

General Assembly Update

The General Assembly began the 2019-2020 Biennial Legislative Session on January 9, 2019. The House of Representatives filed over 1000 bills; the Senate nearly 675 bills. The primary focus for the 2019 legislative session was the preparation of the 2019-20 budget for the State of North Carolina, which occupied much of the legislators' time for the months of May through November. The General Assembly ultimately adjourned on Friday, November 15, after finalizing revised congressional districts. The General Assembly is scheduled to reconvene on Tuesday, January 14, 2020.

With over 1675 bills filed during the legislative session, those that are highlighted below are recognized by the NCAJ Advocacy Team to be of importance to our membership. If, at any time, you have questions or concerns about any piece of legislation whether or not highlighted below or, when the session reconvenes if you learn of an impending piece of legislation that is concerning, please do not hesitate to contact Abby Hammond, NCAJ Advocacy Consultant.

For the 2019 legislative session, the Governor vetoed 14 bills. The General Assembly attempted to override three of the vetoes:

SB 359/HB 602 Born-Alive Abortion Survivors Protection Act

On April 30, 2019, the Senate voted 30-20 to override the Governor's veto. The House of Representatives voted on June 5, 2019. The vote of 67-53 failed to have the necessary three-fifths votes to override the veto, so SB 359/HB 602, Born-Alive Abortion Survivors Protection Act did not become law.

HB 966 2019 Appropriation Act

On September 11, 2019, the House voted 55-15 to override the Governor's veto. The vote garnered significant interest, as there is a dispute regarding notice of the vote. The Senate adjourned in November, never taking a vote on the veto override. Therefore the 2019-20 comprehensive budget was not finalized. Alternatively, the General Assembly proposed several mini-budgets that the Governor signed.

HB 555 Medicaid Transformation Implementation

On September 11, 2019, the House voted 54-15 to override the Governor's veto. Similar to HB 966, the vote garnered significant interest, as there is a dispute regarding notice of the vote. The Senate adjourned in November, never taking a vote on the veto override.

PROTECTING PEOPLE'S RIGHTS.

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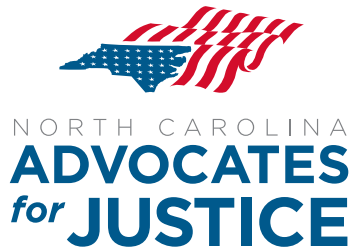
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The following bills were vetoed by the Governor and no subsequent action taken by either the Senate or the House of Representatives:

<u>SB 392</u>	Various Charter School Changes
<u>SB 320</u>	Regional Water Systems and State Grants
<u>HB 370</u>	Require Cooperation with ICE Detainers
<u>HB 645</u>	Revisions to Outdoor Advertising Laws
<u>SB 438</u>	Excellent Public Schools Act of 2019
<u>SB 553</u>	Regulatory Reform Act of 2019
<u>SB 250</u>	Remove Foreign Citizens from Voting Rolls
<u>SB 354</u>	Strengthening Educators' Pay Act
<u>SB 578</u>	Reduce Franchise Tax/Expand Film Grants
<u>HB 231</u>	UNC & Community College Pay/Retiree Bonus
<u>HB 398</u>	Information Technology Budget/2019-2021 Fiscal Biennium

The Governor has three options when sent a ratified bill from the General Assembly: (1) sign the bill so that it becomes law; (2) veto the bill, potentially allowing the General Assembly to override the veto; or (3) to allow a defined period of days to expire without taking action on the bill, allowing the bill to become law without the Governor's signature. The third option rarely occurs, but the following three bills become law without signature in the 2019 legislative session:

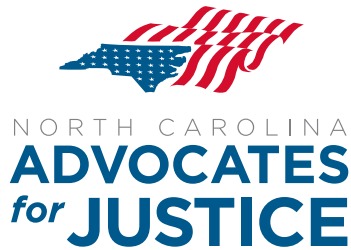
<u>HB 327/SB 529/SL 2019-77</u>	Fees/Returned Checks
<u>SB 86/SL 2019-202</u>	Small Business Health Care Act
<u>SB 522 / SL 2019-248</u>	Low-Perf. Schools/Adv. Teaching Roles

Below are summaries of bills that became law. **This is *not an exhaustive list*** and we welcome your inquiries about any bill not included in this summary.

The following are bills have become law:

HB 29/SL 2019-221 – Standing Up for Rape Victims Act of 2019

This bill addresses the testing of sexual assault examination kits by establishing protocols and funding necessary for testing the statewide inventory of untested sexual assault examination kits identified in a prior statewide audit. The bill appropriates \$6,000,000 over a two-year period to the Department of Justice to cover testing costs.



HB 82/SL 2019-36 – Railroad Crossings/On-Track Equipment

This bill clarifies that vehicles and persons must obey railroad signals and crossing rules for on-track equipment.

HB 131/SL 2019-35 – Repeal Map Act

This bill repeals the Transportation Corridor Official Map Act, which was reviewed by the Court of Appeals in 2015 in *Kirby v. North Carolina*.

HB 253 (Joint Resolution) – Confirm James Gillen/Industrial Commission

James Gillen was confirmed as a new Full Commissioner to the Industrial Commission. Commissioner Gillen returned to Raleigh after serving as a Deputy Commissioner in Asheville.

HB 254 (Joint Resolution) – Confirm Ken Goodman/Industrial Commission

Ken Goodman was confirmed as a new Full Commissioner to the Industrial Commission. Commissioner Goodman resigned his seat at the General Assembly. Governor Cooper appointed his replacement, Scott Brewer, on May 1, 2019.

HB 283/SL 2019-228 – Conner's Law

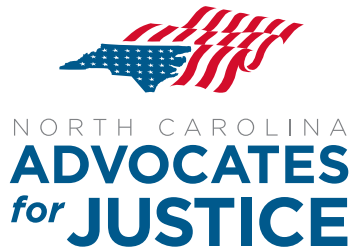
This bill addresses persons assaulted or killed as an emergency worker in the line of duty. The bill first alters the felony levels for assault with a firearm upon a law enforcement officer, probation officer, or parole officer while the officer is in the performance of his or her duties from a Class E felony to a Class D felony. Assault on a firefighter, an emergency medical technician, medical responder, and hospital personnel is changed as follows: without a firearm was elevated from a Class H to a Class G felony, and with a firearm was elevated from a Class F to a Class E felony. The bill also allows the Industrial Commission to award a death benefit in the amount of one hundred thousand dollars (\$100,000) to be paid when a covered person under G.S. 143-166.2(1) is murdered in the line of duty.

HB 301/ SL 2019-33 – CIP Revisions/Juvenile Code

This bill revises the Juvenile Code pursuant to recommendations by the Court Improvement Program (CIP).

HB 323/SL 2019-150 – Assess Costs of Local LEO Crime Lab Analysis

This bill alters assessment of court costs for defendants in criminal proceedings by expanding beyond local government to include costs for lab services performed by a



privately-owned lab or for the services of an expert witness employed by a privately-owned lab.

HB 391/SL 2019-194 – Passenger Protection Act

This bill is in response to safety concerns for ride sharing. The bill creates new criminal offenses relating to transportation network company drivers and provides certain notice requirements to be in place for network company drivers.

HB 415/SL 2019-47 – Photos of Juveniles/Show-Ups

This bill clarifies that an investigator shall photograph a juvenile suspect who is 10 years of age or older at the time and place of the show-up if the juvenile is reported to have committed a nondivertible offense as set forth in G.S. 7B-1701 or common law robbery.

HB 469/SL 2019-172 – Various Family Law Changes

This bill makes several changes to the practice of family law regarding equitable distribution, parenting coordinators, and adoption law.

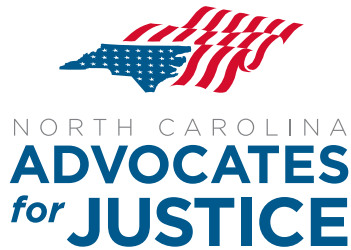
HB 470/SL 2019-243 – Administration of Justice Changes

The bill contains numerous changes to the judicial system, such as when an emergency judge may be appointment, directives to the Supreme Court to promulgate rules for electronic filing, alters frequency of filing of reports by the Office of the Administrative Courts to only once a year, expunction requirements when a case is remanded to district court for juvenile adjudication, and increases justification for “good cause” continuances when a party, witness, or counsel of record is serving a public body in North Carolina. Finally, this bill clarifies that investigations by the Judicial Standards Commission are limited to conduct and not matters of law

HB 474/SL 2019-83 – Death by Distribution

This bill addresses a death caused by a person “unlawfully sell[ing] at least one certain controlled substance” in which the user dies. The controlled substances include any opium, opiate, or opioid; any synthetic or natural salt, compound, derivative, or preparation of opium, opiate, or opioid; cocaine or any other substance described in G.S. 90-90(1)(d); methamphetamine; a depressant described in G.S. 90-92(a)(1); or a mixture of one or more of these substance.

HB 531/SL 2019-53 – Protect. Tenants at Foreclosure Act Restored



The bill makes changes to the General Statutes to reflect the Restoration of the Federal Protecting Tenants at Foreclosure Act (PTFA) that was permanently extended by the federal government in May of 2019.

HB 578/SL 2019-42 – Modify Legitimations Provisions

This bill adjusts a requirement in the General Statutes that conflicts with a 1981 Court of Appeals case. The statute has been updated so that child's surname will remain the same unless the parents agree to request the surname be changed, or if the court orders a change in the surname as being in the best interests of the child.

HB 617/SL 2019-41 – Allow Repeat Referral to Teen Court

G.S. 7B-1706(c) restricted referral of a juvenile to a teen court program if the juvenile had previously been referred to a teen court. This bill removes that prohibition.

HB 760/SL 2019-193 – Expand Loss Prevention Investigations

This bill alters the prosecution standards for the crime of obtaining property by false pretenses. The State is no longer “required to establish that all of the acts constituting the crime occurred in this State or within a single city, county, or local jurisdiction of this State, and it is no defense that not all of the acts constituting the crime occurred in this State or within a single city, county, or local jurisdiction of this State.”

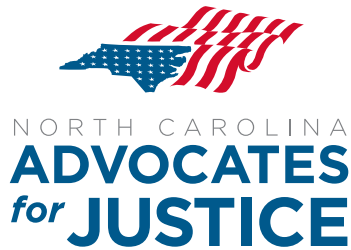
HB 1000/SL 2019-229 – Raise the Age Funding

During the 2017 legislative session, the General Assembly enacted the Juvenile Justice Reinvestment Act, commonly referred to as “Raise the Age,” in the budget. The change of age became effective on December 1, 2019. However, the 2017 budget provided no funding for implementation. This bill provides the necessary funding for implement of Raise the Age based upon feedback and suggestions from the Juvenile Jurisdiction Advisory Committee, the Administrative Office of the Courts, the Office of Indigent Defense Services, and the Department of Public Safety, along with other stakeholders.

SB 29/SL 2019-157 – Move Over Law/Increase Penalties/Amber Lights

This bill addresses the move over requirements for emergencies vehicles. If a serious injury or death occurs based on the driver’s failure to move over, the person may be guilty of a Class F felony, formerly a Class I felony. This bill further restricts the use of flashing or strobing amber lights to certain statutorily identified vehicles.

SB 75/SL 2019-2 – Restore Ct. of Appeals Membership



This was one of the first session laws of 2019. Based on prior legislative action, the North Carolina Court of Appeals was to shrink from 15 members to 12 members beginning this year. The General Assembly reviewed the impending reduction and removed the 2017 provision that would have eliminated the seats. In light of transitions on the appellate courts, the Supreme Court acquired a new justice, Mark Davis, and the Court of Appeals acquired two new judges, Chris Brooks and Reuben Young.

SB 148/SL 2019-48 – Public Records/Release of LEO Recordings

This bill addresses visual and audio recordings captured by law enforcement. These records may now be released for suspect identification or apprehension, or to locate a missing or abducted person.

SB 151/ SL 2019-40 – Break or Enter Pharmacy/Increase Penalty

In response to law enforcement allegations of breaking and entering of pharmacies to obtain opioids, this bill states that a person who breaks or enters a pharmacy with the intent to commit a larceny of a controlled substance is guilty of a Class E felony.

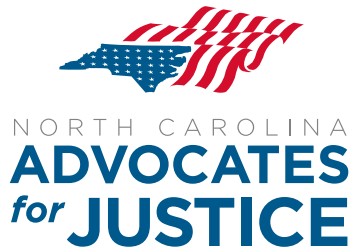
SB 199/SL 2019-245 – Child Sex Abuse/Strengthening Laws

This bill expands the duty to report crimes against juveniles. The bill also expands the statute of limitations for a misdemeanor crime against children to 10 years after the commission of the crime. The bill further regulates online usage by “high-risk sex offenders.” Finally, the bill created a 10-year statute of limitation for a plaintiff to file a civil action against a defendant for claims related to sexual abuse suffered while the plaintiff was under 18 years of age. The bill initially passed the Senate with a provision allowing investigative grand jury proceedings. However, the bill was reconsidered after third reading and referred to the Senate Judiciary committee, at which time the investigative grand jury proceedings were removed. Ultimately, the bill went to a conference committee and reappeared as the legislative session was closing.

SB 332/SL 2019-164 – Civil Procedure/Limitations/Land Surveyors

This bill repeals the ten-year cause of action set forth in G.S. 1-47(6) against registered land surveyors. The bill further amends G.S. 1-52(18) to address what causes of actions against a professional land surveyor are subject to a three-year or seven-year statute of limitations.

SB 356/SL 2019-251 – DOT Cash and Accountability



This bill makes significant fiscal changes for the Department of Transportation and requires a review by the State Auditor by March of 2020. However, a significant change within the bill addresses the on-going litigation related to the Map Act. The bill limits the Department of Transportation to paying no more than one hundred fifty million dollars (\$150,000,000) compensation each fiscal year for damages under the Map Act. In addition to this distribution cap, the bill further changes the rate of accrual for interest in two prongs: first, the time frame is adjusted from “date of taking to the date of the judgment” to “date of taking to the date of satisfaction of the judgment,” and second, the interest shall be simple interest, as opposed to compound interest. A case regarding the Map Act is pending before the Supreme Court in *Chappell v. NCDOT*, which is scheduled for oral argument in December of 2019.

SB 394/SL 2019-113 – Changes to Estates & Trusts Statutes

This bill makes numerous changes to the estates, trusts, and guardianship statutes set forth in the General Statutes. The changes address issues such as surviving spousal allowance and that an action to reform, terminate, or modify certain trusts may be commenced at any time.

SB 413/SL 2019-186 – Raise the Age Modifications

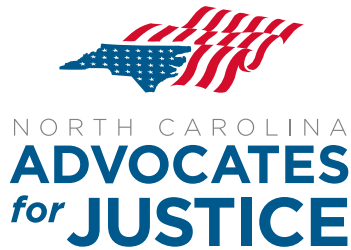
This bill proposes several conforming changes necessary to other portions of the General Statutes based upon the Juvenile Justice Reinvestment Act of 2017. This bill attempts to address those necessary changes to implement Raise the Age on December 1, 2019.

SB 478/SL 2019-167 – Modify Appointment Reporting

This bill addresses annual reporting requirements of boards and commissions. This bill also repealed the 2016 session law altering the appointment terms of Commissioners of Full Commissioners to the Industrial Commission. The 2016 session law had been subjected to litigation.

SB 508/SL 2019-147 – Civil Procedure/Deponent Declaration

This bill addresses the scenario of court reporters conducting depositions of persons without identification. The bill provides that if “a deponent lacks the government-issued photographic identification necessary for the deponent to be put on oath by the person before whom the deposition is taken, the deponent's testimony may be taken upon the deponent's signing a declaration stating that the deponent's testimony is given under penalty of perjury.”



SB 532/SL 2019-178 – Amends Probate/Trusts/Wills Choice of Law

This bill revises statutes concerning living probate, application for letters testamentary or letters of administration, choice of law for out of state wills, and clarifies status of immunity for transfer of property held in a tenancy by the entirety to a tenancy by the entirety trust.

SB 584/SL 2019-198 – Criminal Law Reform

In 2018, the General Assembly began an attempt to recodify all crimes. In addition, all counties, cities, towns, and metropolitan sewerage districts were directed to report all ordinances with a description of the conduct subject to criminal punishment in such ordinance. This bill extended the reporting deadline to November 1, 2019. In addition, this bill delays the effective date of any rule approved by the Rules Review Commission that creates a new criminal offense or otherwise subjects a person to criminal penalties, allowing the General Assembly the opportunity to review the rule before it is codified in the Administrative Code.

SB 572/SL 2019-232 – University System Risk Management Provisions

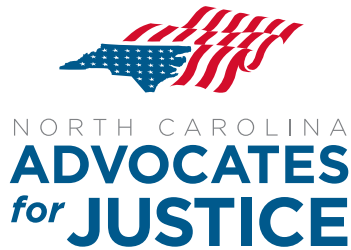
While a prior version of this bill addressed changes to the legal representation of S-corporations, the bill now addresses the sale of alcohol within facilities of public universities. The bill clarifies that a public university is authorized to obtain liability insurance to cover the sale or serving of alcohol on the public university's campus or at a facility leased or owned by the public university.

SB 682/SL 2019-216 – Implement Crime Victim Rights Amendment

This bill sets forth the statutory changes for implementation of the 2018 constitutional amendment to Section 37 of the North Carolina Constitution to expand the protections and safeguards for victims of crime. The bill addresses the rights of victims under the Crime Victims' Right Act and certain acts of delinquency.

SB 683/SL 2019-239 – Combat Absentee Ballot Fraud

This bill addressed absentee ballots in North Carolina and adds a requirement for a photocopy of identification to be submitted with an absentee ballot. In addition, a request for an absentee ballot must be submitted by the voter on a form created by the State Board of Elections. If a person assists the voter in completing a request for an absentee ballot that is not a near relative or legal guardian, the person aiding must be identified on the form. The bill makes additional changes to G.S. 163-237 and creates



several new felonies related to absentee ballots. Finally, the bill re-instates voting the last Saturday of early one-stop voting.

The following are bills that have not become law but remain viable bills at the General Assembly. It is important to note that a legislative bill is not finalized until signed by the Governor or a veto is overridden by the General Assembly. Bills linked in this summary are subject to change, several with the input and involvement of the NCAJ's Advocacy Team and your fellow NCAJ members.

House Bills:

HB 121 – Expunction Related to RTA/No Conviction

In response to Raise the Age, which passed in the 2017 Juvenile Justice Reinvestment Act, one action item was to create the ability for persons between the ages of 16-18 to petition a trial court to expunge the following convictions: misdemeanor or Class H or I felony, other than a traffic offense. The bill further clarifies what expunged records may be available to prosecutors for the State of NC and provides for expungement without a formal hearing of dismissed or findings of not guilty or not responsible.

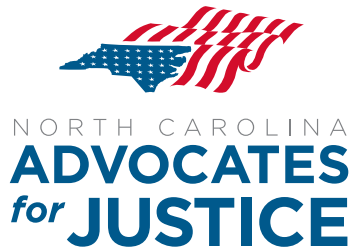
HB 287 – Repeal G.S. 1-113 and G.S. 1-114

This bill would repeal two statutes that pre-date the Rules of Civil Procedure and address concepts of joint and several liability. After discussion in the House Judiciary Committee, the bill was re-referred to the Rules, Calendar, and Operation committee, but was never scheduled. It was unclear to interested parties how the repeal of the two identified statutes would affect litigation in North Carolina.

HB 400 – Omnibus Labor Law Changes

This bill originally contained five sections. Several sections of the bill make conforming changes to various acts within Chapter 95 regarding pending investigative efforts of the Department of Labor. The last portion of the bill created restrictions on conducting discovery efforts of employees of the Department of Labor, along with restricting use of information or reports developed by the agency. In consultation with the Department of Labor, the clause pertaining to employees was removed. The Advocacy Team continues to work with the Department of Labor to address the use of information or reports developed by the agency in subsequent third-party litigation.

HB 446 – Civil Pro./Punitive Damages/Change of Venue



This bill would have required an action seeking punitive damages to be filed in the county where the defendant resides or does business. The bill was referred to the Rules, Calendar, and Operation committee, but was never scheduled.

HB 447 – Attractive Nuisances

This bill would relieve the owner of property from liability for a body of water, unless the owner creates a “sandy area for swimmers or makes other improvements that would make the body of water attractive to a child trespasser.” The Advocacy Team spoke with the bill sponsor and hopes to work with the sponsor on potential amendments to this language.

HB 511 – North Carolina First Steps Act

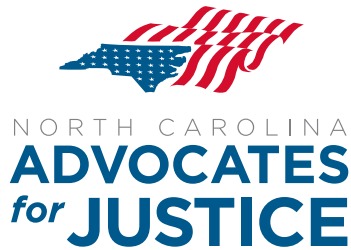
This bill would increase judicial discretion in sentencing for drug trafficking offenses, to allow eligible prisoners sentenced for drug trafficking offenses to be released early on post-release supervision, and to authorize the Department of Information Technology (DIT) and the Administrative Office of the Courts (AOC) to study the collection of criminal justice data. This bill passed the House with bi-partisan support but was amended by the Senate. The House has not reviewed the Senate’s revisions. The Advocacy Team continues to monitor this bill.

HB 611 – Amend Rules of Evid./Binding Arbitration

This bill was proposed to make the following changes to the Rules of Evidence: to allow the introduction of policy limits under Rule 411 and to repeal Rule 414. The bill also proposed a binding arbitration process if defendants admitted negligence and damages were limited to the insurance coverage limits. This bill successfully passed the House Judiciary committee, but the bill was met with opposition by business interests. The Advocacy Team will continue to work with the bill sponsor to reach a resolution on this bill.

HB 641 – Modifications to Various DPS Provisions

This bill was filed with a variety of changes to the Department of Public Safety. However, the bill also proposed changes to the State Torts Claim Act, which is within the jurisdiction of the Industrial Commission. The proposal, while attempting to limit inmate tort claims against the State, introduces a gross negligence standard into the State Torts Claim Act, and implements a three-strike policy on parties filing claims. These concerns were expressed to the Department of Public Safety. The Advocacy



Team will continue to work with the agency to address the concerns over the proposed changes.

HB 707 – WC/Independent Truckers

This bill is a reoccurring legislative concept. For the 2019 session, the bill was scheduled before the House Judiciary committee and received an unfavorable report. The Advocacy Team will continue to monitor this issue, as it frequently reappears throughout a legislative session.

HB 925 – Med Mal/Jury Instructions/Judicial Assignments

This bill proposed two changes to civil cases subject to Rule 9(j) of the Rules of Civil Procedure: (1) to allow the trial judge to submit written jury instructions to the jury irrespective of whether one or both parties consent; and (2) to allow a Senior Resident Superior Court Judge to designate a specific judge to preside over all proceedings in a particular case. After discussion in the House Judiciary Committee, the bill was re-referred to the Rules, Calendar, and Operation committee, but was never scheduled. The Advocacy Team and members of the Professional Negligence Section will continue to evaluate the content of this bill.

Senate Bills:

SB 217 - Change Superior Ct & District Ct Numbers.

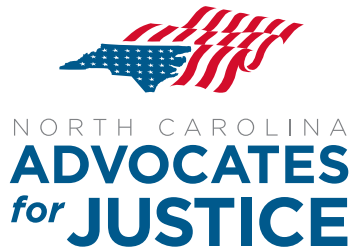
This bill is necessary after changes in 2018 created inconsistencies in superior court and district court districts with prosecutorial districts. The bill is currently in a conference committee and the Advocacy Team will continue to monitor.

SB 414 – Increase Allowed Annual Fees of State Bar

This bill proposed allowing the North Carolina State Bar to increase annual membership dues from three hundred dollars (\$300.00) to four hundred dollars (\$400.00), capping the increase to twenty-five dollars (\$25.00) every two years. The bill was referred to the Rules and Operations committee, but never scheduled for review. The Advocacy Team will continue to monitor this issue.

SB 445 – DOT Just Compensation Interest Rate

This bill proposed to repeal the 2016 changes to the Department of Transportation condemnation rate. The bill was referred to the Rules and Operation committee, but



never scheduled for review. The Advocacy Team will seek additional guidance from the bill sponsors regarding this bill.

SB 562 – The Second Chance Act

This bill is similar to HB 121 and addresses expunction for the following convictions of persons under the age of 18: misdemeanor or Class H or I felony, other than a traffic offense or registration as a sexual offender under Art. 27A of G.S. 14. The bill further clarifies what expunged records may be available to prosecutors for the State of NC and provides for expungement without a formal hearing of dismissed or findings of not guilty or not responsible. Finally, this bill proposes a scheme to allow expunction of multiple nonviolent misdemeanor or felony convictions. This bill was well-received in the Senate and passed with unanimous support. The House calendared this bill several times, but it was never heard by the House Rules, Calendar, and Operation committee.