

# North Carolina Sheriffs' Association

Proudly Serving the Sheriffs and Citizens of North Carolina since 1922



Special Legislative Report

December 22, 2016

## A Historic Year for Extra Sessions

This year the General Assembly held five "Extra Sessions" to consider various matters. Holding five Extra Sessions in one year may be an historic record, and if not, is definitely an unusually high number of Extra Sessions.

- The First Extra Session was held on February 18th and 19th to deal with redistricting issues regarding the election for members of the United States House of Representatives from North Carolina.
- The Second Extra Session was held on March 23rd during which House Bill 2, Public Facilities Privacy & Security Act (a.k.a. the "bathroom bill") was enacted into law.
- The Third Extra Session was held on December 13th and 14th to provide funding for relief from Hurricane Matthew flooding in the eastern part of the State and the destruction caused by wildfires in western North Carolina.
- The Fourth Extra Session was held on December 14th, 15th and 16th to confirm the appointment of two special superior court judges, to confirm one appointment to the Industrial Commission, to restructure the State Ethics Commission and the State Board of Elections and to make various changes in the election and duties of the Supreme Court and the Court of Appeals.

The General Assembly also approved legislation to make various changes in the authority of the State Board of Education and the State Superintendent of Public Instruction, to clarify the Senate's authority to approve the Governor's appointments to various State positions and to change the Governor's authority to appoint members of the Board of Trustees of The University of North Carolina and its various schools.

- The Fifth Extra Session was held on December 21st during which the General Assembly considered the repeal of House Bill 2, Public Facilities Privacy & Security Act (a.k.a. the "bathroom bill") that was enacted on March 23rd. At the end of the session, no action was taken to repeal House Bill 2.

These five Extra Sessions of the General Assembly were in addition to the Regular Session of the General Assembly that convened on April 25, 2016 and adjourned on July 1, 2016.

While it certainly has been a busy year for the General Assembly, no additional Extra Sessions are

scheduled at this time.... But, of course there are still 10 more days left in the year.

The House and Senate are now adjourned and are scheduled to reconvene on Wednesday, January 11, 2017 at 12:00 p.m. for an "organizational" session for the 2017 General Assembly. They are then expected to return to begin the full 2017 Session at 12:00 p.m. on Wednesday, January 25th.

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## **BILL STATUS**

The following bills of interest to sheriffs and other criminal justice professionals were introduced during the Fourth Extra Session:

[HOUSE BILL 3](#), Regulatory Reform Act of 2016, would make numerous regulatory changes to various businesses and entities in North Carolina. Those changes of interest to the criminal justice community are:

1. The North Carolina Wildlife Resources Commission, the North Carolina Division of Marine Fisheries and the North Carolina Utilities Commission would be required to treat customer e-mail addresses and Commission issued customer identification numbers as confidential information. This information would be protected the same as customer's social security numbers and other identifying information.

2. A public agency would be able to satisfy the requirement to provide access to public records and computer databases by making those public records and computer databases available on-line in a format that would allow a person to download the public record or computer database to get a copy of the record. A public agency that provides access to public records or computer databases on-line would not be required to provide copies through any other method or medium. If the public agency voluntarily chose to provide copies of a public record by another method or medium, the public agency would be able to negotiate a reasonable charge for the service with the requester.

3. The Counties of Brunswick, Burke, Caldwell, Carteret, Catawba, Chatham, Cleveland, Craven, Edgecombe, Granville, Harnett, Henderson, Lenoir, Moore, Nash, Orange, Pitt, Robeson, Rutherford, Stanly, Stokes, Surry, Wayne, Wilkes and Wilson would be removed from the list of counties that are required to conduct motor vehicle emissions testing.

The standards for determining which motor vehicles would be subject to emissions testing would be amended to provide that vehicles with a model year within 20 years of the current year and older than the three most recent model years or a vehicle with a model year within 20 years of the current year that has 70,000 miles or more on its odometer would be subject to emissions testing. Currently the requirement is if the motor vehicle was a 1996 or later model and older than the three most recent model years or a 1996 or later model motor vehicle with 70,000 miles or more.

4. In any case in which a law enforcement officer or animal control officer is investigating to determine if an individual is in unlawful possession of a venomous reptile, a large constricting snake or crocodilian, if the officer determines there is an immediate risk to public safety, the officer

would be authorized to kill the reptile without having to consult with representatives of the North Carolina Museum of Natural Sciences or the North Carolina Zoological Park first.

The North Carolina Department of Natural and Cultural Resources and the North Carolina Wildlife Resources Commission would be required to jointly study and develop potential procedural and policy changes to improve the regulation of venomous reptiles, large constricting snakes or crocodylians. **Introduced by Representatives McGrady, Dixon, Jordan, Martin and Riddell, and assigned to the House Committee on Regulation Reform. This bill was not considered and was not enacted into law.**

[HOUSE BILL 8, Prohibit Discriminatory Profiling](#), would prohibit any law enforcement officer in the State from engaging in “discriminatory profiling” in the performance of their duties. Discriminatory profiling would be defined as “subjecting a person to investigation, detention, or arrest based on the person’s real or perceived race, ethnicity, national origin, disabilities, religion, sexual orientation, or gender identity, rather than on the person’s behavior or on information identifying the person as having engaged in criminal activity.”

The Department of Public Safety (DPS) would be required to collect traffic stop information from law enforcement officers in the State on whether or not the officer making the stop attempted to determine the immigration status of the driver or passengers.

Additionally, DPS would be required to collect and maintain the following information regarding homicides committed in North Carolina:

1. The number of homicides committed;
2. The location of the homicides;
3. The race, ethnicity, age, gender identity, and sex of the offender and victim;
4. The number of homicide cases solved and unsolved; and
5. The time required to solve a homicide case.

Law enforcement agencies would be required to submit this homicide data within 60 days of the close of each month. Any law enforcement agency that does not submit this information would be ineligible to receive any law enforcement grants available by or through the State.

DPS would also be required to collect and maintain the following information regarding deaths resulting from the use of deadly force by law enforcement officers in the performance of their duties:

1. The number of deaths that were justified or excused;
2. The location where the deaths occurred; and
3. The race, ethnicity, approximate age, gender identity, and sex of the officer and suspect.

The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission would be required to provide education and training concerning the prohibition against "discriminatory profiling" for entry level law enforcement training and in-service law enforcement training. This training would also include information on the proper techniques for recording and storing the homicide data set forth above.

Additionally, cities and counties would have the authority to establish a citizen review board. The citizen review board would have the authority to investigate a law enforcement officer for misconduct occurring within the review board's jurisdiction. The citizen review board would also have the authority to:

1. Issue subpoenas;
2. Review internal affairs files from law enforcement agencies;
3. Review personnel records of the officer unless prohibited by federal law;
4. Make findings and issue disciplinary action against a law enforcement officer for misconduct;
5. Recommend changes to the policies of any law enforcement agency within the citizen review board's jurisdiction; and
6. Exercise any other power deemed necessary to carry out the authority of the citizen review board, as determined by the city or county creating the board.

Finally, cities and counties would have the authority to establish neighborhood crime watch programs. If a crime watch program (program) is established, the city and county would be required to provide training that:

1. Emphasizes that the role of the program is to observe and report suspicious activities to law enforcement;
2. Instructs members of the program on developing effective methods for maintaining a visible presence in the community;
3. Instructs members of the program that they are to adhere to the instructions given to them by law enforcement officials; and
4. Educates members of the program about discriminatory profiling.

**Introduced by Representatives Moore, Hamilton and Alexander, and referred to the House Judiciary I Committee. This bill was not considered and was not enacted into law.**

[HOUSE BILL 9, Dog Breeding Stds./Law Enforcement Tools](#), would establish standards for the operation of large commercial dog breeding facilities. A large commercial dog breeding facility would be one that has custody of 10 or more female dogs over the age of 6 months that are kept primarily for breeding and the subsequent sale of the offspring. A person operating a commercial dog breeding facility that does not comply with the standards of care for large commercial dog

breeders would be guilty of a Class 3 misdemeanor punishable by a fine of not less than \$25 per animal and no more than a total of \$1,000. If the breeder has been found guilty of, or pled guilty or nolo contendere to, a previous violation of this law, then each violation would be a Class 1 misdemeanor.

Cities and counties would be allowed to adopt and enforce their own animal welfare laws and regulations in addition to the provisions of this bill. This bill would not apply to kennels and boarding facilities where the majority of the dogs are:

1. Being bred, maintained or trained primarily for hunting, sporting, field trials, or show; or
2. Kept primarily for purposes other than the sale of offspring as pets.

**Introduced by Representatives Saine, Jordan, Bradford and Moore, and assigned to the House Judiciary II Committee. This bill was not considered and was not enacted into law.**

[HOUSE BILL 17, Modify Certain Appointments/Employment](#), would make numerous administrative changes within the North Carolina Department of Public Instruction. It would also move the Center for Safer Schools from the Department of Public Safety to the Department of Public Instruction, and would create the “Task Force for Safer Schools” within the Department of Public Instruction. The Task Force would assist in the collection and dissemination of information on best practices and community needs relating to creating safer schools in North Carolina. The Task Force would also provide guidance and recommendations to the Governor, Superintendent of Public Instruction, and the General Assembly on how to improve school safety. Members of the Task Force would include, among other appointments, a school resource officer, two law enforcement officers, a representative of the North Carolina Justice Academy, and an expert in gang intervention and prevention. **This bill passed the House and the Senate and was signed into law by Governor Pat McCrory on December 16, 2016.**

[HOUSE BILL 18, Post-Arrest Photographic Images Not Public](#), would provide that a photograph of a person who is charged with the commission of a misdemeanor or felony which is taken by a law enforcement officer or agency would be confidential and not a public record.

The photograph however would be able to be disclosed to the public if the person was charged with a felony or the officer or agency determines that release of the photograph is necessary to secure the public's safety. If the person is found guilty of the misdemeanor or felony, the photograph would then become public record. **Introduced by Representative Moore and assigned to the House Judiciary III Committee. This bill was not considered and was not enacted into law.**

[HOUSE BILL 20, Community Association Managers Licensing Act](#), would require licensure for all individuals acting as a “community association manager,” and would set various standards for acting as a community association manager. A community association manager would include any person acting with the authority of a community association in its legal, financial, or other transactions. This bill would make it a Class 1 misdemeanor to violate any of the licensing standards established under the bill. **Introduced by Representative J. Moore and referred to**

**the House Judiciary IV Committee. This bill was not considered and was not enacted into law.**

**[SENATE BILL 4](#), Bi-Partisan Ethics, Elections & Court Reform, consolidates the functions of elections, campaign finance, lobbying, and ethics under one state agency and also establishes partisan elections for the Supreme Court of North Carolina and the North Carolina Court of Appeals. **This bill passed the House and Senate and was signed into law by Governor Pat McCrory on December 16, 2016.****

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The **Special Legislative Report** is provided at no charge as a service to the sheriffs, criminal justice community and citizens of North Carolina.

North Carolina Sheriffs' Association, Inc.

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