LEGISLATIVE UPDATE 2005



NORTH CAROLINA DEPARTMENT OF JUSTICE

INTRODUCTION

The Legislative Update for Law Enforcement is a review of laws enacted during the 2005 Session of the North Carolina General Assembly. It contains a summary of selected legislation of interest to law enforcement agencies. Individuals who would like more details about certain bills may receive a copy of the bill, at no cost, by calling the North Carolina General Assembly Printed Bills Office at (919) 733-5648 or by writing to the Printed Bills Office, State Legislative Building, Raleigh, North Carolina 27603. You may also get more information from the General Assembly's Website at www.ncleg.net.

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ABC LAW

AMEND DEFINITION OF MALT BEVERAGE IN ABC LAW

HB 392, SL 2005-277

The alcohol by volume that is permitted in a malt beverage is increased from 6% to 15%.

Effective Date: August 13, 2005

AMEND ABC TRANSPORTATION LIMIT

HB 1346, SL 2005-335

The limit is increased from 20 to 50 liters for the amount of unfortified wine that may be transported without a permit.

Effective Date: August 26, 2005

ALCOHOL SALES-CAMPUS PERFORMING ARTS CENTERS

SB 974, SL 2005-327

Authorizes the sale of beer and wine at performing arts centers located on property owned or leased by constituent institutions of The University of North Carolina if the seating capacity of the facility does not exceed 2,000 seats. The ABC Commission is also required to issue permits for on-premise sales of beer and wine at any county owned facility that is located adjacent to or separated by a road right-of-way from a municipality where mixed beverages, on-premises beer, and on-premises wine sales are authorized by law. The ABC Commission is also required to issue special occasion permits to sports facilities occupied by major league professional sports teams with suites available for sale or lease to patrons of the facility so that patrons may make available alcoholic beverages in those suites as if the patron were a host of a reception, party or other special occasion.

Effective Date: August 26, 2005

CRIMINAL LAW AND PROCEDURE

TERMINATING PARENTAL RIGHTS/MURDER OF PARENT BY PARENT

HB 97, SL 2005-146

G.S. § **7B-1111(a) (8)** is amended to terminate the parental rights of a parent who murders the other parent of the child.

Effective Date: June 30, 2005

METH LAB PREVENTION ACT

HB 248, SL 2005-434

Amends Chapter 90 to add Article 50, the "Control of Methamphetamine Precursors" which places limits and restrictions on sale and use of over the counter medications that are used as an ingredient in the manufacturing of illegal Products in which the sole active ingredient is methamphetamine. pseudoephedrine in strength of 30 milligrams or more shall only be sold in blister packages and cannot be sold loose in bottles. Pseudoephedrine products in tablet or caplet form must be stored and sold behind a pharmacy counter. Pseudoephedrine products that are in gel form or pediatric products for children under the age of 12 may still be sold on store shelves, however additional restrictions can be imposed on these forms of pseudoephedrine if the North Carolina Commission for Mental Health, Developmental Disabilities and Substance Abuse Services deems it necessary. Purchasers of pseudoephedrine products must be at least 18 years of age, furnish a photo ID and enter their name and address into a record that is kept by the retail business selling the products. Only two packages containing a combined total of six grams can be sold at one time. It is unlawful to purchase more than three packages with a total of nine grams within any 30-day period. For retail establishments selling pseudoephedrine products, a sign must be posted providing notices to the public and training must be provided for their personnel engaged in the sale of pseudoephedrine products.

A person arrested for the manufacture of methamphetamine is under a rebuttable presumption that they should have no bond set for their release pending trial if they were arrested for manufacture of methamphetamine and are in any way dependant upon methamphetamine or have a pattern of regular illegal use of methamphetamine. This Act also established the Legislative Commission on Methamphetamine Abuse to include 22 members representing a variety of organizations and officials interested in the meth lab issue and problem.

Effective Date: January 15, 2006

FALSE REPORT/DESTRUCTIVE DEVICE

HB 490, SL 2005-311

Expands **G.S.** § **14-69.1** to make it a Class H felony to make a false report of an explosive device that is located in sufficient proximity to cause damage to building.

Effective Date: December 1, 2005

INCREASE PENALTY FOR AID/ABET ABSENCE FROM SCHOOL

HB 779, SL 2005-318

Amends G.S. § 115C-380 and § 116-235(b)(2) to increase punishment from Class 3 misdemeanor to Class 1 misdemeanor for aiding and abetting a student's unlawful absence from school.

Effective Date: December 1, 2005

BLAKELY DECISION/CONFIRM STATE LAW

HB 822, SL 2005-145

G.S. § 15A-1340.16 reads as rewritten to amend state law regarding the determination of aggravating factors in a criminal case to conform with the Untied States Supreme Court decision in Blakely v. Washington.

Effective Date: June 30, 2005

CRIME LAB COST RECOVERY FEE

HB 890, SL 2005-363

Applies to court costs assessed or collected on or after that date for offenses committed on or after that date. Amends **G.S. § 7A-304(a)** to require a court under certain circumstances to assess a \$300.00 fee after a defendant's conviction for the costs of services of a crime laboratory operated by a local government.

Effective Date: October 1, 2005

CRIMINAL OFFENSE TO CONCEAL DEATH

HB 926, SL 2005-288

Adds new **G.S. § 14-401.22** to make it a Class I felony when a person, with the intent to conceal the death of another person, fails to notify a law enforcement authority of the death or secretly buries or otherwise secretly disposes of a dead human body.

STAY OF PROBATION DURING APPEAL

Adds new **G.S.** § 15A-1431(f1) and repeals § 15A-1431(f) to provide that an appeal from district court to superior court for trial de novo stays the execution of all portions of the judgment, including payment of costs and fine, probation or special probation, and active punishment. Provides that pursuant to **G.S.** § 14A-1431(e), a district court judge may order any appropriate condition of pretrial release, including confinement in a local confinement facility, pending trial de novo in superior court.

Effective Date: August 26, 2005

AGGRAVATE PENALTY/PREDATORY SEX OFFENDERS

HB 1209, SL 2005-130

G.S. § **4-208.6(5)** is rewritten to amend the sex offender registration program to include sexual battery as a reportable offense, and add sexual battery to the offenses requiring a DNA sample.

Effective Date: December 1, 2005 and applies to offenses committed on or after that date.

EXPUNGEMENT OF MULTIPLE CHARGES WITHIN ONE YEAR

HB 1213, SL 2005-452

Amends **G.S.** § **15A-146** to allow for expungement of multiple unrelated charges that were committed within a 12 month period.

Effective Date: October 1, 2005

SPEEDING TO ELUDE ARREST

HB 1279, SL 2005-341

Amends **G.S.** § **20-141.5** (speeding to elude arrest) to provide that when a violation of subsection (a) (misdemeanor violation) is the proximate cause of the death of any person, it is a Class H felony. When a violation of subsection (b) (felony violation) is the proximate cause of the death of any person, it is a Class E felony.

Effective Date: December 1, 2005

PARDON/EXPUNCTION OF RECORD

HB 1328, SL 2005-319

Creates **G.S.** § **5A-149** which allows for an expungement of a criminal conviction when the Governor grants a pardon of innocence.

Effective Date: August 25, 2005

SEARCH WARRANTS/AUDIO AND VISUAL TRANSMISSION

HB 1485; SL 2005-334

Allows search warrants to be obtained by oral testimony under oath from a sworn law enforcement officer provided to the issuing magistrate or other judicial official by means of an audio and video transmission in which both parties can see and hear each other. Audio visual equipment utilized for this purpose must be approved by the Administrative Office of the Courts.

Effective Date: October 1, 2005

UNAUTHORIZED USE OF LASER DEVICE TOWARDS AN AIRCRAFT

SB 428, SL 2005-329

Adds new **G.S. § 14-280.2** to make it a Class H felony when a person willfully points a laser device at an aircraft (when it is taking off, landing, in flight, or otherwise in motion) while the device is emitting a laser beam.

Effective Date: December 1, 2005

CHILD EXPLOITATION PREVENTION ACT

SB 472, SL 2005-121

G.S. § 14-202.3 is amended to also make it a felony criminal offense to solicit a person the perpetrator believes to be a child to commit unlawful sex acts, to require persons convicted of this offense to register as sex offenders, adds this offense to the offenses requiring a DNA sample, and to authorize the State Bureau of Investigation to investigate certain crimes committed by use of a computer.

Effective Date: December 1, 2005 and applies to offenses committed on or after that date.

RACHEL'S LAW

SB 486, SL 2005-461

Increases the penalty for discharging a weapon into an occupied dwelling or into an occupied vehicle, aircraft, watercraft or other conveyance, and makes such action a Class D felony. A violation that results in serious bodily injury to any person makes the offender guilty of a Class C felony.

AGGRAVATING FACTOR/ADD SOCIAL WORKER

SB 507, SL 2005-101

G.S. § 15A-1340.16(d)(6) is amended to provide that an offense committed against or that proximately causes serious injury to a social worker is an aggravating factor.

Effective Date: December 1, 2005 and applies to offenses committed on or after that date.

CONSTRUCTION SITE THEFT/AGGRAVATE PENALTY SB 532, SL 2005-208

Makes a theft from a permitted construction site a Class I felony if the value of the property stolen is \$300 or more. It also makes possessing or receiving goods stolen from a permitted construction site a Class I felony.

Effective Date: December 1, 2005

DRUG ENFORCEMENT IMPROVEMENT ACT

SB 748, SL 2005-207

This Act amends the procedure for implementing an order for electronic surveillance to provide that under certain circumstances it would not be necessary to identify the place where the communication will be intercepted by electronic surveillance, and to also provide the time frame within which the electronic surveillance in an undisclosed location may begin.

Effective Date: December 1, 2005

AMEND INDECENT EXPOSURE LAW

SB 776, SL 2005-226

The Indecent Exposure Law is amended to also prohibit exposure between persons of the same sex, with higher penalties for committing indecent exposure to persons under the age of 16 and it requires sex offender registration upon a felony conviction for indecent exposure.

Effective Date: December 1, 2005 and applies to offenses committed on or after that date.

BREAK INTO PLACE OF WORSHIP

SB 972, SL 2005-235

Amends Article 14 of Chapter 14 of North Carolina General Statutes to create **G. S. § 14-54.1** which makes it a Class G felony to break and enter a building that is a place of religious worship, with the intent to commit any felony or larceny therein.

DOMESTIC VIOLENCE

DOMESTIC VIOLENCE RECOMMENDATIONS

HB 569, SL 2005-356

A Joint Legislative Commission on Domestic Violence is created to study a variety of issues related to domestic violence to include the authority to examine law enforcement and judicial responses to domestic violence.

Effective Date: September 7, 2005

VICTIMS OF DOMESTIC VIOLENCE EMPOWERMENT ACT

HB 1311, SL 2005-343

Applies to domestic violence protective orders issued on or after effective date. Amends **G.S.** § 14-415.15(b) and § 50B-3 to allow a domestic violence victim to apply for a temporary concealed handgun permit by showing proof of the issuance of a domestic violence protective order.

Effective Date: October 1, 2005

DEATH PENALTY/ADD AGGRAVATING FACTOR

HB 1436, SL 2005-295

This bill directs the Sentencing Commission to study and make recommendations regarding evidence that a murder was committed in violation of a valid domestic violence protective order as an aggravating factor in capital sentencing.

Effective Date: August 22, 2005

CLARIFY/ENHANCE DOMESTIC VIOLENCE AND TENANCY LAWS

SB 1029, SL 2005-423

Provides that a defendant in a domestic violence case requesting return of firearms that have been surrendered would not be able to obtain the return of the firearm if the court finds that the defendant has any pending domestic violence criminal charges in any state or federal court. Allows protective orders to be extended for 2 years at a time; (applies to initial DVPOs entered on or after 10/1/05) Also authorizes the tenant who is a victim of domestic violence, sexual assault or stalking to get the locks changed on their residence or to terminate their rental agreement by providing the landlord with written notice at least 30 days in advance. When a defendant in a domestic violence order is ordered to stay away from a child's school, a copy of the order shall be delivered promptly by the Sheriff to the principal of each school named in the order. The current requirement that a Sheriff enter domestic violence orders into the National Crime Information Center

is amended to include the requirement that renewals of domestic violence also be ordered.

Effective Date: October 1, 2005

LOCAL LAWS

HENDERSON JUNKED/ABANDONED VEHICLE

HB 75, SL 2005-10

G.S. § **160A-303(b2)** is amended affecting the regulation of abandoned or junked motor vehicles in the city of Henderson and the town of Louisburg.

Effective Date: April 20, 2005

WINSTON-SALEM POLICE

HB 345, SL 2005-110

G.S. § 74E-13 is amended by adding the following new subsection to read: An Act requiring company police agencies to notify the city of Winston-Salem Police Department when they are providing on-site police security personnel services within the department's jurisdiction and to provide the department with certain information on arrests made by the agencies.

Effective Date: July 1, 2005

REPEAL HARNETT COUNTY FOX HUNTING LAW

HB 798, SL 2005-42

An Act to repeal the law regulating fox hunting in Harnett County.

Effective Date: May 9, 2005

AMEND PITT COUNTY HUNTING LAW

HB 811, SL 2005-42

Section 5 of S.L. 2002-142 is amended to read, it is unlawful to release dogs on posted land without the written, signed, and dated permission of the owner or lessee of the land. This permission shall be renewed annually in order to remain active.

Effective Date: May 16, 2005

TOWN OF CASWELL BEACH-REGULATE GOLF CARTS HB 827, SL 2005-58

An Act to authorize the town of Caswell Beach to regulate golf carts.

Effective Date: May 24, 2005

MONROE CHARTER AMENDMENT

SB 43, SL 2005-17

Section 4.5 of the Charter of the City of Monroe, being S.L. 2000-35, is repealed. An Act amending the Charter of the City of Monroe to allow the city manager to hire the chief of police.

Effective Date: April 28, 2005

TOWN OF ROSE HILL/REGULATE GOLF CARTS

SB 166, SL 2005-11

An Act to authorize the towns of Elizabethtown, Bladenboro, and Rose Hill to regulate golf carts and to clarify law enforcement authority for the enforcement of laws relating to motor vehicles within the Seven Lakes Community in Moore County.

Effective Date: April 25, 2005

RALEIGH CHARTER AMENDMENT

SB 392, SL-2005-157

Section 33(b) of the Charter of the City of Raleigh, being Chapter 1184 of the 1949 Session Laws, as amended by S.L. 1991-312, S.L. 1993-649, and S.L. 1995-323 is rewritten to amend the Charter of the City of Raleigh to allow the city to sell personal uniforms and equipment (but excludes weapons) to public safety employees upon the employees leaving the city's employment and as it relates to certain purchases and leases of real property by city employees.

Effective Date: July 7, 2005

CHARLOTTE SPEED CAMERA SUNSET EXTENDED SB 462, SL 2005-27

Section 5 of S.L. 2003-280 is amended to extend until September 30, 2007 the sunset of the authorization for the City of Charlotte to use photographic speed measuring during a pilot program in designated corridors.

Effective Date: May 9, 2005

MOTOR VEHICLE LAW

DWI FEE INCREASE

HB 35, SL 2005-312

Amends **G.S.** § 122C-142.1(f) to increase the fee paid by DWI offenders who attend Alcohol and Drug Education Traffic School.

Effective Date: August 25, 2005

DRIVING FROM/LEAVING SCENE OF ACCIDENT

HB 217, SL 2005-460

Requires that the driver or passenger of a vehicle involved in an accident must stay at the scene and must not allow the vehicle to be removed unless remaining at the scene places the driver or others at significant risk of injury; to call for a law enforcement officer; or to call for medical assistance or medical treatment. If a driver or passenger does leave the scene for an allowed reason, the driver must return with the vehicle to the accident scene within a reasonable period of time. Passengers in vehicles involved in accidents are to provide their name, address and drivers license number to the person struck by the driver. Passengers in vehicles involved in accidents are also required to render assistance to any person injured, to include calling for medical assistance, if it is apparent that such assistance is necessary or is requested by the injured person.

Effective Date: December 1, 2005

MOTOR VEHICLE MOVE-OVER LAW CHANGES

HB 288/SB 1142, SL 2005-189

G.S. § 20-157 is rewritten to amend the law concerning what the driver of a motor vehicle shall do upon approach of an emergency vehicle. Makes it a Class I felony if a violation of the law causes serious injury or death to a law enforcement officer, firefighter, or emergency vehicle operator.

Effective Date: July 1, 2006

RESTRICT USE OF BLUE AND RED VEHICLE LIGHTS

HB 355, SL 2005-152

G.S. § 20-130.1 is amended to restrict the use of red and blue lights on any non law enforcement or non-public safety vehicle in a forward facing position.

OVERSIZE/OVERWEIGHT VEHICLE CHANGES

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

Effective Date: October 1, 2005

CDL/FEDERAL COMPLIANCE

HB 670, SL 2005-349

Amends various statutes in Chapter 20 relating to issuance, removal and suspension of commercial drivers' licenses in order to comply with federal law.

Effective Date: September 30, 2005

TRANSIT DRUG TESTING

HB 740, SL 2005-156

G.S. § 20-37.19 is amended to require public transit operators and other employers of persons who operate commercial motor vehicles who are subject to federal drug and alcohol testing to report to the division of motor vehicles any federally required positive drug and alcohol test result, and to disqualify those persons from operating a commercial motor vehicle or other public transit vehicles until successful completion of treatment.

Effective Date: December 1, 2005

MOTOR CARRIER AMENDMENTS

HB 761, SL 2005-64

G.S. § 20-382.2(b) is amended so that when the Department of Crime Control and Public Safety finds that a for-hire motor vehicle is operated in this State in violation of the registration and insurance verification requirements of this Part, the motor vehicle shall be placed out of service until the motor carrier is in compliance.

Effective Date: May 27, 2005

FAILURE TO RETURN HIRED MOTOR VEHICLES

G.S. § 14-167 is amended to create a Class H felony offense for failure to return a hired motor vehicle valued in excess of four thousand dollars.

Effective Date: December 1, 2005

SERVICE OF REVOCATION ORDERS FOR DMV

HB 1404, SL 2005-357

Amends **G.S.** § 20-45 to authorize law enforcement officers to serve process and revocation orders for the North Carolina Division of Motor Vehicles.

Effective Date: December 1, 2005

WEAPONS LAW

DISPOSE OF FIREARMS/BENEFIT LAW ENFORCEMENT

HB 1016, SL 2005-287

Amends **G.S.** § 15-11.1 and **G.S.** § 15-11.2 relating to the disposition of firearms to allow a law enforcement agency to use a firearm for official use as to trade, sell or exchange said firearm to a FFL dealer and use the proceeds from the sale of unclaimed firearms for law enforcement purposes.

Effective Date: August 22, 2005

CARRY CONCEALED FOR LAW ENFORCEMENT

HB 1401, SL 2005-337

Amends **G.S.** § **14-269(b) (2)** to delete requirement that federal law enforcement officers must be discharging official duties when carrying a concealed weapon. Rewrites **G.S.** § **14-269(b)(5)** so it now provides that a sworn law enforcement officer, when off-duty, may carry a concealed weapon if the officer is not consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the officer's body. Deletes requirement that written regulations must be filed with Clerk of Superior Court.

Effective Date: August 26, 2005

CONCEALED CARRY PERMIT RENEWAL EXTENSION FOR DEPLOYED MILITARY

Amends Article 54B of Chapter 14 to allow a concealed carry weapon permit holder who is, or will be deployed for military service to apply with sheriff for an extension of concealed carry weapon permit up to an additional 90 days after permittee's deployment is scheduled to end.

Effective Date: July 28, 2005

DISPOSE OF FIREARMS/MODIFY NOTICE REQUIREMENT

SB 883, SL 2005-106

G.S. § 15-11.1 is rewritten to amend the notification requirement for Mecklenburg County regarding the disposition of a seized firearm and to provide that in Mecklenburg County either the sheriff or the chief law enforcement officer of the agency with jurisdiction to enforce the law where the firearm was seized may destroy the firearm in accordance with a court order.

Effective Date: June 23, 2005

RETIREMENT BENEFITS AND DISABILITY

DEATH BENEFIT FOR PART-TIME LAW ENFORCEMENT

SB 148, SL 2005-376

Amends **G.S. § 143.166.2** to extend the law enforcement officer's, fireman's rescue squad worker's, and civil air patrol members' death benefits to permanent part-time and temporary law enforcement officers and detention officers, whether paid or unpaid.

Effective Date: November 1, 2004 (Retroactive)

MISCELLANEOUS

APPROPRIATIONS ACT

HB 320, SL 2005-345

This session law amends the 2005-2007 Appropriations Act [Session Law 2005-276 (Senate Bill 622)]. Among its provisions, it adds a new section (section 17.31 on page 17), effective July 1, 2005, that amends **G.S. § 14-309.15(d)** to increase the maximum cash prize for any one raffle from \$10,000 to \$50,000.

Effective Date: September 2, 2005

DIVISION OF FOREST RESOURCES/ EMERGENCY RESPONSE-AB

HB 355, SL 2005-152

Chapter 166A of the General Statutes is amended to designate the Division of Forest Resources as an emergency response agency.

Effective Date: June 29, 2005

UNIFIED GOVERNMENT

HB 399, SL 2005-35

Chapter 153A of the General Statutes is amended by adding a new Article to allow counties with no incorporated municipalities to exercise most municipal functions.

Effective Date: May 12, 2005

ADOPTION/CRIMINAL CHECKS/PROSPECTIVE FAMILIES

HB 451, SL 2005-114

G.S. § 48-3-309 is amended to require criminal background checks for any individual eighteen years of age or older who resides in the household of a prospective adoptive parent, to expand the persons who are subject to criminal record checks by Department of Health and Human Services, and to make other conforming changes.

Effective Date: June 24, 2005

HB 687, SL 2005-301

UNLAWFUL OPERATION OF AUDIO VISUAL RECORDING DEVICE

Creates Article 58A of Chapter 14 which prohibits any person from knowingly operating or attempting to operate an audio visual recording device in a motion picture theater and to transmit, record or otherwise make a copy of the motion picture or any portion without written consent of the theater.

Effective Date: December 1, 2005

PERSONAL WATERCRAFT CHANGES

HB 702, SL 2005-161

G.S. § **75A-13.3(b)** is amended to increase the minimum age from 12 to 14 years of age for person who may operate personal watercraft in the state. A person between the ages of 14 and 16 may operate a personal watercraft if accompanied by a person at least 18 years of age or the person possesses a boater safety certification card from the Wildlife Resources Commission or proof of completion of a boating safety education course approved by NASBLA. This increase in age does not apply to persons who are 12 years of age or older prior to November 1, 2005.

Effective Date: November 1, 2005

BAN INTERNET HUNTING

HB 772, SL 2005-62

Article 4 of Chapter 113 of the General Statutes is amended by adding a new section to prohibit computer-assisted remote hunting.

Effective Date: November 1, 2005

PROHIBITING SOLICITATIONS ON STATE HIGHWAYS

HB 813, SL 2005-310

Amends **G.S. § 20-175** to allow local governments to enact ordinances prohibiting persons from standing on any street, highway, and right-of-way, excluding sidewalks, while soliciting.

Effective Date: August 25, 2005.

HB 821, SL 2005-137

EVIDENCE/SPEED-MEASURING INSTRUMENTS

G.S. § 8-50.2 is rewritten in relation to what instruments can be used as speed measuring instruments and to modify the standards for testing speed-measuring devices and the required qualifications of the technicians testing the devices.

Effective Date: October 1, 2005

PROHIBIT REMOVAL OF ELECTRONIC COLLARS HB 862, SL 2005-94

An Act to make the law prohibiting the removal of electronic collars from dogs apply statewide.

Effective Date: December 1, 2005

CONFERENCE OF CLERKS OF SUPERIOR COURT HB 878, SL 2005-100

Chapter 7A of the General Statutes is amended by adding a new subchapter to read, "Subchapter XV. Conference of Clerks of Superior Court" An Act to establish the conference of clerks of Superior Court.

Effective Date: July 1, 2005

CARE OF DOGS ILLEGALLY USED FOR FIGHTING

HB 1085, SL 2005-383

Creates Article 6 of Chapter 19A, which, in accordance with **G.S. § 14A-70** requires a defendant arrested for using dogs for fighting to post a deposit to the animal shelter to pay for the dogs' care during the period prior to adjudication of the charges.

Effective Date: December 1, 2005

GENERAL ASSEMBLY POLICE JURISDICTION

HB 1086, SL 2005-359

Amends **G.S.** § **120-32.2** to expand the territorial jurisdiction of the General Assembly Police to the inner loop of I-440 and any part of the state while traveling with a member or preparing security for session.

Effective Date: August 23, 2005

HB 1112, SL 2005-371

CENTRAL LISTING/MH BEDS/ INVOLUNTARY COMMITMENT

Amends **G.S.** § 122C-117(a) to require DHHS, Division of Mental Health Developmental Disabilities and Substance Abuse Services, to develop a central listing of mental health facilities to assist law enforcement and others during the involuntary commitment process.

Effective Date: August 23, 2005

INVOLUNTARY COMMITMENT AFFIDAVIT

HB 1199, SL 2005-135

G.S. § 122C-261(d) is amended to provide that a physician or eligible psychologist may file an affidavit for involuntary commitment with the clerk or magistrate either by hand delivery of the original affidavit or by facsimile transmission of a paper copy of the affidavit.

Effective Date: June 29, 2005

DOG TRAINING WITH WATER FOWL AND GAME BIRDS

HB 1206, SL 2005-76

G.S. § 113-291.1(d) is amended to allow the use of domestically propagated waterfowl and game birds in dog training under certain conditions.

Effective Date: June 7, 2005

INSPECTION OF CORRECTIONAL FACILITIES

HB 1226, SL 2005-98

G.S. § 148-37.2 is amended by adding a new subsection to clarify the law regarding inspection, review, and examination of prison facilities constructed through lease-purchase agreement.

Effective Date: June 21, 2005

SECURED APPEARANCE BOND HEARING

HB 1409, SL 2005-375

Amends **G.S.** § **15A-539** to allow a district or superior court judge to hold a hearing to determine the source of money and property to be posted for any defendant who is about to be released on a secured appearance bond.

OBSTRUCTING USE OF BOAT RAMP

G.S. § 113-135.1 is amended to prevent unsuspecting members of the public from being subject to harsh criminal penalties for offenses created by rules of the Wildlife Resources Commission, the penalty for an offense that is solely a violation of rules of the Wildlife Resources Commission is limited to a fine of ten dollars (\$10.00) except for a few exceptions.

Effective Date: December 1, 2005

AUTOPSY PHOTOGRAPHS NOT PUBLIC RECORD HB 1543, SL 2005-393

Adds new **G.S.** § 132-1.8 and § 130A-389.1 to provide that photographs and video or audio recordings made pursuant to an autopsy are not public records and to allow for limited access by the public to recorded images of an autopsy. Creates misdemeanor offenses for violations of new law.

Effective Date: December 1, 2005

HURRICANE RECOVERY ACT OF 2005

SB 7, SL 2005-1

The purpose of this act is to provide an ultimate net public benefit to the State through a successful hurricane recovery initiative in Western North Carolina and other affected counties.

<u>Effective Date</u>: February 28, 2005 except for section 5.7 (good for taxable years starting 1/1/04)

CRIMINAL RECORD CHECKS/LONG TERM CARE CHANGES

SB 41, SL 2005-4

Makes various changes in the procedure for conducting national criminal history record checks for long-term care facilities to conform to federal requirements.

Effective Date: March 23, 2005

ALL TERRAIN VEHICLE REGULATION

SB 189, SL 2005-282

Amends Chapter 20 to add Part 10C which regulate the sale and operation of ATVs, but does not require registration. **N.C.G.S. § 20-171.10** sets age limits to restrict operation by persons less than 8 years old, restricts the operation of all terrain vehicles by persons 8 to 15 years old based on engine capacity.

PERMANENT JURY EXEMPTIONS/72 AND OLDER

SB 321, SL 2004-149

G.S. § 9-6.1 is amended to allow persons seventy-two and older requesting to be excused from jury duty to request an exemption from jury service. Previously, the age was set at 65 years of age or older.

Effective Date: October 1, 2005

COMPANY POLICE ACT

SB 527, SL 2005-23

Creating Chapter 74G of General Statutes to regulate and certify campus police officers/agencies who are not part of the University of North Carolina system and Community College System. Law Enforcement officers employed by campus police departments of private colleges and universities are required to meet all entry level and in-service training requirements and standards that are required of other law enforcement officers.

Effective Date: July 28, 2005

COPIES OF FILES/APPOINTED APPELLATE ATTORNEYS

SB 689, SL 2005-689

G.S. § **7A-452** is amended by adding a new subsection to clarify that the clerk of superior court is responsible for providing copies of the trial file to appointed appellate counsel in indigent cases.

Effective Date: July 6, 2005

CRIMINAL HISTORY CHECKS FOR COUNTY GOVERNMENTS

SB 757, SL 2005-358

Amends **G.S.** § **114.19** and adds **G.S.** § **153A-942** to allow the Department of Justice to provide state and national criminal histories on applicants for employment with any county in North Carolina.

Effective Date: September 7, 2005

NOTARY PUBLIC OFFICIAL RECOMMENDATION

SB 763, SL 2005-75

G.S. § 10A-4(b) is amended to eliminate the requirement of an elected official recommendation for notary public applicants in counties with more than fifteen thousand notaries public.

<u>Effective Date</u>: January 1, 2006 and applies to notary public applications filed on or after that date.

AMEND PRIVATE PROTECTIVE SERVICES LAWS

A person licensed by the North Carolina Private Protective Services Board as an armed security guard who has also successfully completed the armed security guard firearm registration process is considered to have satisfied the approved firearm safety and training course requirement to obtain a concealed handgun permit.

Effective Date: July 20, 2005

MANAGED HUNTS

SB 844, SL 2005-82

G.S. § 113-264(d) is amended to amend the law regarding managed hunts where the Wildlife Resources Commission may require by rule that an applicant 16 years of age or older have the required hunting license before the drawing for the hunt, and that an applicant less than 16 years of age apply as a member of a party that includes a properly licensed adult if the young applicant does not have the proper hunting license. When licenses are required prior to the drawing, all applications shall be screened for compliance.

Effective Date: June 16, 2005

IDENTIFY THEFT PROTECTION ACT OF 2005

SB 1048, SL 2005-414

Amends **G.S.** § 14-113.20 to: (1) change name of crime from "financial identity fraud" to "identity theft": (2) amends subsection (B) to include within "identifying information" employer taxpayer identification numbers, state identification card, passport numbers, electronic mail names or addresses, Internet account numbers, and Internet identification names. Effective December 1, 2005, amends **G.S.** § 14.113.21 (venue of identity theft offenses) to include within venue the county where the victim resides, where the perpetrator resides, or in any county instrumental to the completion of the offense (in addition to any county where any part of the offense took place). Effective December 1, 2005, adds new **G.S.** § 14.113.21A to allow law enforcement officers to take identity theft complaints even if they don't have jurisdiction to investigate offense. Effective December 1, 2005, amends **G.S.** § 15A-147 (expunction of records when charges are dismissed or finding of not guilty as result of identity theft) to delete requirement that person using identifying information committed infraction or crime. Makes other changes.

Effective Date: October 1, 2006 – 75-62(a)(2), (3) (4) and (5), July 1, 2007 – 132-18 (a) (6),(7), (8) and (9). December 1, 2005 – rest of act

BUDGET PROVISIONS

2005 APPROPRIATIONS ACT

SB 622; SL 2005-276

Following is a short summary of pertinent provisions contained in the approved State Budget for 2005:

Department of Justice

- Expands Methamphetamine Response Team by providing six sworn forensic drug chemists and two non-sworn drug technicians to respond to clandestine methamphetamine labs and perform drug analyses.
- Authorizes the expansion of the SBI Computer Crime Section by adding two computer crimes agents/criminal specialists and two forensic computer analysts. These computer crime agents will partner with the FBI National Internet Crimes Against Children Task Force and will work primarily on child exploitation and sexual predator cases.
- Provides expansion for the SBI Crime Lab's ability to effectively process DNA evidence by funding seven non-sworn positions - six geneticists and one evidence technician. The two geneticists and the evidence technician position are effective January 1, 2006 and the remaining positions are effective June 1, 2006.
- Provides \$250,000 each fiscal year to allow the Department of Justice to contract with private entities to reduce the backlog of rape kits in storage at local law enforcement agencies and to expedite other forensic DNA analysis. The private agencies will analyze bodily fluids and DNA evidence in cases in which a suspect has not been identified.
- Provides one-time funds of \$25,000 to be passed through to the North Carolina D.A.R.E. Officers Association, Inc. to be used in the program's efforts to teach the students of North Carolina the skills to help them make sound decisions about alcohol, tobacco, marijana, and other drugs and to provide in-service training to enhance the effectiveness of law enforcement officers in the classroom.
- The Department of Justice is directed to hire only non-sworn personnel to fill vacant positions in the State Bureau of Investigation laboratory. A position may be filled with a sworn agent if the position is a promotion for a sworn agent who is employed by the SBI prior to July 1, 2005, the position is for a forensic drug chemist that has a primary duty of responding to clandestine methamphetamine laboratories, or the position is a forensic impressions analyst position that has a primary duty responding to clandestine mehtamphetamine laboratories.
- The Office of State Budget and Management, in consultation with the Department of Justice shall study the cost of testing and analyzing DNA samples. The study will include the determination of unit cost for a rape kit in comparison with that of analysis performed at other

- labs, both private and public, as well as length of time to eliminate the backlog of rape kits using private labs versus the SBI Crime Lab.
- The Office of State Budget and Management is directed to study and develop a plan to consolidate all State-funded laboratories, to include the SBI Crime Laboratories.
- The Department of Justice will continue with its plan to upgrade the Statewide Automated Fingerprint Identification System (SAFIS) in consultation with the Criminal Justice Information Network Board. The Department of Justice shall request bids from qualified vendors and negotiate with the current vendor to develop an agreement regarding maintenance until the new system is fully operational. Prior to soliciting bids, the Department of Justice shall give a status report on the cost estimates for equipment replacement, maintenance, and operating costs, including proposed sources of funding, an inventory of locally owned SAFIS equipment and the compatibility of that equipment with any new State-level hardware, the time line and cost for replacing obsolete equipment, and options for funding the replacement of local equipment, procurement options, and the time line for completion of the project. Provides \$1.495 million for SAFIS replacement.

Judicial

- Provides funding to split two current judicial districts. Superior Court District 20A (Anson and Richmond) and 20B (Stanly and Union) will be reconfigured with Stanly moving into 20A, leaving Union alone as 20B, effective December 1, 2005. After the reconfiguration, Superior Court 20A will include Anson, Richmond and Stanly Counties, and District Court 20B will include Union County. District Court District 20 currently includes all four counties, but will align with the Superior Court District. District Court 20 reconfiguration will include Stanly, Anson and Richmond Counties. The New District 20B will include a part of Union County and a new District 20C will include the remaining part of Union County. The Prosecutorial District will realign with the same county split effective January 1, 2007
- Superior and District Court 29, encompassing Henderson, McDowell, Polk, Rutherford, and Transylvania Counties will be split into 29A (McDowell and Rutherford) and 29B (Henderson, Polk, and Transylvania) effective December 1, 2005. The Prosecutorial District will split on the same lines effective January 1, 2007. The current Trial Court Administrator will continue to serve both districts.
- Appropriates \$1.5 million to equip the new Mecklenburg County Courthouse with a telephone system.
- Funds are appropriated to allow the Mecklenburg Drug Treatment Court to continue offering treatment services to pre-trial and DWI offenders.
- The appropriation for the Family Court program is reduced by \$155,000 which eliminates one position in the central office and one secretarial position in District 26. A Family Court program is established in Wake County with an appropriation of \$175,000.

- Mecklenburg Business Court is created similar to the one currently operating in Guilford County.
- Time limited positions are created through grants which expire when the grant funding runs out. The positions are: seven Assistant District Attorney positions, two Victim Witness Legal Assistants, one DA Investigator, two Case Managers, and one Drug Court Coordinator.
- Durham Mediation Funds \$65,000 is appropriated to Women-in-Action for the Prevention of Violence and its Causes, Inc. to provide mediation services in Durham County.
- Funding is provided for the Wake County Public Defender's Office 10th District, and also establishes a new Public Defender's Office in New Hanover and Pender Counties – 5th District.
- A Judicial College is established within the UNC-Chapel Hill School of Government to provide training and continuing education for the State's judges.

Juvenile Justice and Delinquency Prevention

- S.O.S. administrative cost limits. Provides that of funds appropriated to Department of Juvenile Justice and Delinquency Prevention, up to \$450,000 in each year of 2005-07 biennium may be used to administer S.O.S.Program, to provide technical assistance to and evaluate local programs.
- JCPC grants to prevent gang violence. Provides that of the funds appropriated to the Department of Juvenile Justice and Delinquency Prevention for Juvenile Crime Prevention Council grants, \$2 million must be used to provide grants to Juvenile Crime Prevention Councils to use for street gang violence prevention and intervention programs. Requires a competitive grant award process and requires that criteria include a matching requirement of 25% and a written plan for the services. No individual program grant may exceed \$100,000.
- Gang Prevention Funds for Law Enforcement Agencies. Funds are provided for gang violence and other crime prevention activities in the following law enforcement agencies: Cumberland County Sheriff's Department-\$3500; Fayetteville Police Department-\$11,000; Durham Police Department-\$40,000; and Charlotte Mecklenburg Police Department-\$50,000.
- Plan, design, and construction of youth development centers.
 Provides that the Department of Juvenile Justice and Delinquency Prevention and the Department of Administration, State Construction Office, must continue the planning, design, and construction of up to 224 youth development center beds. Provides for allocation and location of the beds. The 224 beds shall be allocated at four 32-bed facilities and one 96 bed facility as recommended by JJCP in its Capital Plan.
- Alternatives to Juvenile Commitment/Juvenile Crime Prevention Councils. Adopts new provision (1) authorizing \$250,000 in funding to expand demonstration projects to reduce commitments to youth

development centers; (2) specifying requirements for these projects; (3) requiring Department of Juvenile Justice and Delinquency Prevention to submit report on these projects to specified oversight committee by March 1, 2006; (4) requiring Department to report to specified appropriations subcommittees on results of alternatives to commitment demonstration programs.

Corrections

- Holiday pay for Department of Correction staff. Provides that Department staff entitled to holiday pay at 150% of regular pay during 2005-07 biennium, but authorizes Department to use available funds to pay up to 175% of regular pay.
- Eliminates 25 vacant Probation/Parole Officer I positions. The remaining 34 positions may be reallocated for trainers, supervising officers and other positions as needed.
- The Parole Commission is restructured by reducing two of the three Commissioner positions from full-time to half-time positions. The Chair of the Commission will remain a full-time position.
- Use of closed prison facilities. Requires Department of Corrections to consult with county or municipality in which prison facility is closed, with elected State and local officials, and with State agencies about the possibility of converting prison to other use. Requires Department to give priority to converting unit to other criminal law use. Authorizes State to provide for transfer or lease to local governments, State agencies, or private firms wishing to convert unit to another use. Requires report to Joint Legislative Commission on Governmental Operations and Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee before any transfer or lease.
- Amends G.S. §148-4 to provide that Secretary of Correction may extend limits of place of confinement for terminally ill inmate or permanently and totally disabled inmate who poses no significant public risk; to define "terminally ill" as illness that did not exist at time of sentencing, that is likely to produce death in 6 months (now, 12) and that is so debilitating that it is highly unlikely that inmate poses a significant public safety risk.
- Study conversion to minimum security/Cleveland Correctional Center. Directs the Department of Correction to study the feasibility of (1) converting Cleveland Correctional Center from a medium to minimum custody facility or operating it as a medium custody facility with a minimum custody component and (2) expanding the facility as a minimum or medium custody facility, or some combination of the two.
- Report on electronic monitoring costs. Directs the Department of Correction to report to the General Assembly on its efforts to increase the use of electronic monitoring of sentenced sex offenders in the community as an alternative to the incarceration of probation violators.
- Payment of court costs, fines, and restitution by probationers.
 Amends G.S. §15A-1343(b) to provide that a defendant must not pay

- costs associated with a substance abuse monitoring program or any other special condition of probation in lieu of, or prior to, the required payments for court costs, fines, and restitution.
- Increases the inmate co-pay for sick call for inmates in the
 Department of Correction from \$3 to \$5 and for sick call outside
 normal hours from \$5 to \$7. Increases the amount inmates of the
 Department of Correction pay towards the administration of the work
 release program from \$16 to \$18 a day in per diem and from \$2.50 to
 \$3.00 per day for transportation.
- Funding is provided for the establishment of an intervention program for domestic violence offenders sentenced to prison.
- Funding is provided to Lenoir Community College for the fabrication
 of a simulated prison cell for use in training prison personnel for the
 new Green County prison, and for other personnel in the surrounding
 areas.

Crime Control and Public Safety

- Annual evaluation of Tarheel Challenge program. Directs Department to report on effectiveness of program to appropriations committees by April 1 of each year of biennium.
- Victims' assistance network report. Directs Department to report on expenditures of funds allocated to cited network, and on network's efforts to gather data on crime victims, act as clearinghouse, coordinate training efforts and advocacy efforts, and provide automated bulletin board. Report to be made by December 1 of each year of biennium to appropriations committees.
- VIPER Funding. \$8 million is provided to continue the deployment of the VIPER Strategic 800 MHZ statewide system. Funding is also provided from the Highway Fund for a Network Control Tech I position.
- Highway funds are provided to add ten (10) new trooper positions.
 Funds are also provided to enable the Highway Patrol to access data collected by DOT at all existing weigh-in-motion sites.
- An Administrative Officer position is created in the Motor Carrier Enforcement Section to conduct motor carrier safety audits.
- Highway funds are provided to train and transition all filled Motor Carrier Enforcement Officer positions so that they have the same level of arrest authority and pay as other troopers.
- Provides four Data Collector II positions to staff a pilot program to increase the effectiveness of Motor Carrier Enforcement Officers operating remotely from permanent weigh station facilities.
- The Crime Victims' Compensation general fund continuation budget is increased by \$800,000 for victim's compensation payments. The expansion will increase federal VOCA receipts, which provide a 60% match to state victims' compensation payments.

Salaries and Employee Benefits

 Salary increase for State Employees, provides either \$850 a year or a 2% increase, whichever is greater, for full time permanent

- employees. In addition, a special annual leave bonus of five days will be credited for full time permanent employees who are employed on September 1, 2005.
- Employer Contribution Rates, changes the employer contribution rate for retirement and related benefits from 5.815% to 6.82% for Teachers and State Employees and from 10.815% to 11.82% for State Law Enforcement Officers. Both contribution rates include 3.8% for hospital and medical benefits and .52% for the Disability Income Plan. The rate for State Law Enforcement Officers includes 5% for Supplemental Retirement Income.
- State Retirement Contribution Rate, provides a 2% cost of living increase to retirees of the Teachers' and State Employees' Retirement System effective July 1, 2004.
- The monthly pension for members of the Firemen's and Rescue Squad Workers' Pension Fund is increased from \$161 to \$163 per month.
- The maximum monthly benefit cap amount of a pension under the Sheriffs' Supplemental Pension Fund is increased from \$1200 to \$1500. To support this supplemental pension benefit for Sheriffs, court costs will be increased from \$.75 to \$1.25 to cover the increased costs of these pension benefits. The changes are effective September 1, 2005.
- A provision in the statutes that provides the killed in the line-of-duty death benefit also provides that when a fireman dies as the direct and proximate result of a myocardial infraction (heart attack) suffered while on duty or within 24 hours after participating in a training exercise or responding to an emergency situation, the fireman is presumed to have been killed in the line-of-duty. Previously, this provision only applied to firemen, but this provision has been extended to now also include law enforcement officers, firemen, rescue squad workers and senior Civil Air Patrol members.

Fee Increases

- Amends various sections of G.S. Chapters 7A and 15A to increase
 the criminal and civil court of justice fees by \$10. Sets court costs for
 criminal convictions or guilty pleas at \$85.50 for district court
 (previously is \$76.00) and at \$92.50 for superior court (previously is
 \$83.00);
- Increases the expunction fee from \$65 to \$125. Increases the cap on probate fees from \$3,000 to \$6,000; and increases the court cost for a seat belt violation from \$50 to \$75.
- Enacts new G.S. §15A-1343(c2) to impose a \$90 fee on electronic monitoring devices used for house arrests.
- Increases the property tax rate for Butner from 20 cents to 25 cents.
- Amends G.S. §114-10.1 to set the fee schedule for accessing the Division of Criminal Information – Police Information Network (DCI-PIN). The monthly fee assessed for mobile terminals is increased from \$6 to \$12.

Controlled Substances Reporting

 Establishes the North Carolina Controlled Substances Reporting System which will require pharmacies and other dispensers of Schedule II through V controlled substances to electronically submit data when prescriptions are filled. This System was enacted to address North Carolina's epidemic of poisoning deaths from unintentional drug overdoses. Special Agents of the SBI assigned to the Diversion and Environmental Crimes Unit working on an investigation related to enforcement of the controlled substances laws can have access to the data contained in the System. This provision is effective January 1, 2006.