



# North Carolina Association of Chiefs of Police

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2021 Legislative Summary  
January 1, 2022

The 2021 legislative session was the 2d longest since 1965 (January-December), and saw the introduction of more than 200 bills that affect law enforcement. The General Assembly will return for the Short Session in the spring of 2022.

The Session was successful from the NCACP standpoint, with the enactment a comprehensive criminal justice reform bill; important new appropriations supportive of law enforcement; passage of NCACP sponsored bills; and the defeat of several bills which would have significant negative impacts.

The following is a summary of significant legislative activity important to police chiefs. Refer to the individual bills for complete information. All new laws are effective now.

**Criminal Justice Reform.** SB 300 is the culmination of the many recommendations coming from various groups in the wake of the George Floyd death in Minneapolis in May 2020. The Governor's Task Force, the NC House of Representatives, NCACP, the NC Sheriffs Assn. and others made a host of recommendations to improve the criminal justice system including law enforcement. SB 300 was formulated with input from all these groups and its final version was passed with near unanimous votes in both the House and Senate.

Major components of SB 300 directly related to law enforcement:

- Create a public database of LEO suspensions and decertifications.
- Provide a process for all LEO fingerprints to be entered in state and federal databases; use of FBI RAPBACK system to track LEOs charged of convicted of crime in the U.S.

- Create database for “critical incidents” available to LE agencies (“An incident involving any use of force by a law enforcement officer that results in death or serious injury to a person”).
- Require report and copy of Giglio notification by officer to applicable Commission and agency head, who must also report the notification to applicable Commission.
- Direct Commissions to develop uniform minimum statewide qualifications.
- Allow health care provider of respondent to transport IVCs.
- Require LEO’s receive psychological screenings and mental health education.
- Require agencies to develop early warning systems to identify actions and behaviors indicating need for intervention and assistance (including collisions, use of force, complaints, discharge of firearm).
- Require Commissions to develop a best practices guide for diversity recruitment.
- Give SBI jurisdiction to investigate LEO involved deaths upon request of agency, DA, or Governor.
- Expand mandatory in-service training to include mental health, community policing, minority sensitivity, use of force, and duty to intervene and report.
- Exempt in-service training from the formal rule-making process.
- Require misdemeanor first appearance within 72 hours.
- Require Commissions to consult national decertification database.
- Create statutory duty for LEO to intervene and report use of excessive force.
- Create new felonies for resisting, obstructing, or delaying that results in bodily injury to law enforcement officer.
- Decriminalize local ordinances unless specifically made criminal, except on listed subjects which cannot be criminal; not guilty if after 30 days of offense if no additional same offense or good faith effort to seek drug, mental, or other assistance underlying the offense.
- Procedure for disclosure of law enforcement video: upon request of personal representative of person suffering serious bodily injury or death by officer, agency head must within 3 business days submit petition in superior court and deliver petition and video to senior resident superior court judge, who must issue order within 7 business days concerning disclosure using stated criteria.

**State Budget.** For the first time in several years, a 2021-2022 General Assembly biennial budget (SB 105) was not vetoed by the Governor and sets a firm framework for appropriations.

2021-2022 Appropriations Act (S 105) significant provisions of interest to chiefs of police:

- \$25,000 to NCDHHS for each year of the biennium to purchase and distribute **opioid antagonists** at no cost to law enforcement agencies.
- amends G.S. 17C-20 to **expand qualifying counties in the Criminal Justice Fellows Program** to counties of less than 200,000 population (now less than 125,00 or Tier 1 county).
- transfers Criminal Justice Information Network (**CJIN**) from the Department of Information and Technology to the Department of Public Safety, and expands CJIN Board's powers to include employment and oversight of Executive Director and budget administration.
- prohibits any local government entity from paying or communicating with any entity engaged in a **cyber security attack seeking ransom** (new Article 84, Ch. 143 of General Statutes).
- appropriations for the **Criminal Justice Education and Training Standards Division** of \$2.2M in each fiscal year, changing its funding from receipts based to direct appropriations; funding for 4 new positions; funding for the Criminal Justice Fellows Program;
- for **N.C. Crime Laboratory** for testing of new sexual assault evidence collection kits (\$500,000 in each fiscal year); outsourcing of untested kits (\$6M FY 2021-22, \$3M FY 2022-23); \$1M in 2021 for outsourcing of evidence submissions; \$1.255M for the two fiscal years for new scientist positions and operations.
- \$19M to DPS for 2101-22 for **VIPER upgrades**;
- \$3M for **grant program** for local law enforcement agencies **to investigate internet crimes against children** (maximum grant \$75,000), to DPS to be administered by the N.C. Sheriffs Association.
- \$990,000 to DPS to fund **pilot programs for Support Team Assisted Response (STAR)** in Charlotte, Greensboro, and Greenville to allow behavioral and medical health professionals to respond or co-respond to appropriate calls, and report data to the two Commissions by April 1, 2022.
- to N.C. Department of Justice for repairs and renovations to **Justice Academy** facilities at Edneyville (\$1.7M) and Salemburg (\$2.8M), and funding for 3 new positions.
- to NC DPS \$28.5M for **new headquarters for SBI**; \$11M for **new helicopter** and operating expenses; \$2M for SBI equipment and technology improvements; \$1.25M for **8 new positions at SBI**.
- prohibits any state agency or local government from creating or maintaining a public database of disciplinary actions or critical incidents involving law enforcement officers** unless **specifically** authorized by act of the General Assembly (S 300 requires the two Education and

Training Standards Commissions to create such databases for use by law enforcement agencies). New G.S. 143-907.

-Prohibits any state or local government entity from paying or communicating with any entity engaged in a **cyber security attack** seeking ransom (new Art. 84, Ch. 143 N.C.G.S.)

NOTES on new state budget:

**Automatic License Plate Readers.** NC SBI sought to get statutory authority for placement of ALPRs by the SBI in NC DOT right of way. The final budget act does include language concerning **relocation** of ALPRs and reporting on their use by law enforcement, but it does **not include express authority for the SBI or any other agency to place ALPRs in NC DOT right of way.** Therefore unless and until the law is clarified, NC DOT will not permit ALPRs in state right of way by the SBI or any other law enforcement agency.

**Transfer of Criminal Justice and Sheriffs Education and Training Standards Commissions, and the NC Justice Academy and facilities, from the NC Dept. of Justice to the NC Dept. of Public Safety.** These transfers were supported by the NC Sheriffs Assn, but were not contained in the final budget. It is possible that this proposal will be pursued in the 2022 Short Session.

#### **NCACP INITIATED BILLS ENACTED.**

HB 203 extends the deadline for police telecommunicators to be certified by the Sheriffs Training and Education Standards Commission until July 1, 2022 (was July 1, 2021).

HB 481 allows all state law enforcement agencies (including UNC system campus police agencies) to dispose of surplus firearms with FFL (formerly required to turn over surplus firearms to NC Dept of Administration).

**OTHER NEW LAWS.** SB 99 creates Class I felony for larceny of a catalytic converter and presumption that possession constitutes violation (with exceptions); requires recyclers to maintain electronic record of transactions involving catalytic converters.

HB 238 creates Class I felony of possession of skimming device (captures encoded information on computer chip or magnetic strip).

HB 692 prohibits operation of a private passenger vehicle that is modified to elevate height of front fender four inches or more greater than the height of the rear fender.

SB 321 updates scheduled drug definitions to include recent chemical compound variations, including fentanyl derivatives.

HB 761 creates Class H felony for breaking and entering a law enforcement or military vehicle with larceny intent, or committing larceny from such a vehicle.

HB 404 creates civil liability immunity for telecommunicators and PSAP agencies in performance telecommunicator duties in absence of gross negligence or willful and wanton misconduct; immunity waived to the extent of insurance coverage.

**RETIREMENT BILLS.** Bills to allow some post-retirement reemployment in the local retirement system (HB 647 and SB 679) and to allow purchase of retirement credit for advanced certifications (SB 72, SB 381, HB 417) were not successful. A local bill (HB 406) limited to law enforcement officers employed by Cleveland, Rutherford, and Moore counties was enacted that provides a reduced separation allowance for those officers that have completed 25 years of service, be less than 62 years of age, and completed at least 10 years of continuous law enforcement service in that county immediately prior to retirement.

**FAILED BILLS.** SB 711 would establish a system to legalize and regulate medical marijuana. It passed the Senate, but did not advance in the House. It is eligible for further consideration in the 2022 Short Session.

Several bills proposed by the PBA and/or the FOP were defeated or did not advance: Add designated seat on CJ Standards Commission for PBA (SB 10, SB 21) or the FOP (HB 115); “whistleblower” protection (HB 7); due process rights for law enforcement employee discipline or termination (SB 697).

HB 398 repealed the existing sheriff’s pistol purchase permit system but was vetoed by the Governor. Several other bills easing or eliminating concealed carry regulation were not successful.

HB 805 increased penalties for riot offenses, but was vetoed by the Governor.

HB 39 repealing sheriffs pistol purchase permit system passed, but vetoed by Governor.

### **Short Session**

Several bills from 2021 passed one house and are eligible for consideration in 2022, including:

Medical marijuana (SB 711)

In addition, bills affecting the state budget are eligible for consideration

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