fremont, Faison, Indian Beach, Kings Mountain, Kure Beach, Shelby and Wrightsville Beach to adopt ordinances regulating golf carts on public streets or highways.

Effective: June 12, 2007

HOUSE BILL 550, Modify School Employee Confidentiality Law, provides that information contained in a school employee personnel file that is relevant to possible criminal misconduct may be made available to a law enforcement officer or the district attorney to assist in the investigation of certain offenses that principals are required to report to law enforcement officers specified in G.S. 115C-288(g), or related to an arson, attempted arson, destruction of, theft from, theft of, embezzlement from, or embezzlement of any personal or real property owned by the local board of education. An employee's personnel information that is to be disclosed under this law must be given five working days prior written notice to permit the employee to apply to the district court for an "in camera" review prior to the date of the disclosure for the court to determine if the information is relevant to the possible criminal misconduct.

Effective: July 8, 2007

HOUSE BILL 554, Assault Disabled Person/Institutional Setting, increases the criminal penalty from a Class A1 misdemeanor to a Class H felony for assault on a patient in a health care facility or a resident in a residential care facility.

Effective: December 1, 2007

HOUSE BILL 563, Traffic and Personal Safety Changes, requires motorcycle and moped operators and passengers, when on a highway or public vehicular area, to wear a safety helmet that complies with the Federal Motor Vehicle Safety Standard 218; changes the definition of public service vehicle that is assisting a roadside motorist by deleting the requirement that this vehicle be called to the scene by a motorist or law enforcement officer; provides that when a traffic signal is not working, the intersection is to be treated as if there was a stop sign for all motorists, unless traffic at the intersection is being directed by a law enforcement officer; replaces the term "stop light" with the term "traffic signal"; and decreases the time from 48 hours to 24 hours after which a vehicle parked on the right-of-way can be removed from a public highway or rest area. This bill also makes it clear that law enforcement officers can immediately remove vehicles or other personal property creating a hazard from any highway in the state highway system. In addition, this bill authorizes a municipality or a county to adopt an ordinance regulating the time, place, and manner of gatherings, picket lines, or protests by pedestrians that occur on State roadways and State highways.

Effective: August 17, 2007, except the provisions on motorcycle/moped helmets are effective January 1, 2008.

HOUSE BILL 564, Brunswick County ABC Stores Move, permits an ABC store in Sunset Beach to move to a location within two miles of its present location and permits an ABC store in Supply to move to a new location within one mile of the current location.

Effective: July 2, 2007

HOUSE BILL 571, Fox and Coyote Trapping, establishes the season for trapping foxes and coyotes in Cumberland County and Harnett County from December 1<sup>st</sup> through January 31<sup>st</sup> annually. It also establishes the season for trapping foxes and coyotes in Moore County from October 1<sup>st</sup> through January 31<sup>st</sup> annually.

Effective: October 1, 2007 and Expires: September 30, 2010

HOUSE BILL 573, Authorize Judge/Concealed Weapon in Court, allows district court judges and superior court judges who have a concealed handgun permit to carry a concealed handgun while in a courthouse discharging their official duties. **This bill was supported by the North Carolina Sheriffs' Association.**

Effective: August 21, 2007

HOUSE BILL 584, Information Technology Services/Employee Background Investigations/Information Technology Board, authorizes the Department of Justice to provide criminal history record checks on employees of the Office of Information Technology Services.

Effective: July 8, 2007

HOUSE BILL 638, All-Terrain Vehicles/Golf Cart Use for King/Maiden, adds the City of King and the Town of Maiden to the list of cities that can allow their law enforcement officers and municipal employees to use all-terrain vehicles on highways with posted speed limits of 35 mph or less. This legislation would also allow them to operate golf carts on public streets or highways within the city limits and on property owned or leased by the city.

Effective: July 12, 2007

HOUSE BILL 671, Replacing Officials Called to Active Duty. Previous law established a combined procedure for use by any State or local elective or appointive official to obtain a leave of absence from the official's duties for military service or because of a "protracted illness." This bill creates a new and separate statute that outlines the procedures for a local or State elective or appointive official to obtain a leave of absence from the official's duties when the official enters active duty in the armed forces of the United States or the North Carolina National Guard as a result of being voluntary or involuntarily activated, drafted or otherwise called to duty. This law makes it clear that the procedure only applies if the elective or appointed official requests the leave of absence.

Effective: August 23, 2007

HOUSE BILL 679, Safety/Emission Inspection Changes, requires motor vehicle safety inspection stations and motor vehicle emissions inspection stations to have equipment that will transfer information on vehicle inspections electronically to the Division of Motor Vehicles. It

also requires a new vehicle acquired from out of state to be inspected within 10 days of registration in North Carolina. This bill also provides that motor vehicle inspections will expire in the same month as the expiration of the vehicle registration. In order for the vehicle registration to be renewed, the motor vehicle inspection must first be done. This new procedure appears to eliminate the need for motor vehicle inspection stickers on vehicle windshields. By coordinating the DMV database for inspections and vehicle registrations, a person could not renew their vehicle registration plate until their motor vehicle inspection has been completed. This bill requires registration plates that are not renewed to be surrendered to the Division of Motor Vehicles within 120 days of expiration. It also makes numerous other changes in how motor vehicle inspection stations manage this program and transmit data back and forth with the Division of Motor Vehicles.

Effective: October 1, 2008

HOUSE BILL 729, Penalties for Insurance Rate Evasion Fraud, makes it a Class 3 misdemeanor to make fraudulent or misleading statements (written or oral) in an application for an auto insurance policy.

Effective: January 1, 2008

HOUSE BILL 748, Insurers Cover Prescriptions in an Emergency, requires insurance companies to waive time restrictions for filling or refilling prescriptions when a person resides in a county that is under a state of emergency or state of disaster under certain terms and procedures.

Effective: June 27, 2007

HOUSE BILL 767, ATV Use for Emergencies, allows all law enforcement officers, and fire, rescue and emergency medical services personnel throughout the state to use all-terrain vehicles on public highways with a speed limit of 35 mph or less, and on certain other specified highways. This authority is also provided to other local government employees of certain cities, towns and counties specified in the bill.

Effective: October 1, 2007

HOUSE BILL 769, Unified Carrier Registration/CDL Changes, will prohibit a commercial driver's license (CDL) holder from operating a commercial motor vehicle if that person has refused to participate in a required drug or alcohol test. This bill will also require the employer to notify the Division of Motor Vehicles any time an employee or applicant tests positive in a drug or alcohol test and anytime that an employee refuses to participate in the required drug or alcohol test.

Effective: August 30, 2007

HOUSE BILL 779, Increase Contributory Death Benefit, increases from \$9,000 to \$10,000 the "contributory" death benefit payable to survivors of retired state and local employees who die on or after July 1, 2007.

Effective: July 1, 2007

HOUSE BILL 784, Execution/Change Age, requires a person to be at least 18 years old at the time they committed a murder in order to be eligible for the death penalty. This provision is designed to conform North Carolina Statutes to an opinion of the Supreme Court of the United

States in the case of *Roper vs. Simmons*. Previously, a person convicted of first degree murder could be considered for the death penalty if they were at least 18 years old at the time of the murder or if they committed the murder while serving a prison sentence imposed for a prior murder or while on escape from a prison sentence imposed for a prior murder.

Effective: June 14, 2007

HOUSE BILL 786, LEO Provide Information to DA for Discovery, enacts a new law to specify that “a law enforcement or prosecutorial agency shall make available to the [district attorney] a complete copy of the complete file related to the investigation” of a crime for which the district attorney is required to disclose evidence to the defendant.

Effective: December 1, 2007

HOUSE BILL 817, Residential Mortgage Fraud Act, enacts the Residential Mortgage Fraud Act and creates Class E and Class H felonies for various acts of residential mortgage fraud.

Effective: December 1, 2007

HOUSE BILL 849, Regulation of Golf Carts in Morrisville, authorizes the Town of Morrisville to regulate golf carts on public streets or highways within the town.

Effective: August 2, 2007

HOUSE BILL 925, Granite Quarry-Faith Police Authority, authorizes the Town of Granite Quarry and the Town of Faith to establish a joint police authority to provide police protection for the two towns.

Effective: June 18, 2007

HOUSE BILL 943, Updating of Jury List, requires the State Register to provide each county’s jury commission with a list of recently deceased residents of the county at least every two years. This bill also requires the Division of Motor Vehicles to exclude from the list all names for which a driver’s license has been expired for at least eight years and also requires the State Board of Elections to exclude from the list of registered voters any voter who has been inactive for at least eight years. The law also allows the Division of Motor Vehicles to disclose social security numbers to each county jury commission for the purpose of verifying the identity of deceased persons whose name should be removed.

Effective: October 1, 2007

HOUSE BILL 947, North Carolina Foreclosure/Landlord Tenant Laws, requires that in foreclosure proceedings any tenant residing in the property will be entitled to receive a notice of the upcoming sale, and the tenant could terminate the rental agreement upon 10 days written notice to the landlord.

Effective: October 1, 2007

HOUSE BILL 973, Mental Health Equitable Coverage, requires all group health insurance plans to provide coverage for chemical dependency and mental illness on the same terms and conditions that apply to benefits for physical illness.

Effective: July 1, 2008



HOUSE BILL 976, Public Vehicular Areas Defined, requires roads that are public vehicular areas in gated subdivisions to allow immediate access by law enforcement and other emergency service vehicles.

Effective: December 1, 2007

HOUSE BILL 995, Increase Penalty\Starvation of Animals, makes it a Class A1 misdemeanor to maliciously kill an animal by “intentional deprivation of necessary sustenance.”

Effective: December 1, 2007

HOUSE BILL 1060, Local Government Surplus Property Donations, authorizes cities and counties to donate surplus, obsolete or unused property to any governmental units within the United States, a sister city, or a non-profit incorporated by the United States. It also requires that the governing board of the city or county give at least five days public notice of the donation and also adopt a resolution approving the donation before distributing the property.

Effective: August 23, 2007

HOUSE BILL 1089, Franklinton Charter/Lake Royale Police, authorizes the Lake Royale Company Police to participate in a multi-jurisdictional drug task force, if they are requested to participate by the Sheriff of Franklin County.

Effective: June 28, 2007

HOUSE BILL 1094, Increase Penalties for Audiovisual Piracy, changes the law from a Class 1 misdemeanor to a Class I felony for an offender to operate an audiovisual recording device in a motion picture theatre intended to record, transmit or otherwise make a copy of a motion picture without the written consent of the motion picture theatre owner.

This bill also provides for a minimum fine of \$2,500 for a first offense and \$5,000 for the second or subsequent offenses.

Effective: December 1, 2007

HOUSE BILL 1145, Town of Columbia/Loiter for Drugs, makes it a Class 1 misdemeanor to loiter in the town of Columbia and the city of Brevard for the purpose of violating the controlled substance laws. It is also against the law to stop or attempt to stop persons or motor vehicles or to be seen repeatedly passing or receiving money or objects.

Effective: December 1, 2007

HOUSE BILL 1148, Identify Juvenile Escapees, requires the Department of Juvenile Justice and Delinquency Prevention, within 24 hours of the time a juvenile escapes from custody, to release to the public the juvenile’s first name, last initial [presumably, this means the first letter of the juvenile’s last name], and a photograph as well as the name and location of the institution from which the juvenile escaped and a statement, based on the juvenile’s record, of the level of concern of the Department as to the juvenile’s threat to themselves or to others.

This disclosure of information about juveniles who have escaped from custody only applies when: (1) the juvenile escapes from a detention facility and was alleged to have committed an offense that would be a Class A, B1, B2, C, D or E felony if committed by an

adult; or (2) the juvenile escapes from a youth development center and has been an adjudicated delinquent for an offense that would be a felony or a Class A1 misdemeanor if committed by an adult. The bill also provides that when a juvenile escapes from custody and has been adjudicated for an offense that would be a Class 1, 2, or 3 misdemeanor if the act had been committed by an adult, the Department may disclose the information, including a photograph of the juvenile, to the public.

Effective: October 1, 2007

HOUSE BILL 1176, Tyrrell County Hunting, prohibits the careless use by anyone of a firearm, bow and arrow, or a crossbow which would pose harm to a person or property. This bill also regulates hunting on, from, or across the right-of-way of any State-maintained road and it also regulates the possession of a loaded firearm outside the passenger area of a vehicle on the land of another without permission. A violation of this new law will be a Class 3 misdemeanor, unless some other provision of law provides a greater punishment. This law applies only to Tyrrell County.

Effective: October 1, 2007

HOUSE BILL 1185, Johnston County Fox Hunting/Trapping, allows fox hunting with weapons and trapping in Johnston County from December 1 - February 20 every year with no tagging or bag limit requirements.

Effective: October 1, 2007

HOUSE BILL 1197, Statesville Civil Service Change, would allow the Statesville Civil Service Board to hear grievances concerning promotions, demotions and the suspension of members of the fire and police departments and would prohibit the Board from participating in the hiring or firing of members from either department. The bill states that the city manager is responsible for the hiring, firing, and the discipline of the police and fire chiefs, subject to the approval of the mayor and city council. This bill also makes various changes in the Personnel Advisory Board for the Buncombe County Sheriff's Office.

Effective: July 18, 2007

HOUSE BILL 1231, Certain Law Officers/Waive Handgun Permit. In 2004, the United States Congress enacted HR218 into law which is known as the "Law Enforcement Officers Safety Act of 2004." This federal law authorized state and local law enforcement officers to carry concealed firearms nationwide as long as the law enforcement officers regularly qualified with a firearm and met certain other conditions. This federal law also authorized retired law enforcement officers to carry concealed firearms nationwide as long as they met the firearms qualification standard for active law enforcement officers and complied with other criteria. To provide that a retired law enforcement officer in North Carolina has met the annual firearms qualification requirement, the officer could get their firearms re-qualification certified by the law enforcement agency from which the officer retired. In some cases, law enforcement agencies in North Carolina have declined to continue to allow retired law enforcement officers of the agency to be re-qualified annually by the agency. The federal law allows these officers and law enforcement officers retired from another state who now reside in North Carolina to have their annual firearms re-qualification certified by a State agency. However, no state agency in North Carolina had the legislative authority to issue this certification.

This legislation designates the North Carolina Criminal Justice Education and Training Standards Commission as the appropriate state agency in North Carolina to certify retired law enforcement officers to carry a concealed firearm as long as the retired officer meets the annual firearms re-qualification requirements. The Commission is authorized to charge a reasonable fee for the issuance of this annual certification.

This legislation also makes it clear that the authority of retired law enforcement officers to carry concealed weapons under this law does not exempt any individual from complying with the licensing and registration requirements of the North Carolina Private Protective Services Board if the person is engaged in any of the Private Protective Services professions regulated by that Board.

This bill also amends G.S. 14-269.2(g) to allow armored car service guards and armored courier service guards properly registered by the Private Protective Services Board to carry firearms when doing so with permission on the premises of a college or university. It also allows armed security guards to carry firearms while on the premises of a hospital or healthcare facility located on educational property when acting in the discharge of the guard's duties with the permission of the college or university.

**This bill was supported by the North Carolina Sheriffs' Association.**

Effective: The provisions giving the North Carolina Criminal Justice Education and Training Standards Commission the authority to issue certifications to retired law enforcement officers is effective December 1, 2007. The provisions authorizing the carrying of firearms on college or university property by armed armored car service guards and armed armored courier service guards and the provision authorizing an armed security guard to carry a firearm on the premises of a hospital located on educational property were all effective on August 23, 2007. [This provision is identical to a provision enacted in Senate Bill 854.]

HOUSE BILL 1243, Courtroom Procedures/Juvenile Proceedings, allows a juvenile to be placed in physical restraints in court only when the judge finds it reasonably necessary to maintain order, prevent the juvenile's escape, or provide for the safety of the courtroom. Whenever practical, it requires the judge to give the juvenile and the juvenile's attorney an opportunity to be heard before restraints are required.

Effective: October 1, 2007

HOUSE BILL 1277, Drivers License Revocation for ABC Violation, requires any person who is convicted of giving alcoholic beverages to an underage person or who is aiding and abetting in the purchase or possession of alcoholic beverages by an underage person to have their driver's license revoked for one year. However, the person who is convicted is eligible for a limited driving privilege.

Effective: December 1, 2007

HOUSE BILL 1321, Weight and Size Exemption for Fire Response, provides an exemption from weight and size limits on highways for state and local firefighter agencies transporting overweight and oversized vehicles.

Effective: July 27, 2007

HOUSE BILL 1322, Fire Chiefs/EMS Director: Criminal Requests, allows local fire chiefs, county fire marshals, or emergency services directors to request a criminal history records check from the Department of Justice for persons who are applying for positions within these entities. It also allows those designated to: (1) deny an applicant a position based on the criminal background check; (2) deny the applicant a position for refusing to consent to the background check; or (3) extend a conditional offer pending the results of a criminal history records check.

Effective: August 29, 2007

HOUSE BILL 1328, Require Disclosure/Sex Offenders/Child Custody, requires a person convicted of a sexually violent offense, and who is also pursuing child custody ex parte, to disclose their previous conviction.

Effective: October 1, 2007

HOUSE BILL 1330, Exempt Law Enforcement From Back Seat Belts, amends the law requiring backseat passengers to wear seatbelts to provide that a person in the custody of a law enforcement officer who is being transported in the backseat of a law enforcement vehicle is not required to be restrained in a seatbelt. While officers may often choose to continue to seatbelt persons in custody being transported in the backseat, if the officer believes that connecting the seatbelt around the defendant would jeopardize the officer's safety, the officer is no longer required to seatbelt the backseat defendant in custody. **This bill was supported by the North Carolina Sheriffs' Association**, and was introduced at the request of Dare County Sheriff Rodney Midgett to protect law enforcement officers from being assaulted by criminal defendants when the officer attempts to connect the seatbelt around an uncooperative defendant in the backseat of a law enforcement vehicle.

Effective: July 27, 2007

HOUSE BILL 1347, False Report/Mass Violence at School, makes it a Class H felony to communicate a false report that an act of mass violence is going to occur on educational property or at an activity sponsored by a school, if the person communicating the report knew it to be false.

Effective: December 1, 2007

HOUSE BILL 1354, Motor Vehicle Chop Shop Act, makes it unlawful for anyone to engage in disassembling, reassembling or storing motor vehicles or motor vehicle parts that have been illegally obtained by theft, fraud or other illegal means.

Effective: December 1, 2007

HOUSE BILL 1359, Immunity/Veterinarians Reporting Animal Cruelty, provides immunity from civil liability to veterinarians who report information when the veterinarian has reasonable cause to believe that an animal has been subject to animal cruelty.

Effective: October 1, 2007

HOUSE BILL 1369, Prescription Orders/Electronic Image, allows pharmacies to maintain an electronic image of a prescription and pharmacies are no longer required to maintain a hard copy of the prescription order. The law also requires a pharmacist dispensing prescriptions to enter the date of dispensing and removes the requirement that a pharmacist sign a prescription.  
Effective: July 20, 2007

HOUSE BILL 1372, Organ Donation/The Heart Prevails, provides that the decision of an organ donor to have the heart symbol on their driver's license is legally sufficient consent to an organ donation, unless it is revoked by the donor. The bill requires hospitals, law enforcement officers, firefighters, and rescue and emergency personnel to search injured individuals who are dead or near death for donor information.  
Effective: October 1, 2007

HOUSE BILL 1415, Disability Benefits, provides that a member of the Teachers' and State Employees' Retirement System shall not be denied short-term disability benefits because of an absence for military service.  
Effective: July 1, 2007

This bill also makes other changes to the long-term disability benefits for members of the Teachers and State Employees' Retirement System. These changes do not apply to members of the Local Governmental Employees' Retirement System. For details about these changes to the long-term disability benefits for State employees, contact the Retirement Systems Division of the State Treasurer's Office at (919) 733-4191 or toll free at (877) 733-4191.

HOUSE BILL 1479, Juvenile Contempt/Procedures and Sanctions, establishes new rules regarding contempt of court by juveniles and new procedures that must be followed by judicial officials. These provisions apply to juveniles who are at least 6 years old, but not yet 16 years old, and who have NOT been convicted of any crime in Superior Court. Juveniles determined to be in contempt of court could be ordered by the court to be held in a juvenile detention facility for up to five days or to perform up to 30 hours of supervised community service, or both.  
Effective: December 1, 2007

HOUSE BILL 1482, Amend Civil No-Contact Order Laws, amends the civil no-contact order laws to define stalking as following or harassing on more than one occasion and also amends the law to provide that the unlawful conduct must be committed by a person 16 years old or older. The previous law did not include an age.  
Effective: July 8, 2007

HOUSE BILL 1500, DNA Evidence/Preserve and Access by Defendant, allows a defendant who has previously had evidence DNA tested to have the evidence DNA tested again if more accurate testing procedures become available that were not available at the time of the previous testing and there is a reasonable possibility that the result would have been different if the newer test had been used. A defendant who files a motion for DNA testing of the evidence must sign a sworn affidavit of innocence.

This bill requires any governmental entity in custody of any physical evidence that is reasonably likely to contain any biological evidence collected during a criminal investigation to preserve that evidence in a manner reasonably calculated to prevent contamination or degradation of any biological evidence that might be present. This bill specifies that this type of evidence must be kept for certain periods of time: (1) in a death penalty case, until the defendant is executed; (2) for a conviction of a violent felony as defined in G.S. 14-7.7(b), the evidence shall be maintained as long as the defendant is incarcerated, except that if the person is convicted on a plea of guilty the evidence must be retained only for three years from the date of conviction; (3) for offenses requiring sex offender registration, the evidence must be maintained for the defendant's period of incarceration and any period of mandatory supervised release or probation; and (4) for conviction of any other felony not governed by the previous sections if the defendant's genetic profile may be included in the State DNA database, the evidence must be preserved for seven years from the date of conviction, except in cases where the person pled guilty in which case the evidence shall be preserved for three years from the date of conviction. This bill specifically allows the governmental entity in possession of the evidence to petition a court for an order allowing the disposition of the evidence prior to these specific time periods based on specific criteria listed in the law. **Several changes to the original version of this bill were made by the bill sponsor at the request of the North Carolina Sheriffs' Association and the Attorney General's Office.**

Effective: March 1, 2008

HOUSE BILL 1517, Voter-Owned Elections Pilot, creates a pilot program to finance election campaigns of candidates for specified Council of State offices including the State Auditor, Superintendent of Public Instruction and Commissioner of Insurance and requires the State Board of Elections to administer the fund.

Effective: August 31, 2007

HOUSE BILL 1546, School Bus Endorsement License Expiration, requires that a commercial driver's license that has a "school bus" endorsement or a "vehicle carrying passengers" endorsement will expire on the birth date of the licensee three years after it was issued.

Effective: September 13, 2007

HOUSE BILL 1556, 2007 Speaker's and President Pro Tempore's Appointments. By this law, Speaker of the House Joe Hackney appointed Sheriff Alan Cloninger of Gaston County to the Wireless 911 Board. Senate President Pro Tempore Marc Basnight reappointed Sheriff Rodney Midgett of Dare County to the North Carolina Sheriffs' Education and Training Standards Commission.

Effective: August 2, 2007

HOUSE BILL 1617, Investigations of Deadly Force, requires the district attorney, upon the request of the surviving spouse or next of kin, to request a State Bureau of Investigation (SBI) investigation when a private citizen is killed as the result of the use of a firearm by a law enforcement officer in the line of duty.

Effective: October 1, 2007

HOUSE BILL 1625, Eyewitness Identification Reform Act, creates the Eyewitness Identification Reform Act which sets up mandatory lineup procedures to be used by state, county, and other local law enforcement officers. This new law specifies detailed and precise eyewitness identification procedures that must be followed when conducting a photo lineup or a live lineup. The procedures outlined in this legislation are very similar to recommended procedures adopted previously by the North Carolina Criminal Justice Education and Training Standards Commission as recommended procedures that were included in the Basic Law Enforcement Training (BLET) Course. The bill defines a “live lineup” as a procedure in which a group of people is displayed to an eyewitness. Therefore these extensive procedures do not apply to what is commonly referred to by law enforcement officers as a “show-up” which involves a victim or witness viewing an individual suspect who has been apprehended in the vicinity of the crime scene. This bill requires that a lineup be conducted by an “independent administrator”, but it also allows the lineup to be conducted by alternative methods described in the legislation and by any alternative method approved by the North Carolina Criminal Justice Education and Training Standards Commission. An approved alternative method can be used whether or not an independent administrator is available. In addition to the detailed procedures outlined in this legislation, a video record of the identification procedures shall be made unless it is not practical and then an audio recording of the procedures must be made. If it is not practical to make a video or audio recording of the identification procedures, the lineup administrator must make a written record of the lineup. If it is not practical to make a video record of the identification procedure, the reason shall be documented. Also, if it is not practical to make and audio recording of the identification procedure, the reasons must be documented.

The bill provides that the North Carolina Sheriffs’ Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission, in consultation with the North Carolina Department of Justice, “shall create educational materials and conduct training programs on how to conduct lineups in compliance with this” new law. **Several changes to this bill were made by the bill sponsor at the request of the North Carolina Sheriffs’ Association and the Attorney General’s Office.**  
Effective: March 1, 2008

HOUSE BILL 1626, Enhance Reliability Of Interrogations, requires an electronic recording of custodial interrogations in homicide investigations conducted in a jail, law enforcement agency or similar facility. If the interrogation cannot be recorded, the State must show by clear and convincing evidence that the failure was for good cause. Certain types of statements are not affected by the recording requirement, including volunteered statements made in court, not in response to a question. The bill also requires that recordings of interrogations must be maintained for a year after all appeals are concluded. An uninterrupted recording of the interrogation in its entirety must be made, to include the law enforcement officer’s advice to the person in custody of that person’s constitutional rights. Brief periods of recess may be allowed if the record reflects the starting time of the recess and the time the interrogation resumed. **Several changes to this bill were made by the bill sponsor at the request of the North Carolina Sheriffs’ Association and the Attorney General’s Office.**  
Effective: March 1, 2008

HOUSE BILL 1649, Increase Appointees/Governor's Crime Commission, increases the number of voting members on the Governor's Crime Commission from 36 to 38 by including two additional citizen members, one of whom must be an advocate for victims of all crimes, and one of whom must be a representative from a domestic violence or sexual assault program. The two new members will each serve three year terms beginning when the bill becomes law.

Effective: August 28, 2007

HOUSE BILL 1652, Special Plate for E-911 Telecommunicators, authorizes the Division of Motor Vehicles to produce an E-911 telecommunicator special registration plate.

Effective: August 29, 2007

HOUSE BILL 1659, Criminal History Checks/DPI Employees, authorizes the North Carolina Department of Justice, when requested by the Department of Public Instruction, to provide a criminal history records check on applicants for employment and current employees in the Department of Public Instruction, and independent contractors and employees of independent contractors that have contracts to provide services to the Department of Public Instruction.

Effective: October 1, 2007

HOUSE BILL 1707, Detention Officers Courthouse Firearms, allows a detention officer employed by and authorized by the Sheriff to carry firearms in the courthouse. **This bill was supported by the North Carolina Sheriffs' Association**, and was introduced at the request of Pitt County Sheriff Mac Manning to clarify that certified armed detention officers who are not also certified as Deputy Sheriffs are authorized to carry firearms in a courthouse.

Effective: August 29, 2007

HOUSE BILL 1739, Notice and Rights Regarding School Suspension and Expulsion, provides that when students are suspended from school for ten days or less, the student may take their textbooks home during the suspension and have access to homework assignments. This bill also requires that parents receive actual notice from the school when a student is expelled or suspended from school.

Effective: August 29, 2007

HOUSE BILL 1743, Election Amendments, makes numerous changes in the election laws. This bill prohibits photographing or videotaping a voter while within the voting enclosure. This bill also requires the State Board of Elections, the Department of Correction and the Administrative Office of the Courts to jointly develop and implement educational programs and procedures for previously convicted felons to register to vote once they are restored to their citizenship. This bill contains numerous other changes to various election procedures and should be reviewed in detail by anyone involved in the election process.

Effective: Specific provisions of this bill are effective on various dates.

HOUSE BILL 1755, Coordinate Statewide Enhanced 911 System, makes it a Class 3 misdemeanor for a person who is not seeking public safety assistance, is not providing 911 services, or is not responding to a 911 call to access or attempt to access the 911 system for a purpose other than an emergency communication. If a person knowingly accesses or attempts to



access the 911 system to avoid a charge for voice communications service, and the value of the charge exceeds \$100, the person is guilty of a Class 1 misdemeanor.

This bill also includes changes designed to improve the administration of the state's 911 system through a statewide 911 Board. The Board's goal is to ensure that all companies that provide wireless and VoIP telephone service contribute to the 911 system and provide an adequate quality of service. This bill provides that the 911 Board will include a Sheriff appointed by the Speaker of the House, and Gaston County Sheriff Alan Cloninger has been appointed by Speaker of the House Joe Hackney.

Effective: January 1, 2008

HOUSE BILL 1758, Mercury Switch Removal Program Amendments, establishes criminal penalties for persons who knowingly alter the condition of a vehicle in a manner that prevents or significantly hinders the removal of a "mercury switch," fails to remove a mercury switch when required to do so, makes a false report that a mercury switch has been removed from an end-of-life vehicle, or claims a mercury switch from another source and falsely reports that it was removed from a vehicle processed for recycling. A "mercury switch" is defined as a capsule or assembly containing mercury that is part of a convenience light switch installed in a vehicle.

Effective: July 1, 2007

HOUSE BILL 1786, Regulate Mixed Martial Arts/Fees, defines "mixed martial arts" and establishes law that will regulate events involving mixed martial arts. "Mixed martial arts" is defined as "a form of sporting martial arts that uses a variety of martial arts techniques to deliver blows with the hands, elbows, and any part of the leg below the hip, including the knee and foot, and also uses boxing, wrestling and grappling technique." This bill requires the Alcohol Law Enforcement (ALE) Division of the Department of Crime Control and Public Safety to regulate mixed martial arts and to charge a license fee for persons involved in this activity.

Effective: August 30, 2007

HOUSE BILL 1810, Violence Against Women Act 2005 Compliance, brings North Carolina law into compliance with the Federal Violence Against Women Act of 2005 by: (1) prohibiting a criminal or juvenile justice agency from requiring a person claiming to be a victim of sexual assault or a witness to submit to a polygraph as a precondition to an investigation; (2) requiring the agency wishing to perform a polygraph examination on a person claiming to be a victim of sexual assault to inform the person that the polygraph examination is voluntary and not admissible in court; (3) requiring the agency to notify the person that their decision to submit to or refuse a polygraph examination will not be the sole basis for a decision by the agency not to investigate the matter; and (4) requiring that the agency provide in writing to the person, if requested, the reasons why the agency did not pursue the investigation, if the agency does not pursue the investigation.

The law also requires the Administrative Office of the Courts, in cooperation with the North Carolina Coalition Against Domestic Violence and the North Carolina Governor's Crime Commission, to develop a form to comply with the criminal case firearm notification requirements of the federal Violence Against Women Act of 2005, and that the form be available no later than December 31, 2007. The bill requires that effective January 1, 2008 courts must

provide the form to all defendants convicted of crimes subject to the firearm notification requirements.

Effective: December 1, 2007

HOUSE BILL 1986, Honor Howard Plouff, is a Joint Resolution approved by the House and Senate to honor Winston-Salem Police Department Sergeant Howard Plouff who was killed in the line of duty responding to a call for assistance from deputies of the Forsyth County Sheriff's Office on February 23, 2007.

Effective: June 12, 2007

## SENATE BILLS

SENATE BILL 8, Expand Safe Zones/Schools/Parks, Child Care Centers, increases from 300 feet to 1,000 feet the "safe zones" near child care centers and school grounds regarding illegal drug sales. This bill also expands the "safe zone" for public parks to include all public parks, not just those with playgrounds. Also, it increases the distance of those "safe zones" to 1,000 feet.

**This bill was supported by the North Carolina Sheriffs' Association.**

Effective: December 1, 2007

SENATE BILL 16, Wheel Locks/Boiling Springs, allows the Town of Boiling Springs in Cleveland County to use wheel locks to enforce parking regulations on property owned, leased or occupied by the town.

Effective: August 2, 2007

SENATE BILL 17, Sex Offenders/Pretrial Release, amends the statute that specifies the conditions of pretrial release for a defendant charged with child abuse, or sex offenses and crimes of violence against children. Previously the law authorized the judge to impose certain conditions of pretrial release on the defendant and this bill changes that authorization to require that the judge impose those conditions of pretrial release on the defendant, unless the judge makes written findings of fact that including those conditions of pretrial release is not in the best interest of the victim.

Effective: December 1, 2007

SENATE BILL 21, Clarify Dog Fighting and Baiting Law, clarifies that the law prohibiting dog fighting and baiting does not apply to the use of herding dogs working with domesticated livestock.

Effective: July 5, 2007

SENATE BILL 30, Domestic Violence Victims/Add Protections, makes various changes to the domestic violence law for the protection of victims to include that the application and court record regarding name change proceedings are not required to be published when applicants provide evidence that they are a victim of domestic violence, sexual offense or stalking, or are participants in the Address Confidentiality Program in the Office of the Attorney General. The law requires that records are to be maintained separately from other records and may be examined only by a court order or with the applicant's written consent. When a domestic

violence protective order is issued and filed with the Clerk of Superior Court, the clerk shall provide to the victim an informational sheet developed by the Administrative Office of the Courts that includes: (1) domestic violence agencies and services; (2) sexual assault agencies and services; (3) victims' compensation services; (4) legal aid services; (5) address confidentiality services; and (6) an explanation of the plaintiff's right to apply for a concealed handgun permit. This bill also allows victims of a violation of a domestic violence protective order to receive the benefits of the Crime Victims' Rights Act.

Effective: October 1, 2007

SENATE BILL 34, Kill Police Animal, makes it a Class H felony to willfully kill a law enforcement or assistance animal. The law also makes it an aggravating factor for other criminal offenses if a law enforcement or assistance animal was seriously harmed or killed while the animal was engaged in performing official duties.

Effective: December 1, 2007

SENATE BILL 50, Reciprocity of Disabled Hunting Licenses, requires the Wildlife Resources Commission to investigate the potential of obtaining agreements with other states for the reciprocal honoring of hunting and fishing licenses for the disabled.

Effective: March 22, 2007

SENATE BILL 60, DMV Temporary Locations, provides that when the Division of Motor Vehicles (DMV) closes the only contract license plate agency in a county, the DMV shall "as soon as practicable" identify a temporary location for the issuance of all registration plates, registration certificates, and certificates of title issued by DMV for that county. A sign notifying customers of the new location shall be posted at the former contract license plate agency location for not less than 30 days and the notices shall include the street address and telephone number of the temporary location.

Effective: July 20, 2007

SENATE BILL 118, Removal of Unqualified Judges and District Attorneys, allows the Governor to declare a vacancy in the office of district court judge, superior court judge, Court of Appeals judge, Supreme Court justice, or district attorney when the person holding the office loses their law license. The law would not apply to persons elected to or serving in the capacity of justice or judge on or before January 1, 1981 that were not authorized to practice law at the time of their election or at the time they began serving in the capacity of justice or judge.

Effective: June 21, 2007

SENATE BILL 125, Alcohol Inhalers Illegal, makes it unlawful to use devices that can introduce ethyl alcohol into the body unless it is used to deliver a prescription medication or an approved over-the-counter medication.

Effective: December 1, 2007

SENATE BILL 184, Protect Judicial Officer Safety, allows justices, judges and district attorneys to list a business address on their Statement of Economic Interest and to keep their home address and the names of their unemancipated minor children confidential.

Effective: January 1, 2007

SENATE BILL 192, Honor Gary M. Clark, is a joint House and Senate Resolution that honors the life and memory of Gary M. Clark, former Sheriff of Caldwell County who died on February 2, 2007.

Effective: June 20, 2007

SENATE BILL 211, Electronic Signatures/Public Agencies, revises the law governing electronic signatures. The current law allows government agencies to “accept” electronic signatures and this new law also allows government agencies to “use” electronic signatures.

Effective: June 27, 2007

SENATE BILL 226, Wilmington Civilian Traffic Investigators, allows the Wilmington Police Department to employ civilian traffic investigators under similar rules and regulations that were approved previously by the General Assembly for the Fayetteville Police Department.

Effective: July 12, 2007

SENATE BILL 229, Legal Status of Prisoners, provides that when any person charged with a felony or an impaired driving offense is confined in the county jail, local confinement facility, district confinement facility, or satellite jail\work release unit, the facility staff must attempt to determine if the prisoner is a legal resident of the United States. If the detention center staff is unable to determine if the prisoner is a legal resident or citizen of the United States, the detention center staff must, when possible, make an IAQ query through the Division of Criminal Information (DCI) System to the Law Enforcement Support Center (LESC) of Immigration and Customs Enforcement (ICE) of the United States Department of Homeland Security. Once the detention center staff runs the IAQ query, Homeland Security will be notified electronically that the prisoner is in the detention center. No further action will be required by the detention center staff unless they are later contacted by ICE and notified that a detainer has been placed on the illegal immigrant. The law specifically provides that a person who is otherwise eligible for bail cannot be denied release to allow time for the IAQ inquiry to be completed.

This bill requires that the administrator or other person in charge of the county jail, local confinement facility, district confinement facility, or satellite jail\work release unit must annually report the number of IAQ queries and the results of those queries to the Governor’s Crime Commission of the Department of Crime Control and Public Safety, and the reports shall be made available to the public.

Effective: January 1, 2008

SENATE BILL 242, Reform Tax Appeals, is a bill designed to make various changes in the appeals procedure for taxpayers who have a disagreement with the North Carolina Department of Revenue. While these changes were promoted because of an interest in corporate, sales, and other similar taxes, these changes will apply to all provisions within the tax code including the Unauthorized Substances Tax. Currently, the initial appeal by taxpayers, including drug dealers who are challenging the Unauthorized Substances Tax, are heard by a hearing officer at the Department of Revenue in an informal setting.

Under this new law, the hearings will be held at the Office of Administrative Hearings in an administrative hearing that will be conducted very similar to a courtroom trial. The North Carolina Sheriffs' Association worked very closely with Attorney General Roy Cooper's staff and the staff of the Unauthorized Substances Tax Division of the Department of Revenue to evaluate whether or not this new procedure would have an adverse impact on law enforcement agencies' ability to receive their portion of the unauthorized substances tax.

In addition, we worked very closely with the bill sponsor, Senator Dan Clodfelter (Mecklenburg), and legislative staff in an attempt to eliminate several proposed changes that may have made it easier for drug dealers to challenge the constitutionality of this statute. Senator Clodfelter and the General Assembly staff were very supportive of our efforts to ensure that no changes were made to the Unauthorized Substances Tax statutes that would be likely to result in a court finding that the statute is unconstitutional.

Also, at the request of the North Carolina Sheriffs' Association and Attorney General Roy Cooper, Senator Clodfelter agreed to add language to the hearing procedure for Unauthorized Substances Tax cases to make it clear that reports of the investigating law enforcement agency and laboratory reports of the SBI lab agent would be admissible in administrative hearings at the Office of Administrative Hearings without requiring the testimony of personnel from either of the law enforcement agencies.

This language was added to make it easier for the hearing to be held without the necessity of the investigating law enforcement officer or SBI lab agent personally appearing at the hearing. The drug dealer who is appealing the Unauthorized Substances Tax case will still have the authority under the law to issue a subpoena to the investigating officer or the SBI lab agent. However, in these cases (as in all cases), the decision about whether or not to require a law enforcement officer to attend the hearing rests with the presiding judge.

Effective: January 1, 2008

SENATE BILL 301, Expunge DWI Civil Revocation, requires the expungement of the record of an offender's civil revocation of their driver's license as a result of the criminal charge for DWI if the criminal DWI charge is expunged. Current law allows the criminal offense to be expunged in certain circumstances and this legislation will include the expungement of the records of the civil revocation of the person's driver's license as well.

Effective: October 1, 2007

SENATE BILL 361, Waiver of Enforcement/No-Wake Zones, authorizes the Wildlife Resources Commission to temporarily waive the enforcement of no-wake zones under special circumstances.

Effective: May 16, 2007

SENATE BILL 363, Ashe/Trapping of Raccoons, creates an open-season for trapping raccoons in Ashe County from November 7, 2007 thru February 12, 2008 and each year thereafter. This law sets certain limits on the type of trap that can be used and also sets a season bag limit of twenty. This law only applies to Ashe County.

Effective: May 17, 2007

SENATE BILL 364, Ashe/Trapping of Foxes, creates an open-season for trapping of foxes from November 7 through February 12 of each year and sets a season bag limit of ten. This law only applies to Ashe County.

Effective: October 1, 2007 and Expires: September 30, 2010

SENATE BILL 473, No Hunting on Private Property, prohibits hunting and fishing on private property, unless the hunter has written permission from the landowner or lessee.

The law also prohibits hunting on private property while under the influence of an impairing substance. This law applies to the counties of Caswell, Johnston, and Stanly.

Effective: October 1, 2007

SENATE BILL 493, Bertie County Hunting, makes various changes in the law that regulates hunting from the road and hunting on the land of another in Bertie County.

Effective: October 1, 2007

SENATE BILL 509, Motor Vehicle Inspection Failure/Re-inspection, increases from 30 days to 60 days the time period allowed for re-inspection of a motor vehicle after the vehicle fails an initial motor vehicle inspection. Effective: January 1, 2009. The bill also adds an exemption from a civil penalty for emissions violations for military personnel on active duty.

Effective: August 17, 2007

SENATE BILL 514, Deceptive Advertising of Business Location, prohibits businesses that supply perishable products from misrepresenting the geographical location of their business in a telephone directory, a directory assistance database or in print advertisements.

Effective: October 1, 2007

SENATE BILL 580, State Treasurer/Local OPEB Investments. Sections 6-9 of the bill authorize the creation of the Local Government Law Enforcement Special Separation Allowance Fund in the Office of the State Treasurer. This Fund can be utilized by counties and cities to accumulate funds that will be invested by the State Treasurer and that can be used in the future to pay the Special Separation Allowance Benefit for eligible law enforcement officers who retire from the city or county that has paid the money into the fund. This Fund has been created as a mechanism for counties and cities to save up money necessary to make future payments of the Special Separation Allowance Benefit. This Fund is for their convenience, and it does not make any changes whatsoever in the Special Separation Allowance Benefit that is available to law enforcement officers.

Sections 10.1 through 10.6 of the bill were added **at the request of the North Carolina Sheriffs' Association** to include the optional retirement benefit for law enforcement officers that will allow officers to transfer their NC 401(k) funds to the Retirement Systems Division and thereby allow the officer to receive a combined benefit. The amendment to this bill providing this optional retirement benefit to law enforcement officers was introduced at the request of and was **supported by the North Carolina Sheriffs' Association.**

Effective: August 19, 2007

SENATE BILL 613, 2007 Technical Corrections Act, provides that Magistrates are prohibited from engaging in the private practice of law.

Effective: December 1, 2007

SENATE BILL 630, North Carolina Arboretum Campus Police, authorizes the North Carolina Arboretum to establish a campus law enforcement agency.

Effective: July 27, 2007

SENATE BILL 659, Officials Forfeit Pensions for Felonies, requires that elected officials who are members of the Legislative Retirement System, the Local Governmental Employees' Retirement System, the Teachers' and State Employees' Retirement System, or the Consolidated Judicial Retirement System must forfeit their pensions if they are convicted of a state or federal offense involving public corruption or a felony violation of election laws.

Effective: July 1, 2007

SENATE BILL 661, ABC Election/Cities in Two Counties, amends the ABC Election Laws to allow cities which are located in more than one county to have a city-wide election for mixed beverages.

Effective: July 1, 2007

SENATE BILL 692, Boxing Advisory Commission, establishes the Boxing Advisory Commission to advise the Alcohol Law Enforcement (ALE) Division of the Department of Crime Control and Public Safety concerning matters related to boxing. Of the eight members of the Boxing Advisory Commission, at least two of them shall be licensed physicians.

Effective: August 1, 2007

SENATE BILL 720, Open Enrollment/Contributory Death Benefit, provides an open enrollment period from February 1, 2008 through May 31, 2008 for state and local employees who are retired, to join and participate in the contributory death benefit plan. The law also directs that the contribution rate for retirees electing coverage during the open enrollment period will be increased by eleven and one-tenth percent (11.1%) of the rate established for retirees who elected coverage when first eligible.

Effective: August 19, 2007

SENATE BILL 728, Mediation in District Criminal Courts, encourages mediation in district criminal courts.

Effective: August 19, 2007

SENATE BILL 738, Registration Exemptions/Length Exemptions, exempts for-hire vehicles used for certain agricultural purposes from the vehicle registration requirements, increases the allowed length of trucks that transport cotton and clarifies that farm equipment includes trucks that transport cotton.

Effective: July 1, 2007

SENATE BILL 758, Limited Driving Privileges -- DWLR, allows the issuance of a limited driving privilege to persons with a revoked North Carolina driver's license, including those permanently revoked, for a conviction of driving while license revoked.

Effective: December 1, 2007

SENATE BILL 777, Amend CPA Criminal Punishment, increases the criminal penalties for violation of certain licensing laws by certified public accountants.

Effective: December 1, 2007

SENATE BILL 806, Lengthen Hold Period for Pawned Items, extends from 48 hours to seven days the time period that must pass before pawned goods may be sold or otherwise removed from the pawn shop if the pawn ticket information is electronically reported to law enforcement, and extends the hold period to 30 days after the date of the transaction if the pawn ticket record is not electronically reported to law enforcement.

The bill provides that the records that must be submitted to local law enforcement can be submitted to the Sheriff or the Sheriff's designee or the Chief of Police or the Chief's designee and the records may also be submitted electronically or by facsimile transmission.

Effective: October 1, 2007

SENATE BILL 812, Study Safety Restraint Systems on School Buses, directs the Child Fatality Task Force to study issues relating to requiring the installation and use of passenger safety restraint systems in school buses.

Effective: July 8, 2007

SENATE BILL 830, DOT Maintenance Program/DMV Registration, develops performance standards for the Department of Transportation. This bill also modifies motor vehicle registration requirements to allow registration of a motor vehicle so that a convicted DWI defendant can comply with the ignition interlock installation requirements.

Effective: July 1, 2007

SENATE BILL 854, Amend Private Protective Services Act, makes various changes to the Private Protective Services Act which regulates security guard companies, private investigators, and related businesses. This bill authorizes the Board to approve training schools, instructors, and course materials for PPSB training. It also authorizes the Board to approve a design for a badge that indicates that a person is licensed or registered to engage in private protective services, so long as the badge designed is approved by the North Carolina Sheriffs' Association and the North Carolina Association of Chiefs of Police.

This bill also amends G.S. 14-269.2(g) to allow armored car service guards and armored courier service guards properly registered by the Private Protective Services Board to carry firearms when doing so with permission on the premises of a college or university. It also allows armed security guards to carry firearms while on the premises of a hospital or healthcare facility located on educational property when acting in the discharge of the guard's duties with the permission of the college or university. [An identical copy of this provision was also enacted in House Bill 1231.]



Effective: October 1, 2007, except the provisions authorizing armed armored car service guards and armed courier service guards to carry weapons on the premises of a college or university and the authority for an armed security guard to carry a weapon while on the premises of a hospital or health care facility located on educational property are effective August 30, 2007.

SENATE BILL 880, [Bail Bonds/Amend Forfeiture Requirement](#), allows the bail bondsman to not have the bond forfeited if the defendant fails to appear in court because the defendant was in jail or prison elsewhere.

Effective: October 1, 2007

SENATE BILL 881, [Clarify Residency Requirements/Bail Bondsman](#), requires applicants as a bail bondsman or runner to prove that they have been a resident of North Carolina for at least six consecutive months before applying for the license. It also modifies the law to provide that an applicant may be found qualified if the applicant holds either a valid and current NC drivers license or a valid North Carolina ID card issued by the DMV.

Effective: October 1, 2007

SENATE BILL 882, [Industrial Commission Investigators/Sworn Law Enforcement Officers](#), authorizes the Industrial Commission to employ sworn law enforcement officers, who are certified through the North Carolina Criminal Justice Education and Training Standards Commission, to perform fraud investigations related to worker's compensation cases.

Effective: September 1, 2007

SENATE BILL 924, [School Bus Safety Act Correction](#), makes it a Class I felony for a driver to pass a stopped school bus and strike a person while the bus is receiving or discharging passengers. The bill removes the current requirement in the law that a person that is struck must have serious bodily injury. This bill deletes the requirement that the words "School Bus" be painted in letters at least eight inches high to qualify as a school bus. The definition that remains just requires that a school bus have the words "School Bus" on the front and the rear.

Effective: December 1, 2007

SENATE BILL 925, [Speeding Law Changes](#), amends the law to specify that speeding charges cannot be reduced due to improper equipment if the speeding is in excess of 25 miles per hour or more over the posted speed limit. The bill also provides that a driver charged with speeding in excess of 25 miles per hour over the posted speed limit cannot get a prayer for judgment continued.

Effective: December 1, 2007

SENATE BILL 930, [Private Correctional Officers](#), revises the current law that regulates the use of private correctional officers who are employed in a private prison operated in North Carolina on a contract with the Federal Prison System. The law also authorizes the Department of Justice to adopt rules to assure that the contractor's employment practices and training programs are equivalent to the Department of Correction, which bears the responsibility under current law.

Effective: July 1, 2007

SENATE BILL 999, DWI Technical Corrections, makes various and numerous changes to the motor vehicle laws pertaining to impaired driving offenses:

1. Death and injury by vehicle offenses as “offenses involving impaired driving”: Amends G.S. 20-4.01(24a) to provide that any violation of G.S. 20-141.4 (felony and misdemeanor death by vehicle; felony serious injury by vehicle; aggravated offenses; repeat felony death by vehicle) based on impaired driving is an “offense involving impaired driving.” (Currently, only the death by vehicle offenses under G.S. 20-141.4 based on impaired driving are “offenses involving impaired driving.”)

Effective: August 30, 2007

2. License consequences for offenses: Amends G.S. 20-17 (mandatory revocation of license by Division of Motor Vehicles), G.S. 20-17.8 (restoration of a license after certain driving while impaired convictions; ignition interlock) and G.S. 20-19 (period of license suspension or revocation; conditions of restoration) to (i) clarify the license consequences that arise from violations of G.S. 20-141.4 and (ii) make other changes to the revocation and restoration provisions.

Effective: August 30, 2007

3. Elimination of filing requirement for DHHS lists: Amends G.S. 20-139.1(b6) to eliminate the requirement that DHHS file its permittee lists and preventative maintenance records with the clerk. (DHHS will still be required to post this information on its web page.) Also provides that an administrative agency (in addition to a court, as under current law), shall take judicial notice of these DHHS materials.

Effective: August 30, 2007

4. Clarification of ignition interlock period: Amends G.S. 20-28(c4) to clarify the duration of the ignition interlock period imposed by DMV under subsection (c4). (Subsection (c4) involves the conditional restoration of a license to a person who was convicted of either (i) DWLR based on an impaired driving revocation under G.S. 20-28(a) or (ii) driving after notification from DMV or failure to appear under G.S. 20-28(a2).)

Effective: August 30, 2007

5. Clarification of effective date of new evidence provisions: The 2006 DWI bill amended Rule of Evidence 702 to address the introduction of Horizontal Gaze Nystagmus Test results, Drug Recognition Expert testimony, and accident reconstruction expert testimony. SB 999 provides that this change to Rule 702 became effective August 21, 2006 and applies to hearings held on or after that date.

Effective: August 30, 2007

6. Clarification of start date for medical exception to ignition interlock: In the 2006 DWI bill, the General Assembly amended G.S. 20-17.8 to allow for a medical exemption from the interlock requirement imposed on restored licenses under that statute. SB 999 clarifies that the exemption is available to persons who committed a triggering offense before or after December 1, 2006.

Effective: August 30, 2007

7. DWI sentencing changes: Amends G.S. 20-179 (sentencing hearing after conviction for impaired driving; determination of grossly aggravating and aggravating and mitigating factors; punishments) to provide that, even in Superior Court, the judge (rather than the jury) may determine the prior conviction aggravating factor in G.S. 20-179(d)(5). Expands gross aggravator (c)(1) to include a prior conviction for an offense involving impaired driving where the conviction occurred in District Court; the case was appealed to Superior Court; the appeal has been withdrawn, or the case has been remanded back to District Court; and a new sentencing hearing has not been held pursuant to G.S. 20-38.7. (In other words, if a previously-appealed implied-consent offense has been returned to District Court for a new sentencing hearing under G.S. 20-38.7, the court may treat that case as a prior conviction for sentencing purposes in another case even if the new sentencing hearing as required by G.S. 20-38.7 has not yet occurred in the case.)

Effective: August 30, 2007

8. Seizure clarifications: Amends G.S. 20-28.2(b) and (b1) to clarify that the judge may determine whether the vehicle should be forfeited at (among other times) a sentencing hearing for the underlying offense. (As amended in 2006, these provisions formerly authorized the judge to consider the forfeiture issue at any hearing on the underlying offense, which is inconsistent with other provisions in the seizure law.) Also clarifies that the vehicle is subject to forfeiture if the court determines by the greater weight of the evidence that the defendant is guilty of an underlying offense involving impaired driving. (As amended in 2006, these provisions currently authorize forfeiture if the court finds by the greater weight of the evidence that the underlying offense involved impaired driving, without regard to the defendant's guilt. Again, this former language was inconsistent with other provisions in the seizure law.)

Effective: August 30, 2007

9. Remand sentencing change: Amends G.S. 20-38.7 (appeal of implied-consent offense to Superior Court) to remove the language that prohibits the imposition of a new sentence on remand or withdrawal until all other pending impaired driving charges are resolved. (This is designed to eliminate the "endless loop" issue that may result under current law when multiple DWI convictions have been appealed and remanded/withdrawn and each is awaiting the resolution of the other.)

Effective: August 30, 2007

10. Appeal of new sentence entered following remand: Amends G.S. 20-38.7 to provide that a defendant may appeal a new sentence that is entered in District Court following remand or withdrawal only if (i) the new sentence entered in District Court is based on additional facts that were not considered in imposing the previous sentence in District Court (i.e., the previous District Court sentence that was vacated by giving of the notice of appeal to Superior Court) and (ii) the defendant would be entitled to a jury determination of these additional facts in Superior Court under G.S. 20-179.

Also provides that if a defendant appeals the new sentence under this "additional facts" theory and then withdraws the appeal, the new District Court sentence will be "reinstated by the

District Court as a final judgment that is not subject to further appeal.”  
Effective: August 30, 2007

11. Repeat felony death by vehicle: Amends G.S. 20-141.4(a6) to make repeat felony death by vehicle a separate offense (as opposed to a sentence enhancement, as under current law). Also addresses the proof of, and punishment for, this offense.  
Effective: August 30, 2007

12. Dismissal explanations: Amends G.S. 20-138.4 (requirement that prosecutor explain reduction or dismissal of charge involving impaired driving) to clarify that the explanation requirements apply to “implied-consent cases.” (There are currently provisions in G.S. 20-138.4 that refer to an “offense involving impaired driving.” This has created some confusion because “implied-consent offense” and “offense involving impaired driving” are not synonymous terms. This change is designed to eliminate this confusion.)  
Effective: August 30, 2007

13. Civil revocation: Amends G.S. 20-16.5 (immediate civil license revocation for certain persons charged with implied-consent offenses) to substitute the term “law enforcement officer” for the term “charging officer” throughout the statute.  
Effective: August 30, 2007

14. Additional chemical analysis: Amends G.S. 20-139.1(d), which addresses an implied-consent defendant's right to an additional chemical analysis at his or her own expense, to correct a mistaken statutory reference.  
Effective: August 30, 2007

15. Driving after DMV has sent notice of revocation: Amends G.S. 20-28(a2)(1), which created a new offense of driving after DMV has sent notice of an impaired driving revocation, to clarify that it applies to a person “operating a motor vehicle.”  
Effective: August 30, 2007

16. Additional DWI sentencing changes: Amends G.S. 20-179 to remove a stray reference to G.S. 20-138.3 in subsection (a). Also clarifies the parole requirements in subsection (p) so that they comport with DWI parole changes made in the 2006 legislation. In addition, makes a purely technical change to subsection (s) to remove a redundant word.  
Effective: August 30, 2007

17. “Impaired driving license revocation”: Amends G.S. 20-28.2(a), which defines “impaired driving license revocation,” to remove a reference to G.S.20-17.2, which was repealed by the 2006 DWI legislation.  
Effective: August 30, 2007

18. Blood and urine test results: Amends G.S. 20-139.1(c2), which addresses the admissibility of blood and urine analysis results, to (i) make a technical wording change and (ii) provide the correct name for the entity that accredits laboratories. Amends G.S. 20-139.1(c1), which also addresses the admissibility of blood and urine analysis results, to remove the

requirement that the results be reported on a form approved by the Attorney General. The provision will instead simply provide that “the results shall be certified by the person who performed the analysis.”

Effective: August 30, 2007

19. Conforming change to LDP statute: Amends G.S. 20-179.3 (DWI limited driving privilege) to delete references to court-ordered nonoperation periods because the 2006 DWI bill removed court-ordered nonoperation periods from the DWI sentencing statute.

Effective: August 30, 2007

20. Appeal from DMV refusal revocation hearing: Amends G.S. 20-16.2 (implied consent to chemical analysis) to provide that when a defendant appeals a DMV decision upholding a refusal revocation, the appeal petition must be filed (i) in the Superior Court district or set of districts where the implied-consent charge was brought and (ii) within 30 days of the DMV decision.

Effective: August 30, 2007

21. DWI aggravating factor based on alcohol concentration: Amends G.S. 20-179 to reduce from 0.16 to 0.15 the alcohol concentration that triggers aggravating factor (d) (1). Also provides that, for purposes of this aggravating factor, “the results of a chemical analysis presented at trial or sentencing shall be sufficient to prove the person’s alcohol concentration, shall be conclusive, and shall not be subject to modification by any party, with or without approval by the court.” (Note: This change and the following 0.15 changes are necessary in order for the State to receive additional federal funds.)

Effective: Applies to offenses committed on or after December 1, 2007

22. Alcohol concentration report by law enforcement to DMV: Amends G.S. 20-16.2 to reduce from 0.16 to 0.15 the alcohol concentration that triggers a post-arrest report from the law enforcement officer and the chemical analyst to DMV under subsection (c1).

Effective: Applies to offenses committed on or after December 1, 2007

23. Interlock requirement on restored license: Amends G.S. 20-17.8 to reduce from 0.16 to 0.15 the alcohol concentration that triggers the ignition interlock requirement for a restored license. Also provides that for purposes of G.S. 20-17.8, DMV will rely on the alcohol concentration reported by the officer and chemical analyst under G.S. 20-16.2(c1) rather than (as is currently the case) relying on a court finding reported by the clerk.

Effective: Applies to offenses committed on or after December 1, 2007

24. Interlock requirement on limited driving privilege: Amends G.S. 20-179.3(g5) to reduce from 0.16 to 0.15 the alcohol concentration that triggers an interlock restriction on a limited driving privilege. Provides that, for purposes of subsection (g5), “the results of a chemical analysis presented at trial or sentencing shall be sufficient to prove a person's alcohol concentration, shall be conclusive, and shall not be subject to modification by any party, with or without approval by the court.” Also provides, in a new G.S. 20-179.3(c1), that a limited driving privilege issued to a defendant convicted of an impaired driving offense who had an alcohol concentration of 0.15 or more at the time of the offense is subject to the following special

conditions: (i) the privilege may not take effect until 45 days or more after the date of final conviction; (ii) the person must comply with the ignition interlock requirements in subsection (g5); and (iii) the person is limited “to driving only to and from the person’s place of employment, the place the person is enrolled in school, any court ordered treatment or substance abuse education, and any ignition interlock service facility.” Again, for purposes of imposing these special conditions, “the results of a chemical analysis presented at trial or sentencing shall be sufficient to prove a person’s alcohol concentration, shall be conclusive, and shall not be subject to modification by any party, with or without approval by the court.”

Effective: Applies to offenses committed on or after December 1, 2007

25. Impaired driving by juveniles: Amends G.S. 7B-1903 (criteria for secure or non-secure custody) to add the following new circumstance that will support a secure custody order: “The juvenile has demonstrated that the juvenile is a danger to persons and is charged with a violation of G.S. 20-138.1 [impaired driving] or G.S. 20-138.3 [driving by person less than 21 years old after consuming alcohol or drugs].” Also authorizes the Legislative Research Commission to study dispositional alternatives for juveniles adjudicated delinquent for violations of G.S. 20-138.1 and G.S. 20-138.3.

Effective: Applies to offenses committed on or after December 1, 2007 (except that the study provision took effect on August 30, 2007).

Effective: August 30, 2007, and offenses committed on or after December 1, 2007, as noted above. (Note: “Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.”)

**Note:** This summary of Senate Bill 999 was prepared by Matt Osborne, Associate Counsel, North Carolina Administrative Office of the Courts, and additional input was received from Issac T. Avery, III of The Avery, P.C., retired Special Deputy Attorney General. The North Carolina Sheriffs’ Association is extremely grateful for Mr. Osborne and Mr. Avery sharing their excellent work.

SENATE BILL 1009, Discovery/DA Notes, provides that the district attorney is not required to disclose the identity of a confidential informant in a criminal case unless disclosure is otherwise required by law. This bill also provides that the district attorney is not required to provide any personal identifying information about a witness other than the witness’ name, address, date of birth and published telephone number, unless the court determines, after a motion is filed by the defendant, that additional information is necessary to accurately identify and locate the witness. This bill also amends the statute concerning oral statements made by witnesses to specify that oral statements made by a witness to a prosecutor outside the presence of a law enforcement officer or investigatorial assistant are not required to be in written or recorded form unless there is significantly new or different information in the oral statement from a prior statement made by the witness.

Effective: August 19, 2007

SENATE BILL 1026, Drivers License Issuance/Expiration Dates, makes a drivers licensee’s birthday the expiration date for a drivers license for anyone 18 years or older. The law also

requires legal non-immigrant applicants to establish that they are legally present in the United States and how long they are they are authorized to stay. The bill also authorizes the Division of Motor Vehicles to cancel a driver's license issued to a legal non-immigrant if that person is no longer authorized under federal law to be in the United States.

Effective: May 23, 2007

SENATE BILL 1058, Telephone Records Privacy Protection Act, makes it a Class H felony for obtaining, receiving or selling telephone records by making false statements or false representations.

Effective: December 1, 2007

SENATE BILL 1079, Protections for Victims of Human Trafficking. As originally introduced, there were numerous provisions in this bill that were opposed by the North Carolina Sheriffs' Association. At the request of the North Carolina Sheriffs' Association and the Attorney General's Office, those provisions were removed from the bill prior to its enactment. The bill contains a provision directing the North Carolina Justice Academy to develop training materials on the issue of human trafficking to be distributed to state and local law enforcement agencies across the State for their personnel. This bill provides that victims of human trafficking who otherwise may not be eligible for public benefits and services from North Carolina agencies shall receive those benefits until the victim's eligibility to remain in the United States is terminated under federal law. When a person is determined to be a victim of human trafficking the District Attorney's Office shall notify the Office of the Attorney General and Legal Aid of North Carolina, Inc. to assist the victim. A victim of human trafficking is eligible to participate in the Address Confidentiality Program in the Office of the Attorney General.

Effective: December 1, 2007

SENATE BILL 1096, DOC Inmate Labor, allows the Department of Correction to establish work assignments for inmates and to allow inmates to volunteer in service projects that benefit units of State or local government or 501(c) (3) entities that serve the citizens of this state.

Effective: August 21, 2007

SENATE BILL 1130, Broaden Open Discovery, requires the state to make available to the defendant the complete files of all prosecution agencies including any public or private entity that obtains information on behalf of a law enforcement agency or prosecutor.

Effective: October 1, 2007

SENATE BILL 1147, Dealer Motor Vehicle Inspection Changes, requires that the driver of any vehicle displaying a dealer license plate be required to carry a copy of the dealer plate registration card. The law also allows the registration card to be maintained on file at the dealer's address if it can be produced within 24 hours upon the request of any law enforcement officer.

Effective: August 30, 2007

SENATE BILL 1211, Require Fingerprinting for DWI/DWLR, requires the fingerprinting and photographing of any person who has been arrested for any offense involving impaired driving or driving while license revoked (due to impaired driving) if the person cannot be identified by a

valid form of identification. **This law was supported by the North Carolina Sheriffs' Association.**

Effective: October 1, 2007

SENATE BILL 1218, Candidate Felony Disclosure, requires any candidate to disclose felony convictions. The disclosure form must include a statement that a felony conviction does not preclude a person from running for public office if the candidate's citizenship rights have been restored. The law makes it a Class I felony to knowingly complete the form with false information.

Effective: January 1, 2008

SENATE BILL 1246, Prohibit Baiting of Bears, prohibits placement of processed foods in areas where the Wildlife Resources Commission has set an open hunting season for black bears. Violation of the law is a Class 2 misdemeanor.

Effective: October 1, 2007

SENATE BILL 1270, Amend Larceny Laws, makes various changes to the larceny laws to include making the following offenses a Class H felony; (1) knowingly receiving or possessing property in the custody of a law enforcement agency that was explicitly represented to the person by an agent of the law enforcement agency as stolen; (2) larceny of property of a value of more than \$200 by using an exit door if a sign was on the exit door notifying persons that it is a felony to steal by using the exit door; (3) by removing, destroying, or deactivating an inventory control device to prevent its activation; (4) by affixing a product code created for the purpose of fraudulently obtaining merchandise at less than its actual sale price; (5) larceny of infant formula valued in excess of \$100; and (6) conspiring with another person to commit theft of retail property from a retail establishment with a value exceeding \$1,500 in total over a 90-day period with the intent to sell that property for financial gain.

Effective: December 1, 2007

SENATE BILL 1290, Alcohol Monitoring Systems for DWI Offenders, allows a judge who convicts a defendant of a Level One or Level Two DWI to impose, as a condition of probation, a requirement that the defendant not consume any alcohol for a minimum of 30 days, up to a maximum of 60 days, as verified by a continuous alcohol monitoring system, and that the cost of the system be paid for by the defendant. If a judge determines that the defendant "should not be required to pay the cost of the continuous alcohol monitoring system," the judge could not require the use of the system unless the local government entity where the defendant would be incarcerated agrees to pay for the cost of the system.

Effective: December 1, 2007

SENATE BILL 1327, Bail Bond/Exception/Return of Bond Premium, allows a bail bondsman to keep the premium on the bond if the defendant fails to disclose criminal activity, charges, or convictions within the past ten years or provides incorrect personal identification information.

Effective: August 21, 2007

SENATE BILL 1350, Clarify Motor Vehicle Registration Requirements, deletes the requirement that a motor vehicle owner provide their social security number when registering their motor



vehicle and replaces it with a requirement that they provide their driver's license number or special identification card number.

Effective: September 1, 2007

SENATE BILL 1359, Red Light Exception for Motorcycles, allows a motorcycle that has come to a complete stop at an intersection to proceed through the intersection if the traffic signal is emitting a steady red light and if the motorcycle, after waiting at least 3 minutes, fails to activate the sensor (inductive loop) to change the traffic signal.

Effective: December 1, 2007

SENATE BILL 1424, Allow Earthdog Trials, allows the use of dogs in earthdog trials that are sanctioned or sponsored by entities approved by the Commissioner of Agriculture that meet standards that protect the health and safety of dogs.

Effective: December 1, 2007

SENATE BILL 1456, Tandem Vehicle Operations on Highways, expands the law that allows tandem vehicle combinations on certain highways to apply to all highways within the State. The law also states that motor vehicle combinations of one semi-trailer of not more than 48-feet in length and a truck tractor (power unit) may exceed the 60-foot maximum length.

Effective: June 14, 2007

SENATE BILL 1464, Management of Wildlife Resources, allows the taking of beavers with bow and arrow. This law also prohibits the feeding of alligators. It also requires deer hunters to wear hunter orange during firearms season. The law also includes provisions concerning the use of migratory bird electric calls to conform to federal law.

Effective: October 1, 2007

SENATE BILL 1495, Vehicles Used for Towing to be Marked, requires a motor vehicle that is towing another motor vehicle for hire must have the name and address of the registered owner of the vehicle and the name of the business printed on the side of the vehicle in letters not less than three inches in height. This bill also exempts from the seatbelt law drivers and passengers of residential garbage or recycling trucks while making their rounds or while traveling to and from loading and unloading locations.

Effective: December 1, 2007

SENATE BILL 1546, Clarify Public Access to Personnel Records, allows the public to have access to any employment contract, whether written or oral, for government employees. The bill also clarifies that salary, which is a public record, includes pay, benefits, incentives, bonuses and all other forms of compensation.

Effective: August 30, 2007

## IMPORTANT LEGISLATION NOT ENACTED INTO LAW

HOUSE BILL 274, Street Gang Prevention Act, would make it a Class H felony to engage in a pattern of criminal street gang activity. The bill would also provide that all property used in criminal street gang activity could be forfeited. This legislation provides that it would not apply to juveniles under the age of 16. It would make it a Class E felony to discharge or attempt to discharge a firearm from any building, motor vehicle, etc. as a part of a pattern of criminal street gang activity. **This bill was supported by the North Carolina Sheriffs' Association.**

This bill passed the House and was received in the Senate without sufficient time for it to get fully considered during this legislative session. Therefore, it was not enacted into law this Session.

HOUSE BILL 389, Criminal Offense/False Statement to SBI Agent, would make it a felony to provide materially false information in response to an official inquiry by a sworn agent of the State Bureau of Investigation. This bill was not enacted into law.

HOUSE BILL 492, Juvenile Jurisdiction to Age 18 Years, would define a delinquent juvenile as a juvenile who is between 6 years of age and 18 years of age and who commits a crime or infraction. It would also establish a Task Force for Juvenile Justice Administration which would be composed of seventeen members. There is no requirement that any of the appointees to the Task Force have any experience in law enforcement, although there are three appointees each from the Speaker of the House and the President Pro Tempore of the Senate, and these six appointees could be used to include some law enforcement representatives. The increase in the age from 16 to 18 years would be effective for offenses committed on or after December 1, 2009 and the Task Force would have until January 15, 2009 to determine how to implement this change, and how to pay for it. **This legislation was opposed by the North Carolina Sheriffs' Association.**

HOUSE BILL 898, Expunge Nonviolent Felony/Youthful Offender, was amended in the House so that it would be similar to the most current version of Senate Bill 677, which is its companion bill in the Senate. As amended, it will allow the expungement of criminal records of crimes committed by 16 and 17 year olds and will allow the expungement of almost 300 various Class H and I felonies. In the House, amendments were adopted to provide that the following offenses cannot be expunged: (1) possession of heroin or cocaine with the intent to sell or deliver; (2) knowingly contaminating food or drinks with a controlled substance [the date-rape drug]; and (3) stalking. The original version of the bill provided that a petition for expunction of a felony could not be filed for two years after conviction or the end of other court supervision and that was extended to four years. **This bill was opposed by the North Carolina Sheriffs' Association.** This bill was approved by the House and has been sent to the Senate but was not enacted into law.

HOUSE BILL 933, Jessica Lunsford Act For North Carolina, would make numerous changes to the sexual offense criminal statutes, and to the sex offender registration statutes, including: (a) defines first degree rape and first degree sexual offense to include when the defendant is at least

18 years old and the victim is under the age of 13; (b) establishes a 30-year registration period for certain sex offenders; (c) increases the punishment for numerous felony offenses; (d) reduces from 10 days to 3 business days most of the deadlines for reporting to the Sheriff by registered sex offenders; (e) makes it a Class H felony for a sex offender to be on the premises of a place that a "reasonable person knows is a place where children regularly congregate without adult supervision"; (f) requires the licensee for each licensed daycare center and the principal of each elementary school, middle school and high school to register with the North Carolina Sex Offender and Public Protection Registry to receive email notification when a registered sex offender moves within a one-mile radius of the licensed daycare center or school; and (g) makes various other changes to the sex offender registration law. This bill passed the House at the end of the legislative session and was referred to the Senate but sufficient time did not remain for the bill to be considered by the Senate this session, so it was not enacted into law.

HOUSE BILL 980, Law Enforcement Officer Discipline, is identical to Senate Bill 980, and would implement a form of the Peace Officers' Bill of Rights. This bill would require all state and local law enforcement agencies to establish formal disciplinary procedures that must be followed when disciplining law enforcement officers, including the right to be represented by a lawyer, a union representative, or any other person. As introduced, this bill would not apply to Sheriffs' deputies. Previous versions of similar legislation introduced in prior legislative sessions included many more expansive provisions and would have included Sheriffs' deputies. If this legislation is enacted, it is likely that the proponents of this legislation will seek to expand its requirements and to make it apply to Sheriffs' deputies in future legislative sessions.

This bill was amended in the House Judiciary I Committee to delete state law enforcement agencies from coverage by the bill. This bill was narrowly approved by the Committee and was then scheduled to be considered by the full House.

It was eventually withdrawn from the House agenda and re-referred back to the House Judiciary I Committee. Because it remained in Committee until after the "cross-over" deadline passed, it should not be eligible for consideration during the 2007-2008 Session of the General Assembly. Nevertheless, we will continue to monitor this bill closely. Sheriffs are encouraged to thank the members of the House that represent your counties for their overwhelming and steadfast opposition to this legislation. **This bill was opposed by the North Carolina Sheriffs' Association.**

HOUSE BILL 1287, Report Denial of Some Pistol Permits, would require Sheriffs who deny a pistol purchase permit application to report the denial via DCI to the State Bureau of Investigation. The Sheriff would be required to enter the following information: (1) a statement that the permit was denied; (2) the date of denial; (3) the reason for the denial; (4) the county in which the permit was denied; and (5) sufficient information to identify the applicant. The bill would allow a Sheriff who has denied an applicant's pistol purchase permit request to later remove the denial from the SBI database if the Sheriff subsequently issues a permit to the same applicant. This bill was approved by the House, but remains pending in the Senate and was not enacted into law this year.

HOUSE BILL 1545, Company Police Modernization, would make various changes in the law that establishes company police agencies in North Carolina and would drastically expand the jurisdiction of these agencies. **Provisions in this bill that expand the jurisdiction of the company police were opposed by the North Carolina Sheriffs' Association.** This bill was not enacted into law.

HOUSE BILL 1583, Restore Contract Rights To State /Local, would allow payroll deduction of dues to continue for government employees' associations that engage in collective bargaining between state and local government. This bill would require collective bargaining between state and local government employers and employee associations. This bill remained eligible for consideration because it might need an appropriation to be implemented. **This bill was opposed by the North Carolina Sheriffs' Association.** This bill was not enacted into law.

HOUSE BILL 1584, Public Safety Employer/Employee Cooperation Act, would allow "public safety officers" employed by local governments to form an association or labor organization. The bill would also allow an officer whose rights have been violated to sue in civil court to obtain injunctive relief or monetary damages. "Public safety officer" is defined in this legislation as a firefighter or an emergency medical services personnel. As introduced, it did not include law enforcement officers, but if it is enacted into law, there will be likely be follow up legislation to add law enforcement officers at a later date. **This bill was opposed by the North Carolina Sheriffs' Association.** This bill was not enacted into law.

HOUSE BILL 1620, Clarify Arrest Authority Over Illegal Aliens, would clarify that law enforcement officers may arrest, without a warrant, persons who have been identified through the National Criminal Information Center (NCIC) as someone who has civil or criminal immigration charges, warrants, or detainees. Law enforcement officers would also be authorized to arrest, without a warrant, someone against whom any other civil or criminal action or charge has arisen out of an action taken by the United States Department of Homeland Security. **This bill was supported by the North Carolina Sheriffs' Association.** This bill was not enacted into law.

HOUSE BILL 1716, State to Retain Custody/Forfeited Property, would have required that a State or local law enforcement agency that seizes property, including property seized in drug raids or other law enforcement activities to enforce the State's controlled substances law, would be required to retain custody of the property on behalf of the State. The law enforcement agency would be prohibited from asking the Drug Enforcement Administration (DEA) or any other federal agency to adopt the seizure, or to otherwise transfer the seized property to a federal agency, without specific authorization of either the Senior Resident Superior Court Judge or the Chief District Court Judge in the district where the seizure occurred. The judge would not be permitted to authorize a transfer to a federal agency of property seized unless the law enforcement agency could show to the court that the seizure was in fact pursuant to a joint local-federal enforcement action in which the federal agency took the dominant role. **This bill was opposed by the North Carolina Sheriffs' Association.** This bill was not enacted into law.

HOUSE BILL 1787, Expunction Information/Dismissal or Not Guilty, requires the Administrative Office of the Courts to provide information and application forms on the Internet

for expunction of criminal records when charges are dismissed or there is a finding of not guilty. Each clerk of court would be required to post a notice in a conspicuous location, to which the public has access, in the clerk's office about the possibility of a criminal defendant being eligible to obtain expunction of their criminal records when charges are dismissed or there is a finding of not guilty. The bill would require this notice that must be posted by the clerk of court to be developed by the Administrative Office of the Courts. This bill passed the House and remains in the Senate and was not enacted into law.

HOUSE BILL 1950, Sheriffs Immigration Enforcement Agreement/Funds, would fund \$750,000 for 2007-2008 and \$1 million for 2008-2009 to the Governor's Crime Commission of the Department of Crime Control and Public Safety for a grant to the North Carolina Sheriffs' Association to provide technical assistance to Sheriffs' offices throughout the State concerning the 287(g) Immigration Program of the Immigration and Customs Enforcement Agency (ICE), as well as to fund the salaries of Sheriffs' Office personnel who attend the four week ICE 287(g) training. **This bill was supported by the North Carolina Sheriffs' Association.** While this bill was not specifically enacted into law, the grant funding specified in the bill was included in the State Budget Bill that was enacted into law.

HOUSE BILL 2025, Regional Jails Evaluation Funds, would fund \$150,000 each year to the Department of Crime Control and Public Safety and the Governor's Crime Commission to provide a grant to the North Carolina Sheriffs' Association to assist Sheriffs in North Carolina in evaluating the advisability of constructing regional jails for joint use by Sheriffs of multiple counties and to determine if regional jails are advisable and feasible. **This bill was supported by the North Carolina Sheriffs' Association.** This bill was not enacted into law.

SENATE BILL 4, Sheriffs Access RX Info., would authorize Sheriffs to inspect prescription information. Access to this information would be helpful in investigating "doctor shopping" cases where drug abusers go to multiple doctors for the same alleged medical problem solely for the purpose of getting multiple prescriptions for controlled substances. Currently, only federal and state law enforcement officers whose duty it is to enforce the laws relating to controlled substances are allowed to access this information. This bill was amended in the Senate to clarify that the authority granted by this bill only applies to the constitutionally elected or appointed Sheriff. The bill was approved by the Senate and sent to the House, but was not enacted into law. **This legislation was supported by the North Carolina Sheriffs' Association.**

SENATE BILL 132, Protect Children From Sexual Predators Act, would expand the scope of certain laws against pornography, would increase the penalty for sexual exploitation of a minor, would make it a felony for registered sex offenders to access a commercial social networking website and would prohibit a registered sex offender from obtaining a name change. This bill passed the Senate and passed the House Judiciary II Committee and is pending in the House Appropriations Committee, and was not enacted into law.

SENATE BILL 677, Expunge Nonviolent Felony/Youthful Offender, would allow felony defendants to have their record expunged for almost all of the 300 Class H and Class I felonies. This legislation would also require that persons eligible for expunction of their criminal record must be notified of their ability to get an expunction by their probation officer or, if no probation

officer is assigned, by the court at the time of the conviction of the felony. A fee of \$100 would be required to obtain an expungement, and that fee would go into the state's General Fund and would not go directly to any state or local law enforcement agency or court agency required to expunge the records.

This bill was amended in the Senate Judiciary II Committee to make various changes to include: (1) extend from 10 days to 30 days the period for the district attorney to object to the expungement request; (2) provide that the judge may review the applicant's juvenile record, the amount of restitution made by the applicant to the victim and any other evidence that the court considers relevant; and (3) provide that the judge may enter an expungement order if the judge believes that it is appropriate, but the judge is not required to enter the expungement order. After passing the Senate Judiciary II Committee, this bill was referred to the Senate Finance Committee and was not enacted into law. **This bill was opposed by the North Carolina Sheriffs' Association.**

SENATE BILL 743, Remove Ten-Year Limitation on DWI Conviction. Current law provides that when determining whether or not a person is guilty of habitual impaired driving because of a conviction of three or more offenses involving impaired driving, only those offenses that occurred within the last ten years may be counted. This bill would remove that ten-year time limitation and would provide that a person that is convicted of three or more offenses involving impaired driving at anytime during their lifetime would be guilty of the criminal offense of habitual impaired driving. This bill passed the Senate and the House Judiciary I Committee and is pending in the House Appropriations Committee, and was not enacted into law.

SENATE BILL 869, Sex Offender/Register E-mail Address, would make various changes to the sex offender registration law, to include: (1) requiring a person to register as a sex offender if they are convicted of felony child abuse that involves the prostitution of a juvenile by a parent or someone else providing care or involves a sexual act upon a juvenile by a parent or legal guardian; (2) requiring a sex offender to register his or her electronic mail address or other online identifier on the statewide sex offender registry; (3) allowing a sex offender's online identifier information to be released to companies that provide electronic mail services; (4) prohibiting a registered sex offender from using any online identifier that is not included in the registration information; (5) requiring sex offenders to provide new online identifier information to the Sheriff in person and makes a violation of this provision a Class F felony; (6) allowing a court to revoke the licensing privileges of a sex offender who has not registered as required, to include the revocation of hunting, fishing, driving, occupational, professional and business licenses; (7) requiring the Administrative Office of the Courts, in consultation with the North Carolina Department of Justice, North Carolina Department of Correction and the North Carolina Sheriffs' Association to develop a procedure for notifying DCI and Sheriffs of any sex offender that is required to be registered who does not receive an active term of imprisonment; and (8) providing \$250,000 to the Governor's Crime Commission to award grants of up to \$25,000 per Sheriff's Office on a dollar for dollar match to assist with the enforcement of the state's sex offender laws. This bill passed the Senate and remained in the House Judiciary I Committee, and was not enacted into law.

SENATE BILL 970, Public Safety Employer/Employee Cooperation Act, would establish a Public Safety Employer/Employee Cooperation Act, which would allow public safety officers employed by local governments to have collective bargaining like a union. When the organization represents more than half of its members, the organization may advocate for their members and be present at the interrogations of members, meet with the employer leadership, reduce agreements to a memorandum of understanding, and enforce the memorandum in a civil action. The bill would also allow the officer who feels his rights have been violated to sue in civil court to obtain monetary damages or other damages. **This bill was opposed by the North Carolina Sheriffs' Association.** It was not enacted into law.

SENATE BILL 1081, Expunge Nonviolent Crimes, was amended to allow the expungement of five felony criminal offences; (1) breaking or entering a building with the intent to commit a felony or larceny therein; (2) breaking or entering motor vehicles, railroad cars, trailers, aircraft, boats, or other watercraft; (3) possessing stolen goods; (4) obtaining property by false pretenses where the value is less than \$100,000; and (5) possession of a Schedule VI controlled substance. Expungements allowed under this bill would only be allowed for first offenders and could only be obtained after ten years from the date of the conviction of the felony. The North Carolina Sheriffs' Education and Training Standards Commission and the North Carolina Criminal Justice Education and Training Standards Commission would have access to the file at the Administrative Office of the Courts to determine if an applicant for certification as a law enforcement officer has previously received an expungement, and those records could be used to deny law enforcement officer certification to a person who has previously received an expungement. This bill passed the Senate and is pending in the House Finance Committee, but was not enacted into law.

SENATE BILL 1120, Company Police Modernization, would make various changes in the laws that establish company police agencies in North Carolina, and would drastically expand the jurisdiction of these agencies. **Provisions in this bill that expand the jurisdiction of the company police were opposed by the North Carolina Sheriffs' Association.** This bill was not enacted into law.

SENATE BILL 1271, Firefighter/EMS Payroll Deductions, would require that a public safety employer must make a payroll deduction upon the request of the employee for any membership dues of any firefighter and emergency service personnel organization that represents a majority of eligible employees in the department. This bill was amended to add law enforcement officers to the groups who are allowed to make a payroll deduction for membership dues at an officer's request for a law enforcement organization or association with at least 2,000 members statewide. This bill passed the Senate and has been sent to the House, but was not enacted into law. **This bill was opposed by the North Carolina Sheriffs' Association.**

SENATE BILL 1282, Wildlife Protectors to Enforce Criminal Laws, would clarify that the authority currently in the law for wildlife enforcement officers to enforce criminal laws not otherwise within their jurisdiction for offenses that occur in their presence is allowed when the wildlife enforcement officer is on duty. This bill passed the Senate and is pending in the House Wildlife Resources Committee, but was not enacted into law.

SENATE BILL 1336, Expunge Non-Violent Crimes/Young Person, would allow for the expungement of criminal records for persons who were 17 to 21 years of age at the time of the conviction, would apply to misdemeanors and Class H and I felonies as long as the offense does not involve an assault, possession or use of a firearm, is not a drug trafficking offense, does not involve impaired driving and does not require sex offender registration. A petition for expungement cannot be filed until at least ten years after the date of the conviction or completion of a term of incarceration or post-release supervision of probation, whichever is later. The Administrative Office of the Courts would be required to keep a confidential list of all expungements that would be available to state and local law enforcement agencies and banks and financial institutions for consideration when hiring employees. An expungement would not be allowed for a person who has previously obtained an expunction. **This bill was opposed by the North Carolina Sheriffs' Association.** This bill was not enacted into law.

SENATE BILL 1396, Deputy Sheriff Employment Protection, would include Sheriffs' Deputies within the scope of the State Personnel Act relating to the "just cause" termination. It provides that the Deputies may be terminated only for just cause and granting Deputies the right to appeal under the Administrative Procedure Act. **This bill was opposed by the North Carolina Sheriffs' Association.** This bill was not enacted into law.

SENATE BILL 1444, Law Officers' 25-Year Retirement, would allow State and local law enforcement officers to retire with unreduced benefits after 25-years of service. This bill would also transfer management and payment of the Special Separation Allowance benefit from the law enforcement officer's employing agency to the Retirement System Division of the Office of the State Treasurer.

The State Treasurer would establish an actuarially determined percentage that would be paid into the retirement system by the officer's employer each pay period. The funds would remain on deposit and be available to fund the Special Separation Allowance benefit for officers who retire. This change would fix the problem in the current law that requires the full Special Separation Allowance benefit to be paid by the law enforcement agency by which the officer was employed on the officer's last day of work. This change would make it much easier for officers nearing the end of their career to transfer from one law enforcement agency to another without any fear that their final employer will be required to fund the entire Special Separation Allowance benefit.

In addition, this bill will provide that the Special Separation Allowance benefit terminates upon the officer becoming eligible for unreduced Social Security benefits, rather than at age 62. The termination date of age 62 was included in the current law when everyone was eligible to retire at age 62. Since that time, the Social Security Administration has increased the age which has left many officers with a gap between the end of their Special Separation Allowance benefit and the beginning of their Social Security benefit. Also, the current law terminates the Special Separation Allowance benefit if the officer becomes re-employed by an agency that participates in the same retirement system from which the officer retired. This bill would allow retired officers to return to work on a part-time basis and they would be able to continue to receive their Special Separation Allowance benefit as long as they complied with the guidelines that also govern their ability to return to part-time work and still receive their regular retirement benefits.



**This legislation was supported by the North Carolina Sheriffs' Association.** This bill was not enacted into law.

SENATE BILL 1543, Collective Bargaining for Government Workers, would authorize public employees to organize for the purpose of collective bargaining and to create the Public Employee Labor Relations Commission. The commission would be made up of five members appointed by the Governor and four members appointed by the General Assembly to ensure fair dealings between public employers and labor organizations. **This legislation was opposed by the North Carolina Sheriffs' Association.** This bill was not enacted into law.

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