

# 2020 NCAJ LEGISLATIVE REPORT



NORTH CAROLINA  
**ADVOCATES**  
*for* **JUSTICE**



# INTRODUCTION

Consistent with NCAJ's vision of protecting people, preventing injustice and promoting fairness, the Advocacy Team actively monitors the actions of the General Assembly in an effort to identify bills being introduced which may affect our members and, more importantly, our members' clients. This "boots on the ground" level of monitoring at the General Assembly allows us to identify legislation early in the process with the goal of mustering support for those issues that align with our vision or rallying opposition to those issues that do not.

The short session of 2020, while "short," was not short on activity due in large part to the COVID-19 pandemic. This report summarizes the bills that may impact the practices of our members. This includes a summary of the numerous immunity bills, all of the governor's vetoes in 2020, and highlights of other legislative changes in 2020. **This summary is not a comprehensive list of all 2020 session laws.**

If at any time you become aware of legislation that may affect you, your clients or your practice area, please do not hesitate to reach out to any member of the Advocacy Team. Similarly, if you have a relationship with a member of the General Assembly, let them know you're an NCAJ member. Our organization benefits greatly when we can put a face and name behind who we are and what we do.

Please contact the Advocacy Team regarding any questions.

## NCAJ LEGISLATIVE TEAM



**KIM CROUCH**

*NCAJ Executive Director*

Crouch has served for three years as the executive director of NCAJ. Prior to joining NCAJ, she was the director of governmental affairs for the North Carolina Bar Association for over 10 years. Crouch currently serves on the board of North Carolina's Equal Access to Justice Commission and is president of the N.C. Professional Lobbyists Association. Crouch is a graduate of Syracuse University and the University of North Carolina School of Law.



**ANN OCHSNER**

*2020-2021 NCAJ Legislative Vice President*

Ochsner practices with the [Whitley Law Firm](#) in Raleigh. Well-versed in civil litigation and appellate advocacy, she concentrates in automobile collisions, slip and fall cases, dog bites and general negligence. Ochsner has been an NCAJ member since 2011 and has previously served as NCAJ's education vice president. She is a graduate of Methodist University and Campbell University School of Law.



### **ABBY HAMMOND**

*NCAJ Advocacy Consultant*

Hammond's duties include coordinating advocacy efforts with members and the NCAJ's contract lobbyists regarding legislation in the N.C. General Assembly. She also assists NCAJ in administering reviews of amicus requests and organizing moot court panels and works with the NCAJ PAC. Hammond's previous experience includes serving as counsel to the Rules Review Commission of the N.C. Office of Administrative Hearings. She is a graduate of Clemson University and the University of South Carolina School of Law.



### **ANDY MUNN**

*NCAJ Contract Lobbyist*

Munn founded [EOV Strategic](#) in March 2020. His 20 years of experience in governmental affairs includes leading the Raleigh office of a Moore & Van Allen, PLLC, where he directed the firm's government and public affairs strategy. He also served as Deputy Chief of Staff to N.C. House Speaker Tim Moore and as policy director for N.C. House Speaker Thom Tillis. Munn is a native North Carolinian and a graduate of Appalachian State University.



### **PHILIP ISLEY**

*NCAJ Contract Lobbyist*

Isley has practiced law in North Carolina since 1992, and served four terms on the Raleigh City Council. He began his tenure as contract lobbyist for NCAJ in 2011. Since then, he has lobbied for a variety of clients across the state and nation, including the City of Raleigh and the City of Asheville. He is a graduate of Washington & Lee University and the University of Mississippi School of Law.



### **CHRIS WALL**

*NCAJ Contract Lobbyist*

Wall has extensive experience lobbying in the North Carolina federal delegation and in government relations for major state industry sectors. He served as a senior staffer to Sen. Richard Burr and to Rep. Virginia Foxx and Rep. Robin Hayes, whom he also served as a deputy campaign manager. In 2015, Wall returned to North Carolina and joined one of the largest government affairs firms, managing a broad portfolio of clients. He is a graduate of the University of North Carolina at Charlotte.

# NCAJ MEMBER LEGISLATORS

## SENATE



NCAJ 2020 LEGISLATOR  
OF THE YEAR  
**DANNY EARL  
BRITT JR. (R)**  
*District 13  
(Columbus, Robeson)*



**JAY J.  
CHAUDHURI (D)**  
*District 15  
(Wake)*



**MUJTABA A.  
MOHAMMED (D)**  
*District 38  
(Mecklenburg)*



**WILEY NICKEL (D)**  
*District 16  
(Wake)*

## HOUSE OF REPRESENTATIVES



**SYDNEY  
BATCH (D)**  
*District 37  
(Wake)*



**TERENCE  
EVERITT (D)**  
*District 35  
(Wake)*



**DESTIN HALL (R)**  
*District 87  
(Caldwell)*



**DARREN G.  
JACKSON (D)**  
*District 39  
(Wake)*



**ROBERT T.  
REIVES II (D)**  
*District 54  
(Chatham, Durham)*



**WILLIAM O.  
RICHARDSON (D)**  
*District 44  
(Cumberland)*



**DAVID  
ROGERS (R)**  
*District 112  
(Burke, Rutherford)*



# SUMMARIES OF **SESSION BILLS**

## **COVID-19 AND IMMUNITY BILLS**

In March of 2020, reports of COVID-19 began to surface in North Carolina. Over the course of the next few weeks, Gov. Roy Cooper ordered schools to close, directed citizens to stay at home and prohibited mass gatherings. On the heels of these unprecedented actions, the General Assembly returned to address issues outside of the governor's authority and to appropriate funding, including significant amounts of money from the national level, to assist in responses to COVID-19. Beginning on April 28, 2020, the General Assembly worked in largely bipartisan measures to enact two comprehensive bills: HB 1043 addressing the money associated with COVID-19 relief and SB 704 addressing the policy changes related to COVID-19.

The language in SB 704 concerned many members of NCAJ and the Advocacy Team. The first provision addresses immunity for any health care facility, health care provider or entity that has legal responsibility for the acts or omissions of a health care provider. The goal was to provide immunity to those medical providers on the frontlines providing health care services during the period of the COVID-19 emergency declarations. But the content grew and extended beyond the front lines of COVID-19 services, to include administrative decisions such as staffing and resource allocation. SB 704 further added a provision providing limited immunity for businesses classified as "essential businesses," a term that was broadly defined. In an effort to be responsive to the needs of North Carolina citizens, both bills passed with almost unanimous support with only one no vote from [Rep. Michael Speciale](#).

### **[HB 1043](#) CH. SL 2020-4 [2020 COVID-19 RECOVERY ACT.](#) (MONEY BILL)**

### **[SB 704](#) CH. SL 2020-3 [COVID-19 RECOVERY ACT.](#) (POLICY BILL)**

Following this bipartisan support of COVID-19 relief, the General Assembly broke for several weeks. When legislators returned in June, the roadmap for immunity existed, and several other interested groups justified the need to extend the immunity for health care services to other fields. The following bills contain various immunity provisions.

**[HB 118](#) CH. SL 2020-89 [COVID-19 LIAB. SAFE HARBOR.](#)** – An Act to provide limited immunity from liability for claims based on transmission of COVID-19. Person is defined as the following:

An individual; corporation; nonprofit corporation; business trust; estate; trust; partnership; limited liability company; sole proprietorship; association; joint venture; government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal entity.

**[SB 208](#) CH. SL 2020-70 [COVID-19 IMMUNITY/IHES.](#)** – An Act to provide immunity for institutions of higher education for claims related to COVID-19 closures during the Spring 2020 academic semester.

**SB 113 CH SL 2020-49 EDUCATION OMNIBUS.** – An Act to provide immunity for nonpublic schools for claims related to COVID-19 closures during the 2019-2020 academic year.

**HB 1096 CH SL 2020-56 UNC OMNIBUS CHANGES/UNC LAB SCHOOL FUNDS.** – An Act to provide immunity as allowed in Chapter 115C of the General Statutes to University of North Carolina laboratory schools chancellor, the constituent institution, an advisory board, and a laboratory school, and their members, employees, and agents.

**HB 902 CH SL 2020-90 P&C CHANGES/GLOB. TRANP./PRISON PILOT.** – An Act to provide limited immunity from COVID-19 related claims arising from the reopening of privately owned community swimming pools.

The General Assembly also worked on issues related to COVID-19 that were not grants of immunity. Here are several other bills:

**SB 232 CH. SL 2020-93 REPEAL DEATH INVEST CONF/MASKS/HEALTH&SAFETY.** – This bill contains two provisions: (1) addressing the controversial provision clarifying that records in the possession of the Office of the Chief Medical Examiner were not public records; and (2) to extend the exemption for any person wearing a mask for the purpose of ensuring the physical health or safety of the wearer or others. The first provision became unnecessary when Gov. Cooper vetoed SB 168. The second provision is in response to prohibitions in Article 4A of GS 14, Prohibited Secret Societies and Activities. This 1953 Act prohibits “wearing any mask, hood or device whereby the person, face or voice is disguised so as to conceal the identity of the wearer.” While SB 704 had created an exception for those wearing face masks to ensure physical health or safety, such as during a COVID-19 pandemic, the exception was set to expire on Aug. 1, 2020. This bill extends that exception.

**HB 1037 CH SL 2020-80 CORONAVIRUS RELIEF FUND/ADDITIONS & REVISIONS.** – Section 2.9 of this bill extended the remote notary and video witnessing authorization set forth in Sections 4.1 and 4.2 of SB 704. The practices are now allowed until March 1, 2021.

**HB 679 CH. SL 2020-46 RULES OF CIV PROCEDURE/E-FILING AND SERVICE.** – This bill amends the Rules of Civil Procedure to allow for electronic filing and service.

**HB 158 CH. SL 2020-30 COVID-19 NEW DRIVER RESPONSE.** – This bill waives the road test requirement for Level 2 limited provisional licenses. It also deemed that students enrolled in classroom driver education shall be deemed to have completed all classroom instruction requirements for driver education if the student completed at least 15 hours of classroom instruction prior to March 16, 2020.

# VETOES

A significant issue in the legislative session during June of 2020 was the power struggle between the General Assembly and Gov. Cooper, with much of the focus on a movement entitled ReopenNC. In response to the call to action by ReopenNC, the General Assembly passed several bills aimed at reopening North Carolina businesses, contrary to standing executive orders of the governor. Those bills were vetoed by the governor and sent back to the General Assembly for veto override attempts. A governor veto may be overridden with 3/5 of the present voting members of a chamber voting to override the veto. Below are the relevant bills and action after the governor's veto:

**HB 686 FREEDOM TO CELEBRATE THE FOURTH OF JULY.** – This bill would have restricted the governor's Executive Orders so that municipalities or counties could have parades or fireworks to celebrate during a period of time surrounding July 4. A veto override in the House failed 58 to 54.

**HB 806 OPEN EXERCISE & FITNESS FACILITIES.** – This bill would have allowed any indoor or outdoor (i) exercise and fitness facilities, (ii) gyms, (iii) health clubs, and (iv) fitness centers to reopen subject to fifteen requirements set forth in the ratified legislation. A veto override in the House failed 63 to 51.

**SB 599 OPEN SKATING RINKS/BOWLING ALLEYS.** – This bill would have allowed any (i) skating rinks or (ii) bowling alleys to reopen subject to 12 requirements set forth in the ratified legislation. In addition, the bill would have modified capacity of temporary outdoor seating for food and drink establishments. A veto override in the Senate failed 26 to 21.

**HB 258 (= SB 158) OPEN AMUSEMENT PARKS/ARCADES/VENUES.** – This bill would have allowed any establishment that is an (i) amusement park or (ii) gaming and business establishment with video games and arcade games or (iii) any fair or carnival, which is a member of the North Carolina Association of Agricultural Fairs to reopen subject to 10 requirements set forth in the ratified legislation. The bill would have further allowed any venues for receptions or parties to reopen subject to 12 requirements set forth in the ratified legislation. Finally, the bill would have allowed any outdoor stadium with a spectator capacity of 12,000 or less that operates a restaurant to reopen for food and drink service for on-premises consumption subject to seven requirements set forth in the ratified legislation. The bill was calendared for veto override, but no vote was taken on the bill.

**HB 594 TEMP OPEN GYMS/HEALTH CLUBS/FITNESS CTRS.** – This bill would have allowed any indoor or outdoor (i) exercise and fitness facilities, (ii) gyms, (iii) health clubs, and (iv) fitness centers to reopen subject to 15 requirements set forth in the ratified legislation. This bill would have further allowed any establishment that prepares or serves food or drink to reopen and operate its food and drink service for on-premises consumption subject to eleven requirements set forth in the ratified legislation. Finally, the bill would have allowed any (i) private club or private bar as defined by G.S. 18B-1000, (ii) winery permitted pursuant to G.S. 18B-1101 or G.S. 18B-1102, or (iii) distillery permitted pursuant to G.S. 18B-

1105 to reopen and serve alcohol for on-premises consumption subject to 10 requirements set forth in the ratified legislation. A veto override in the House failed 66 to 53.

**HB 536 (= SB 592) TEMP OUTDOOR RESTAURANTS FOR OUTDOOR SEATING.** –

Similar to the content in HB 594, this bill would have allowed any establishment that prepares or serves food or drink to reopen and operate its food and drink service for on-premises consumption subject to 11 requirements set forth in the ratified legislation. The bill would have also allowed any (i) private club or private bar as defined by G.S. 18B-1000, (ii) winery permitted pursuant to G.S. 18B-1101 or G.S. 18B-1102, or (iii) distillery permitted pursuant to G.S. 18B-1105 to reopen and serve alcohol for on-premises consumption subject to 10 requirements set forth in the ratified legislation. The bill was calendared for veto override, but no vote was taken on the bill.

In addition to re-open bills, several other pieces of legislation were vetoed by Gov. Cooper during the 2020 legislative session, as outlined below:

**SB 168 DHHS & OTHER REVISIONS.** – This bill contained a small provision that had previously been filed in two separate pieces of legislation, once in 2019 and a second time in 2020. Neither bill advanced, and the provision gained little fanfare. However, in the waning hours of the legislative session running into the early morning hours of June 26, the provision reappeared in an omnibus bill with no debate. The small provision would have clarified that records in the possession of the Office of the Chief Medical Examiner were not public records. After extensive news coverage and protests, Gov. Cooper vetoed this bill, citing that “the concerns that have since been raised make it clear this provision should not become law.” The bill was never scheduled for a veto override.

**HB 652 (= SB 623) 2ND AMENDMENT PROTECTION ACT.** – This bill proposed changes to the concealed carry standards. One change would have allowed handguns to be carried onto educational property if the location has both a school and a building that is a place of religious worship. In addition, the bill would have altered the renewal period on a permit. Gov. Cooper vetoed this bill, citing that “[t]his bill allows guns on school property which threatens the safety of students and teachers.” A veto override in the House failed 66 to 48.

**SB 105 CLARIFY EMERGENCY POWERS.** – This bill proposed statutory changes to state of emergency declarations, requiring concurrence of the Council of State within 48 hours and expiration within a 30-day period. A veto override in the Senate failed 26 to 21.

**HB 612 DSS REVIEW OF PROCEDURES/CRIMINAL HISTORY/OAH.** – This bill would have required a specific agency, N.C. Social Services Commission, to review all policies, guidelines, and other interpretive statements, submitting a report to the Office of Administrative Hearings, the agency that houses the Rules Review Commission. The bill would have made additional changes to the rulemaking process set forth in the Administrative Procedure Act. Gov. Cooper vetoed this bill as being overreaching into Executive Branch agencies. The bill was calendared for veto override, but no vote was taken on the bill.



**HB 918 EXPEDITE PERMANENCY/DHHS REPORT SNAP/TANF.** – This bill would have made a variety of changes to various abuse, neglect, and dependency laws. The bill was calendared for veto override, but no vote was taken on the bill.

## OTHER BILLS

**HB 425 CH. SL 2020-86 IMPLEMENT CONNER’S LAW.** – This bill provides funding to implement Conner’s Law, a 2019 session law that provides death benefits in the amount of \$100,000 if a “covered person” is murdered in the line of duty.

**HB 32 CH. SL 2020-65 COLLABORATIVE LAW.** – This bill enacts the Uniform Collaborative Law Act, a procedure intended to resolve a collaborative matter without intervention by a tribunal in which persons sign a collaborative law participation agreement and are represented by collaborative lawyers.

**HB 885 CH. SL 2020-68 ONLY ALLOW COURTS TO CHARGE FTA FEE ONCE.** – This bill clarifies in G.S. 7A-304(a) that the fee for failure to appear shall only be collected once in a criminal case.

**HB 1072 CH. SL 2020-69 GSC TECHNICAL CORRECTIONS 2020.** – This bill amends G.S. 47-17.1, Documents registered or ordered to be registered in certain counties to designate draftsman. The register of deeds is not required to verify or make inquiry concerning the capacity or authority of the person or entity shown as the drafter on the instrument.

**SB 217 CH. SL 2020-71 UI/PRECINCT WORKERS/2020 GENERAL ELECTION.** – This bill clarifies that payments to precinct officials during the 2020 general election period shall not reduce unemployment insurance benefits.

**HB 1064 CH. SL 2020-72 GSC CLARIFYING BINGO LICENSE STATUTE.** – This bill amends G.S. 1A-1, Rule 40 of the Rules of Civil Procedure and G.S. 15A-952 to allow a “good cause continuance” for any member of the General Assembly or service on the Rules Review Commission or any other board, commission, or authority as an appointee of the Governor, the Lieutenant Governor, or the General Assembly.

**HB 308 CH. SL 2020-74 REGULATORY REFORM ACT OF 2020.** – Section 27 of this bill extended the remote notary and video witnessing authorization until March 1, 2021.

**SB 364 (= HB 919) CH. SL 2020-75 NC COMMERCIAL RECEIVERSHIP ACT REVISIONS.** – This bill enacts the North Carolina Commercial Receivership Act, repeals corresponding assignments for the benefit of creditor statutes, and makes an action for the appointment of a general receiver for certain business entity debtors.

**[SB 488](#) CH. SL 2020-77 [DMV/MV DEALER CHANGES.](#)** – This bill contains a provision that would allow a person subject to a revoked license for failure to appear or pay fine, penalty or costs for motor vehicle offenses to apply to the court for a limited driving privilege valid for up to one year or until any fine, penalty, or court costs ordered by the court are paid.

**[SB 681](#) CH. SL 2020-78 [AGENCY POLICY DIRECTIVES/2019-2020.](#)** – This bill changes G.S. 143-293 to allow the Industrial Commission to use electronic mail to send decisions.

**[HB 593](#) CH. SL 2020-83 [JCPC/DETENTION/CAA AND OTHER FEES.](#)** – This bill makes changes to the Juvenile Crime Prevention Councils (JCPC) and makes changes to statutes impacting individuals under eighteen years of age in custody, changes necessary after enactment of Raise the Age. This bill also contains a provision increasing criminal court appointed counsel fee and court costs to support indigent defense services.

**[SB 782](#) CH. SL 2020-84 [MERCHANDISE SALES LIMIT/MECK DIST CT.](#)** – This bill provides for at-large election of district court judges in Mecklenburg County.

**[SB 595](#) CH. SL 2020-50 [CHANGES TO REAL PROPERTY STATUTES.](#)** – This bill makes changes to tenancies by the entities and joint tenancies.

**[HB 920](#) CH. SL 2020-52 [CONDOMINIUM ASSOCIATION CHANGES.](#)** – This bill makes various changes to the statutes governing condominiums and condominium associations.

**[HB 1229](#) CH. SL 2020-53 [UNEMPLOYMENT INSURANCE PROGRAM INTEGRITY.](#)** – This bill is an act providing funds to the Division of Employment Security (DES) to strengthen unemployment insurance program during the coronavirus pandemic. The bill further prevents certain payments to precinct officials from reducing unemployment insurance benefits.

**[HB 463](#) (= [SB 561](#)) CH. SL 2020-54 [EDUCATION IN PRISONS.](#)** – This bill expands the degrees available through community college courses for prison inmates in State prisons.

**[HB 736](#) CH. SL 2020-60 [ELECTIVE SHARE-JOINT ACCOUNTS.](#)** – This bill is an act to limit spousal share with respect to jointly held property to a rebuttable presumption of in-kind contribution unless established by clear and convincing evidence and to require a fee for filing a claim for an elective share.

**[HB 511](#) (= [SB 417](#)) CH. SL 2020-47 [NORTH CAROLINA FIRST STEP ACT.](#)** – This bill allows judicial discretion in sentencing for drug trafficking offenses.

**SB 562 (= HB 874) CH. SL 2020-35 THE SECOND CHANCE ACT.** – This bill provides for expunction of records for offenders under the age of 18 at the time of commission of certain misdemeanors and felonies upon completion of the sentence if the offense was committed prior to Dec. 1, 2019, and while the person was less than 18 years of age, but at least 16 years of age. This bill alters a prosecutor’s access to expunged records. This bill streamlines expunctions for charges not resulting in a conviction. Finally, this bill modifies the expunction process under G.S. 15A-145.5.

**SB 729 CH. SL 2020-23 GSC MODERNIZE PARTITION LAWS.** – This bill modernizes statutes on partition of property and elective life estate statutes.

**HB 1187 CH. SL 2020-15 RAISE THE AGE FUNDING.** – This bill provides funding for capital improvements at Department of Public Safety (DPS) facilities for implementation of Raise the Age.

**SB 315 CH. SL 2020-18 NORTH CAROLINA FARM ACT OF 2019-20.** – This bill contains the 2019-20 provisions of the Farm Act. One provision set forth in the bill provides a right-of-way for left turning farm equipment.

**SB 476 CH. SL 2020-7 SCHOOL-BASED MENTAL HEALTH.** – This bill addresses school safety by enacting a school-based mental health policy that includes (i) minimum requirements for a school-based mental health plan for K-12 school units and (ii) a model mental health training program and model suicide risk referral protocol for K-12 school units.