

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 558
SENATE BILL 513

AN ACT TO ESTABLISH UNIQUE AND RELEVANT EDUCATION AND TRAINING STANDARDS FOR SHERIFFS, THEIR DEPUTIES, AND OTHER PERSONNEL.

The General Assembly of North Carolina enacts:

Section 1. There is hereby enacted a new Chapter 17E of the General Statutes to read as follows:

"Chapter 17E.

"North Carolina Sheriffs' Education and Training Standards Commission.

"§ 17E-1. Findings and policy. – The General Assembly finds and declares that the office of sheriff, the office of deputy sheriff and the other officers and employees of the sheriff of a county are unique among all of the law enforcement offices of North Carolina. The administration of criminal justice has been declared by Chapter 17C of the General Statutes to be of statewide concern to the people of the State. The sheriff is the only officer of local government required by the Constitution. The sheriff, in addition to his criminal justice responsibilities, is the only officer who is also responsible for the courts of the State, and acting as their bailiff and marshall. The sheriff administers and executes criminal and civil justice and acts as the *ex officio* jailer.

The deputy sheriff has been held by the Supreme Court of this State to hold an office of special trust and confidence, acting in the name of and with powers coterminous with his principal, the elected sheriff.

The offices of sheriff and deputy sheriff are therefore of special concern to the public health, safety, welfare and morals of the people of the State. The training and educational needs of such officers therefore require particularized and differential treatment from those of the criminal justice officers certified under Chapter 17C of the General Statutes.

"§ 17E-2. Definitions. – Unless the context clearly requires otherwise, the following definitions apply to this Chapter:

(a) 'Commission' means the North Carolina Sheriffs' Education and Training Standards Commission.

(b) 'Office' or 'department' means the sheriff of a county, elected by the people as required by the Constitution, his deputies, his employees and such equipment, space, provisions and quarters as are supplied for their use.

(c) 'Justice officer' or 'law enforcement officer' means a person who, through the special trust and confidence of the elected sheriff of the county, has taken the oath of

office prescribed by Chapter 11 of these statutes as a peace officer in the office of a sheriff. The term includes 'deputy sheriffs' and 'special deputy sheriffs' but does not include clerical and support personnel not required to take an oath. The term 'special deputy' means a person who, through appointment by the sheriff, becomes an unpaid criminal justice officer to perform a specific act directed to him by the sheriff.

"§ 17E-3. North Carolina Sheriffs' Education and Training Standards Commission established; members; terms; vacancies.— (a) There is hereby established the North Carolina Sheriffs' Education and Training Standards Commission. The Commission shall be composed of 16 members as follows:

- (1) Sheriffs. Eleven sheriffs representing each of the Congressional districts appointed by the North Carolina Sheriffs' Association, in such manner as shall be prescribed by the Constitution or bylaws of such Association.
- (2) Appointees of the General Assembly. One person appointed by the Speaker of the House of Representatives pursuant to Article 16, G.S. 120- 121, and one person appointed by the Lieutenant Governor pursuant to Article 16, G.S. 120-121.
- (3) County Commissioners. One county commissioner appointed by the Governor as recommended from three nominees from the North Carolina Association of County Commissioners.
- (4) Others. The President of the Department of Community Colleges or his designee and the Director of the Institute of Government or his designee shall be ex officio, nonvoting members of the Commission.

(b) Terms. Sheriffs representing Congressional Districts 1, 4, 7, and 10 shall be appointed to a term of one year; sheriffs representing Congressional Districts 2, 5, 8, and 11 shall be appointed to a term of two years; sheriffs representing Congressional Districts 3, 6, and 9 shall be appointed to a term of three years. The appointee of the House of Representatives shall serve a term of two years. The appointee of the Senate shall serve a term of two years. The county commissioner appointed by the North Carolina Association of County Commissioners shall serve a term of two years. After the initial terms established herein have expired, all sheriffs appointed to the Commission shall be appointed to terms of three years.

If an individual ceases to be a sheriff then his seat on the Commission becomes vacated upon his ceasing to be qualified to hold that seat. Any individual appointed or designated to serve on this Commission shall serve until his successor is appointed and qualified.

(c) Vacancies. If any vacancy occurs in the membership of the Commission, the appointing authority shall appoint another person to fill the unexpired term of the vacating member.

(d) Compensation. None of the members of the Commission shall receive compensation for serving on the Commission. However, if the North Carolina Department of Justice has funds available, then members of the Commission who are State officers or employees may be reimbursed for their expenses in accordance with G.S. 138-6; members of the Commission who are full-time salaried public officers or

employees other than State officers or employees may be reimbursed for their expenses in accordance with G.S. 138-5(b). All other members of the Commission may receive compensation and reimbursement for expenses in accordance with G.S. 138-5.

(e) Officers. The chairman shall be elected from among the membership. The Commission shall select its other officers from among the membership as it deems necessary. All officers serve for one year, or until successors are qualified.

(f) Removal. The Commission may remove a member for misfeasance, malfeasance, nonfeasance or neglect of duty.

(g) The Commission has power to adopt its own rules of procedure. The Commission shall meet no less than four times a year. It shall also meet on the call of the chairman or vice-chairman, or any four members of the Commission.

(h) The Commission may appoint any resident of the State to an adjunct or special committee created or appointed by it to study or make recommendations or reports on any subject matter related to its duties or the office of sheriff.

"§ 17E-4. Powers and duties of the Commission. – (a) The Commission shall have the following powers, duties, and responsibilities, which are enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17E-8 and G.S. 17E-9:

- (1) Promulgate rules and regulations for the administration of this Chapter, which rules may require (i) the submission by any agency of information with respect to the employment, education, and training of its law enforcement officers, and (ii) the submission by any training school of information with respect to its programs that are required by this Chapter;
- (2) Establish minimum educational and training standards that may be met in order to qualify for entry level employment as an officer in temporary or probationary status or in a permanent position;
- (3) Certify, pursuant to the standards that it may establish for the purpose, persons as qualified under the provisions of this Chapter who may be employed at entry level as officers;
- (4) Establish minimum standards for the certification of training schools and programs or courses of instruction that are required by this Chapter;
- (5) Certify, pursuant to the standards that it has established for the purpose, training schools and programs or courses of instruction that are required by this Chapter;
- (6) Establish standards and levels of education or equivalent experience for teachers who participate in programs or courses of instruction that are required by this Chapter;
- (7) Certify, pursuant to the standards that it has established for the purpose, teachers who participate in programs or courses of instruction that are required by this Chapter;
- (8) Make such evaluations as may be necessary to determine if agencies are complying with the provision of this Chapter;

- (9) Adopt and amend bylaws, consistent with law, for its internal management and control;
- (10) Enter into contracts incident to the administration of its authority pursuant to this Chapter.

The Commission may certify, and no additional certification shall be required from it, programs, courses and teachers certified by the North Carolina Criminal Justice Education and Training Standards Commission. Where the Commission determines that a program, course, instructor or teacher is required for an area which is unique to the office of sheriff, the Commission may certify such program, course, instructor, or teacher under such standards and procedures as it may establish.

(b) The Commission shall have the following powers, which shall be advisory in nature and for which the Commission is not authorized to undertake any enforcement actions:

- (1) Certify, pursuant to the standards that it has established for the purpose, law enforcement officers for those law enforcement agencies that elect to comply with the minimum education, training, and experience standards established by the Commission for positions for which advanced or specialized training, education, and experience are appropriate;
- (2) Consult and cooperate with counties, agencies of this State, other governmental agencies, and with universities, colleges, junior colleges, and other institutions, public or private, concerning the development of training schools and programs or courses of instruction;
- (3) Study and make reports and recommendations concerning justice education and training in North Carolina;
- (4) Conduct and stimulate research by public and private agencies which shall be designed to improve education and training in the administration of justice;
- (5) Study, obtain data, statistics, and information and make reports concerning the recruitment, selection, education and training of persons serving justice agencies in this State; to make recommendations for improvement in methods of recruitment, selection, education and training of persons serving sheriffs' departments;
- (6) Study and make reports and recommendations to the Governor, Attorney General, Chief Justice, President of the Senate and Speaker of the House, concerning the manpower, salary and equipment needs of the sheriffs of the State;
- (7) Make recommendations concerning any matters within its purview pursuant to this Chapter;
- (8) Appoint such advisory committees as it may deem necessary;
- (9) Do such things as may be necessary and incidental to the administration of its authority pursuant to this Chapter;

- (10) Formulate basic plans for and promote the development and improvement of a comprehensive system of education and training for the officers and employees of agencies consistent with its rules and regulations;
- (11) Maintain liaison among municipal, State and federal agencies with respect to education and training;
- (12) Promote the planning and development of a systematic career development program for sheriffs' department personnel.

"§ 17E-5. Functions of the Department of Justice.—(a) The Attorney General shall provide such staff assistance as the Commission shall require and direct in the performance of its duties.

(b) The Attorney General shall have legal custody of all books, papers, documents, or other records and property of the Commission.

"§ 17E-6. Justice Officers' Standards Division established; appointment of director; duties.—(a) There is hereby established, within the Department of Justice, the Justice Officers' Standards Division hereinafter called 'the Division,' which shall be organized and staffed in accordance with applicable laws and regulations and within the limits of authorized appropriations.

(b) The Attorney General shall appoint a director for the Division chosen from a list of nominees submitted to him by the Commission who shall be responsible to and serve at the pleasure of the Attorney General and the Commission.

(c) The Division shall administer such programs as are assigned to it by the Commission. Administrative duties and responsibilities shall include, but are not limited to, the following:

- (1) Administering any and all programs assigned to the Division by the Commission and reporting any violations of or deviations from the rules and regulations of the Commission as the Commission may require;
- (2) Compiling data, developing reports, identifying needs and performing research relevant to improvement of the agencies;
- (3) Developing new and revising existing programs for adoption consideration by the Commission;
- (4) Monitoring and evaluating programs of the Commission;
- (5) Providing technical assistance to agencies of the justice system to aid them in the discharge of program participation and responsibilities;
- (6) Disseminating information on Commission programs to concerned agencies or individuals;
- (7) Taking such other actions as may be deemed necessary or appropriate to carry out its assigned duties and responsibilities;
- (8) The director may divulge any information in the Division's personnel file of a law enforcement officer or applicant for certification to the head of the department employing the officer or considering the applicant for employment when the director deems it necessary and essential to the retention or employment of said officer or applicant.

The information may be divulged whether or not such information was contained in a personnel file maintained by a State or by a local government agency.

§ 17E-7. Required standards. – (a) Officers shall not be required to meet any requirements of subsections (b) and (c) of this section as a condition of continued employment, nor shall failure of any such justice officer to fulfill such requirements make him ineligible for any promotional examination for which he is otherwise eligible if the officer held an appointment prior to July 1, 1983, and is a sworn law enforcement officer with power of arrest. The legislature finds, and it is hereby declared to be the policy of this Chapter, that such officers have satisfied such requirements by their experience. It is the intent of the Chapter that all law enforcement officers employed at the entry level after the Commission has adopted the required standards shall meet the requirements of this Chapter.

(b) The Commission shall provide, by regulation, that no person may be appointed as a law enforcement officer at entry level, except on a temporary or probationary basis, unless such person has satisfactorily completed an initial preparatory program of training at a school certified by the Commission or has been exempted from that requirement by the Commission pursuant to this Chapter. Upon separation of a law enforcement officer from a sheriff's department within the temporary or probationary period of appointment, the probationary certification shall be terminated by the Commission. Upon the reappointment to the same department or appointment to another department of an officer who has separated from a department within the probationary period, the officer shall be charged with the amount of time served during his initial appointment and allowed the remainder of the probationary period to complete the basic training requirement. Upon the reappointment to the same department or appointment to another department of an officer who has separated from a department within the probationary period and who has remained out of service for more than one year from the date of separation, the officer shall be allowed another probationary period to complete such training as the Commission shall require by rule for an officer returning to service.

(c) In addition to the requirements of subsection (b) of this section, the Commission, by rules and regulations, may fix other qualifications for the employment and retention of law enforcement officers including minimum age, education, physical and mental standards, citizenship, good moral character, experience, and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of the office, and the Commission shall prescribe the means for presenting evidence of fulfillment of these requirements.

Where minimum educational standards are not met, yet the individual shows potential and a willingness to achieve the standards by extra study, they may be waived by the Commission for the reasonable amount of time it will take to achieve the standards required. Upon petition from a sheriff, the Commission may grant a waiver of any provisions of this section (17E-7) for any deputy serving that sheriff.

(d) The Commission may issue a certificate evidencing satisfaction of the requirements of subsections (b) and (c) of this section to any applicant who presents

such evidence as may be required by its rules and regulations of satisfactory completion of a program or course of instruction in another jurisdiction.

"§ 17E-8. Special requirements; authorizations. – (a) Nothing in this Chapter shall be construed as a condition precedent to the taking of the oath of office or the exercise of the powers, duties or privileges of the offices of sheriff or deputy.

(b) Any sheriff or deputy sheriff, who has taken the oath of office, or person who has received a special deputation for the purpose from the sheriff, acts validly, and his arrests, executions, levies and sales are valid, without regard to whether he has complied with this Chapter or the rules or regulations adopted under this Chapter, unless he has been ordered to cease and desist from such actions by the court, or pursuant to G.S. 17E-9.

"§ 17E-9. Compliance; enforcement. – Any law enforcement officer appointed on a temporary or probationary basis who does not comply with the training provisions of this Chapter within the probationary period of certification or any extension of such probationary period of certification authorized by the Commission, shall not be authorized to exercise the powers of a law enforcement officer and shall not be authorized to exercise the power of arrest unless such certification has been waived by the Commission. The Commission shall enforce the provisions of the subsection by the entry of appropriate orders.

"§ 17E-10. Donations to the Commission; grants and appropriations. – (a) The Commission may accept for any of its purposes and functions under this Chapter any and all donations, both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of same. Any arrangement pursuant to this section shall be detailed in a biennial report of the Commission to the General Assembly. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any money received by the Commission pursuant to this section shall be deposited in the State Treasury to the account of the Commission.

(b) The Commission may authorize grants pursuant to this section and consistent with the powers conferred upon the Commission under Section 6 of this Chapter.

(c) The Commission in providing for the administration of the grant program authorized by this section shall promote the most efficient and economical program of criminal justice education and training, including the maximum utilization of existing facilities and programs for the purpose of avoiding duplication.

(d) The Commission may provide grants as a reimbursement for actual expenses incurred by the State or any political subdivision thereof for the provision of training programs providing said political subdivisions and State law enforcement agencies do adhere to the selection and training standards established by the Commission.

"§ 17E-11. (a) Nothing in this Chapter shall apply to the sheriff elected by the people.

(b) Nothing in this Chapter shall be construed as modifying the character of a sheriff from an elective office, or as modifying the character of the office of deputy sheriff from an appointive office."

Sec. 2. G.S. 17C-2(b) as the same appears in the 1981 Cumulative Supplement to 1978 Replacement Volume 1C of the General Statutes is hereby amended at the end of that subsection following the words "juvenile justice agencies" by adding the words ", but shall not include deputy sheriffs, special deputy sheriffs, or other sheriffs' department personnel governed by the provisions of Chapter 17E of these General Statutes;".

Sec. 3. G.S. 17C-3(a) as the same appears in the 1982 Interim Supplement to 1981 Cumulative Supplement to 1978 Replacement Volume 1C of the General Statutes is hereby amended on line 4 of the subsection before the word "members" by replacing the number "25" with the number "21". Subdivision "(1)" is hereby repealed.

Sec. 4. Chapter 143A of the General Statutes is hereby amended by adding thereto a new Section 143A-55.2 to read as follows:

"§ 143A-55.2. North Carolina Sheriffs' Education and Training Standards Commission; transfer. – The North Carolina Sheriffs' Education and Training Standards Commission, as created by Chapter 17E of the General Statutes and laws of this State, is hereby transferred by a Type II transfer as defined in G.S. 143A- 6(b) to the Department of Justice."

Sec. 5. G.S. 120-123 as the same appears in the 1982 Interim Supplement to the General Statutes is amended by adding thereto a new subsection (33) to read as follows:

"(33) The North Carolina Sheriffs' Education and Training Standards Commission, established by G.S. 17E."

Sec. 6. The provisions of Chapter 17C as they pertain to sheriffs and their deputies shall no longer apply.

Sec. 7. This act shall become effective September 1, 1983.

In the General Assembly read three times and ratified, this the 17th day of June, 1983.