

## Article 31.

### Misconduct in Public Office.

#### **§ 14-228. Buying and selling offices.**

If any person shall bargain away or sell an office or deputation of an office, or any part or parcel thereof, or shall take money, reward or other profit, directly or indirectly, or shall take any promise, covenant, bond or assurance for money, reward or other profit, for an office or the deputation of an office, or any part thereof, which office, or any part thereof, shall touch or concern the administration or execution of justice, or the receipt, collection, control or disbursement of the public revenue, or shall concern or touch any clerkship in any court of record wherein justice is administered; or if any person shall give or pay money, reward or other profit, or shall make any promise, agreement, bond or assurance for any of such offices, or for the deputation of any of them, or for any part of them, the person so offending in any of the cases aforesaid shall be guilty of a Class I felony. (5, 6 Edw. VI, c. 16, ss. 1, 5; R.C., c. 34, s. 33; Code, s. 998; Rev., s. 3571; C.S., s. 4382; 1993, c. 539, s. 1213; 1994, Ex. Sess., c. 24, s. 14(c).)

#### **§ 14-229. Acting as officer before qualifying as such.**

If any officer shall enter on the duties of his office before he executes and delivers to the authority entitled to receive the same the bonds required by law, and qualifies by taking and subscribing and filing in the proper office the oath of office prescribed, he shall be guilty of a Class 1 misdemeanor and shall be ejected from his office. (Code, s. 79; Rev., s. 3565; C.S., s. 4383; 1999-408, s. 2.)

#### **§ 14-230. Willfully failing to discharge duties.**

(a) If any clerk of any court of record, sheriff, magistrate, school board member, county commissioner, county surveyor, coroner, treasurer, or official of any of the State institutions, or of any county, city or town, shall willfully omit, neglect or refuse to discharge any of the duties of his office, for default whereof it is not elsewhere provided that he shall be indicted, he shall be guilty of a Class 1 misdemeanor. If it shall be proved that such officer, after his qualification, willfully and corruptly omitted, neglected or refused to discharge any of the duties of his office, or willfully and corruptly violated his oath of office according to the true intent and meaning thereof, such officer shall be guilty of misbehavior in office, and shall be punished by removal therefrom under the sentence of the court as a part of the punishment for the offense.

(b) No magistrate recusing in accordance with G.S. 51-5.5 may be charged under this section for refusal to perform marriages in accordance with Chapter 51 of the General Statutes. (1901, c. 270, s. 2; Rev., s. 3592; C.S., s. 4384; 1943, c. 347; 1973, c. 108, s. 5; 1993, c. 539, s. 142; 1994, Ex. Sess., c. 24, s. 14(c); 2009-107, s. 1; 2015-75, s. 2.)

#### **§ 14-231. Failing to make reports and discharge other duties.**

If any State or county officer shall fail, neglect or refuse to make, file or publish any report, statement or other paper, or to deliver to his successor all books and other property belonging to his office, or to pay over or deliver to the proper person all moneys which come into his hands by virtue or color of his office, or to discharge any duty devolving upon him by virtue of his office and required of him by law, he shall be guilty of a Class 1 misdemeanor. (Rev., s. 3576; C.S., s. 4385; 1993, c. 539, s. 143; 1994, Ex. Sess., c. 24, s. 14(c).)

#### **§ 14-232. Swearing falsely to official reports.**

If any clerk, sheriff, register of deeds, county commissioner, county treasurer, magistrate or other county officer shall willfully swear falsely to any report or statement required by law to be made or filed, concerning or touching the county, State or school revenue, he shall be guilty of a Class 1 misdemeanor. (1874-5, c. 151, s. 4; 1876-7, c. 276, s. 4; Code, s. 731; Rev., s. 3605; C.S., s. 4386; 1973, c. 108, s. 6; 1993, c. 539, s. 144; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 14-233. Making of false report by bank examiners; accepting bribes.**

If any bank examiner shall knowingly and willfully make any false or fraudulent report of the condition of any bank, which shall have been examined by him, with the intent to aid or abet the officers, owners, or agents of such bank in continuing to operate an insolvent bank, or if any such examiner shall keep or accept any bribe or gratuity given for the purpose of inducing him not to file any report of examination of any bank made by him, or shall neglect to make an examination of any bank by reason of having received or accepted any bribe or gratuity, he shall be punished as a Class I felon. (1903, c. 275, s. 24; Rev., s. 3324; 1921, c. 4, s. 79; C.S., s. 4387; 1979, c. 760, s. 5; 1979, 2nd Sess., c. 1316, s. 47; 1981, c. 63, s. 1, c. 179, s. 14; 1993, c. 539, s. 1214; 1994, Ex. Sess., c. 24, s. 14 (c).)

**§ 14-234. Public officers or employees benefiting from public contracts; exceptions.**

- (a)
  - (1) No public officer or employee who is involved in making or administering a contract on behalf of a public agency may derive a direct benefit from the contract except as provided in this section, or as otherwise allowed by law.
  - (2) A public officer or employee who will derive a direct benefit from a contract with the public agency he or she serves, but who is not involved in making or administering the contract, shall not attempt to influence any other person who is involved in making or administering the contract.
  - (3) No public officer or employee may solicit or receive any gift, favor, reward, service, or promise of reward, including a promise of future employment, in exchange for recommending, influencing, or attempting to influence the award of a contract by the public agency he or she serves.
- (a1) For purposes of this section:
  - (1) As used in this section, the term "public officer" means an individual who is elected or appointed to serve or represent a public agency, other than an employee or independent contractor of a public agency.
  - (2) A public officer or employee is involved in administering a contract if he or she oversees the performance of the contract or has authority to make decisions regarding the contract or to interpret the contract.
  - (3) A public officer or employee is involved in making a contract if he or she participates in the development of specifications or terms or in the preparation or award of the contract. A public officer is also involved in making a contract if the board, commission, or other body of which he or she is a member takes action on the contract, whether or not the public officer actually participates in that action, unless the contract is approved under an exception to this section under which the public officer is allowed to benefit and is prohibited from voting.
  - (4) A public officer or employee derives a direct benefit from a contract if the person or his or her spouse: (i) has more than a ten percent (10%) ownership or

other interest in an entity that is a party to the contract; (ii) derives any income or commission directly from the contract; or (iii) acquires property under the contract.

- (5) A public officer or employee is not involved in making or administering a contract solely because of the performance of ministerial duties related to the contract.
- (b) Subdivision (a)(1) of this section does not apply to any of the following:
  - (1) Any contract between a public agency and a bank, banking institution, savings and loan association, or with a public utility regulated under the provisions of Chapter 62 of the General Statutes.
  - (2) An interest in property conveyed by an officer or employee of a public agency under a judgment, including a consent judgment, entered by a superior court judge in a condemnation proceeding initiated by the public agency.
  - (3) Any employment relationship between a public agency and the spouse of a public officer of the agency.
  - (3a) Any employment relationship between a local board of education and the spouse of the superintendent of that local school administrative unit, if that employment relationship has been approved by that board in an open session meeting pursuant to the board's policy adopted as provided in G.S. 115C-47(17a).
  - (4) Remuneration from a public agency for services, facilities, or supplies furnished directly to needy individuals by a public officer or employee of the agency under any program of direct public assistance being rendered under the laws of this State or the United States to needy persons administered in whole or in part by the agency if: (i) the programs of public assistance to needy persons are open to general participation on a nondiscriminatory basis to the practitioners of any given profession, professions or occupation; (ii) neither the agency nor any of its employees or agents, have control over who, among licensed or qualified providers, shall be selected by the beneficiaries of the assistance; (iii) the remuneration for the services, facilities or supplies are in the same amount as would be paid to any other provider; and (iv) although the public officer or employee may participate in making determinations of eligibility of needy persons to receive the assistance, he or she takes no part in approving his or her own bill or claim for remuneration.

(b1) No public officer who will derive a direct benefit from a contract entered into under subsection (b) of this section may deliberate or vote on the contract or attempt to influence any other person who is involved in making or administering the contract.

(c) through (d) Repealed by Session Laws 2001-409, s. 1, effective July 1, 2002.

(d1) Subdivision (a)(1) of this section does not apply to (i) any elected official or person appointed to fill an elective office of a village, town, or city having a population of no more than 20,000 according to the most recent official federal census, (ii) any elected official or person appointed to fill an elective office of a county within which there is located no village, town, or city with a population of more than 20,000 according to the most recent official federal census, (iii) any elected official or person appointed to fill an elective office on a city board of education in a city having a population of no more than 20,000 according to the most recent official federal census, (iv) any elected official or person appointed to fill an elective office as a member of a county board

of education in a county within which there is located no village, town or city with a population of more than 20,000 according to the most recent official federal census, (v) any physician, pharmacist, dentist, optometrist, veterinarian, or nurse appointed to a county social services board, local health board, or area mental health, developmental disabilities, and substance abuse board serving one or more counties within which there is located no village, town, or city with a population of more than 20,000 according to the most recent official federal census, and (vi) any member of the board of directors of a public hospital if all of the following apply:

- (1) The undertaking or contract or series of undertakings or contracts between the village, town, city, county, county social services board, county or city board of education, local health board or area mental health, developmental disabilities, and substance abuse board, or public hospital and one of its officials is approved by specific resolution of the governing body adopted in an open and public meeting, and recorded in its minutes and the amount does not exceed twenty thousand dollars (\$20,000) for medically related services and sixty thousand dollars (\$60,000) for other goods or services within a 12-month period.
- (2) The official entering into the contract with the unit or agency does not participate in any way or vote.
- (3) The total annual amount of contracts with each official, shall be specifically noted in the audited annual financial statement of the village, town, city, or county.
- (4) The governing board of any village, town, city, county, county social services board, county or city board of education, local health board, area mental health, developmental disabilities, and substance abuse board, or public hospital which contracts with any of the officials of their governmental unit shall post in a conspicuous place in its village, town, or city hall, or courthouse, as the case may be, a list of all such officials with whom such contracts have been made, briefly describing the subject matter of the undertakings or contracts and showing their total amounts; this list shall cover the preceding 12 months and shall be brought up-to-date at least quarterly.

(d2) Subsection (d1) of this section does not apply to contracts that are subject to Article 8 of Chapter 143 of the General Statutes, Public Building Contracts.

(d3) Subsection (a) of this section does not apply to an application for or the receipt of a grant under an exempted public program by a member of the Soil and Water Conservation Commission if the requirements of G.S. 139-4(e) are met, and does not apply to a district supervisor of a soil and water conservation district if the requirements of G.S. 139-8(b) are met. For purposes of this subsection, an exempted public program is any of the following:

- (1) The Agriculture Cost Share Program for Nonpoint Source Pollution Control created pursuant to Article 72 of Chapter 106 of the General Statutes.
- (2) The Community Conservation Assistance Program created pursuant to Article 73 of Chapter 106 of the General Statutes.
- (3) The Agricultural Water Resources Assistance Program created pursuant to Article 5 of Chapter 139 of the General Statutes.
- (4) The Streamflow Rehabilitation Assistance Program created pursuant to Article 6 of Chapter 139 of the General Statutes.

(d4) Subsection (a) of this section does not apply to an application for, or the receipt of a grant or other financial assistance from, the Tobacco Trust Fund created under Article 75 of

Chapter 143 of the General Statutes by a member of the Tobacco Trust Fund Commission or an entity in which a member of the Commission has an interest provided that the requirements of G.S. 143-717(h) are met.

(d5) This section does not apply to a public hospital subject to G.S. 131E-14.2 or a public hospital authority subject to G.S. 131E-21.

(d6) Repealed by Session Laws 2016-126, 4th Ex. Sess., s. 13, effective January 1, 2017.

(e) Anyone violating this section shall be guilty of a Class 1 misdemeanor.

(f) A contract entered into in violation of this section is void. A contract that is void under this section may continue in effect until an alternative can be arranged when: (i) immediate termination would result in harm to the public health or welfare, and (ii) the continuation is approved as provided in this subsection. A public agency that is a party to the contract may request approval to continue contracts under this subsection as follows:

(1) Local governments, as defined in G.S. 159-7(15), public authorities, as defined in G.S. 159-7(10), local school administrative units, and community colleges may request approval from the chair of the Local Government Commission.

(2) All other public agencies may request approval from the State Director of the Budget.

Approval of continuation of contracts under this subsection shall be given for the minimum period necessary to protect the public health or welfare. (1825, c. 1269, P.R; 1826, c. 29; R.C., c. 34, s. 38; Code, s. 1011; Rev., s. 3572; C.S., s. 4388; 1929, c. 19, s. 1; 1969, c. 1027; 1975, c. 409; 1977, cc. 240, 761; 1979, c. 720; 1981, c. 103, ss. 1, 2, 5; 1983, c. 544, ss. 1, 2; 1985, c. 190; 1987, c. 570; 1989, c. 231; 1991 (Reg. Sess., 1992), c. 1030, s. 5; 1993, c. 539, s. 145; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 519, s. 4; 2000-147, s. 6; 2001-409, s. 1; 2001-487, ss. 44(a), 44(b), 45; 2002-159, s. 28; 2006-78, s. 2; 2009-2, s. 2; 2009-226, s. 1; 2010-169, s. 2(a); 2011-145, ss. 13.22A(dd), 13.23(b); 2016-126, 4th Ex. Sess., s. 13; 2018-26, s. 1; 2021-117, s. 1(a); 2021-180, s. 5.9(l).)

#### **§ 14-234.1. Misuse of confidential information.**

(a) It is unlawful for any officer or employee of the State or an officer or an employee of any of its political subdivisions, in contemplation of official action by himself or by a governmental unit with which he is associated, or in reliance on information which was made known to him in his official capacity and which has not been made public, to commit any of the following acts:

(1) Acquire a pecuniary interest in any property, transaction, or enterprise or gain any pecuniary benefit which may be affected by such information or official action; or

(2) Intentionally aid another to do any of the above acts.

(b) Violation of this section is a Class 1 misdemeanor. (1987, c. 616; 1993, c. 539, s. 146; 1994, Ex. Sess., c. 24, s. 14(c).)

#### **§ 14-234.2. Public officers or employees financially benefiting from public position.**

(a) No elected officer of a political subdivision of this State shall solicit or receive personal financial gain from the political subdivision of this State for which that elected officer serves by means of intimidation, undue influence, or misuse of the employees of that political subdivision of this State.

(b) This section shall not apply to financial gain received from a political subdivision of this State for acting in the elected official's official capacity or financial gain received with the approval of the governing board of the political subdivision of this State for which that elected officer serves.

(c) Violation of this section shall be a Class H felony. (2021-191, s. 3(a).)

**§ 14-234.3. Local public officials participating in contracts benefiting nonprofits with which associated.**

(a) No public official shall knowingly participate in making or administering a contract, including the award of money in the form of a grant, loan, or other appropriation, with any nonprofit with which that public official is associated. The public official shall record his or her recusal with the clerk to the board, and once recorded, the political subdivision of this State may enter into or administer the contract.

(b) Anyone knowingly violating this section shall be guilty of a Class 1 misdemeanor. The exceptions listed in G.S. 14-234(b) and (d1) through (d5) shall apply to this section.

(c) A contract entered into in violation of this section is void. A contract that is void under this section may continue in effect until an alternative can be arranged when (i) an immediate termination would result in harm to the public health or welfare and (ii) the continuation is approved as provided in this subsection. A political subdivision of this State that is a party to the contract may request approval from the chair of the Local Government Commission to continue contracts under this subsection.

(d) For purposes of this section, the following definitions shall apply:

- (1) Nonprofit with which that public official is associated. – A nonprofit corporation, organization, or association, incorporated or otherwise, that is organized or operating in the State primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes and of which the public official is a director, officer, or governing board member, excluding any board, entity, or other organization created by this State or by any political subdivision of this State.
- (2) Participate in making or administering a contract. – Any of the following actions by a public official:
  - a. Deliberating or voting on the contract.
  - b. Attempting to influence any other person who is deliberating or voting on the contract.
  - c. Soliciting or receiving any gift, favor, reward, service, or promise of reward, including a promise of future employment, in exchange for recommending, influencing, or attempting to influence the award of a contract by the political subdivision of the State with the not-for-profit with which that public official is associated.
- (3) Public official. – Any individual who is elected or appointed to serve on a governing board of a political subdivision of this State. The term shall not include an employee or independent contractor of that political subdivision of this State. (2021-191, s. 4(a).)

**§ 14-235: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 72(11).**

**§ 14-236: Repealed by Session Laws 2001-409, ss. 2, 3, effective July 1, 2002.**

**§ 14-237: Repealed by Session Laws 2001-409, ss. 2, 3, effective July 1, 2002.**

**§ 14-238. Soliciting during school hours without permission of school head.**

No person, agent, representative or salesman shall solicit or attempt to sell or explain any article of property or proposition to any teacher or pupil of any public school on the school grounds or during the school day without having first secured the written permission and consent of the superintendent, principal or person actually in charge of the school and responsible for it.

Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor. (1933, c. 220; 1969, c. 1224, s. 8; 1993, c. 539, s. 149; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 14-239. Allowing prisoners to escape; punishment.**

If any sheriff, deputy sheriff, jailer, or other custodial personnel shall willfully or wantonly allow the escape of any person committed to that person's custody who is (i) a person charged with a crime, (ii) a person sentenced by the court upon conviction of any offense, or (iii) committed to the Division of Juvenile Justice of the Department of Public Safety, that person shall be guilty of a Class 1 misdemeanor. No prosecution shall be brought against any such officer pursuant to this section by reason of a prisoner being allowed to participate pursuant to court order in any work release, work study, community service, or other lawful program, or by reason of any such prisoner failing to return from participation in any such program. (1791, c. 343, s. 1, P.R.; R.C., c. 34, s. 35; Code, s. 1022; 1905, c. 350; Rev., s. 3577; C.S., s. 4393; 1973, c. 108, s. 7; 1983, c. 694; 1993, c. 539, s. 150; 1994, Ex. Sess., c. 24, s. 14(c); 2003-297, s. 1; 2011-145, s. 19.1(l); 2017-186, s. 2(cc); 2021-180, s. 19C.9(z).)

**§ 14-240. District attorney to prosecute officer for escape.**

It shall be the duty of district attorneys, when they shall be informed or have knowledge of any felon, or person otherwise charged with any crime or offense against the State, having within their respective districts escaped out of the custody of any sheriff, deputy sheriff, coroner, or jailer, to take the necessary measures to prosecute such sheriff or other officer so offending. (1791, c. 343, s. 2, P.R.; R.C., c. 34, s. 36; Code, s. 1023; Rev., s. 2822; C.S., s. 4394; 1973, c. 47, s. 2; c. 108, s. 8.)

**§ 14-241. Disposing of public documents or refusing to deliver them over to successor.**

It shall be the duty of the clerk of the superior court of each county, and every other person to whom the acts of the General Assembly, appellate division reports or other public documents are transmitted or deposited for the use of the county or the State, to keep the same safely in their respective offices; and if any such person having the custody of such books and documents, for the uses aforesaid, shall negligently and willfully dispose of the same, by sale or otherwise, or refuse to deliver over the same to his successor in office, he shall be guilty of a Class 1 misdemeanor. If the clerk of superior court or other custodian determines that the acts of the General Assembly or the appellate division reports no longer are necessary to the effective operation of his or her office, the clerk or other custodian may transfer these materials to the proper recipient for disposition as surplus State property or as otherwise directed by the State Surplus Property Agency of the Department of Administration. (1881, c. 151; Code, s. 1073; Rev., s. 3598; C.S., s. 4395; 1969, c. 44, s. 26; 1993, c. 539, s. 151; 1994, Ex. Sess., c. 24, s. 14(c); 2015-40, s. 2.)

**§ 14-242. Failing to return process or making false return.**

If any sheriff, deputy, or other officer, whether State or municipal, or any person who presumes to act as any such officer, not being by law authorized so to do, willfully refuses to return any precept, notice or process, to him tendered or delivered, which it is his duty to execute, or willfully makes a false return thereon, the person who willfully refused to make the return or willfully made the false return shall be guilty of a Class 1 misdemeanor. (1818, c. 980, s. 3, P.R.; 1827, c. 20, s. 4; R.C., c. 34, s. 118; Code, s. 1112; Rev., s. 3604; C.S., s. 4396; 1989, c. 462; 1993, c. 539, s. 152; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 14-243. Failing to surrender tax list for inspection and correction.**

If any tax collector shall refuse or fail to surrender his tax list for inspection or correction upon demand by the authorities imposing the tax, or their successors in office, he shall be guilty of a Class 1 misdemeanor. (1870-1, c. 177, s. 2; Code, s. 3823; Rev., s. 3788; C.S., s. 4397; 1983, c. 670, s. 23; 1993, c. 539, s. 153; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 14-244. Failing to file report of fines or penalties.**

If any officer who is by law required to file any report or statement of fines or penalties with the county board of education shall fail so to do at or before the time fixed by law for the filing of such report, he shall be guilty of a Class 1 misdemeanor. (1901, c. 4, s. 62; Rev., s. 3579; C.S., s. 4398; 1993, c. 539, s. 154; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 14-245. Repealed by Session Laws 1973, c. 108, s. 9.**

**§ 14-246. Failure of ex-magistrate to turn over books, papers and money.**

If any magistrate, on expiration of his term of office, or if any personal representative of a deceased magistrate shall, after demand upon him by the clerk of the superior court, willfully fail and refuse to deliver to the clerk of the superior court all dockets, all law and other books, all money, and all official papers which came into his hands by virtue or color of his office, he shall be guilty of a Class 1 misdemeanor. (Code, ss. 828, 829; 1885, c. 402; Rev., s. 3578; C.S., s. 4399; 1973, c. 108, s. 10; 1993, c. 539, s. 155; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 14-247. Private use of publicly owned vehicle.**

It shall be unlawful for any officer, agent or employee of the State of North Carolina, or of any county or of any institution or agency of the State, to use for any private purpose whatsoever any motor vehicle of any type or description whatsoever belonging to the State, or to any county, or to any institution or agency of the State. It is not a private purpose to drive a permanently assigned state-owned motor vehicle between one's official work station and one's home as provided in G.S. 143-341(8)i7a.

It shall be unlawful for any person to violate a rule or regulation adopted by the Department of Administration and approved by the Governor concerning the control of all state-owned passenger motor vehicles as provided in G.S. 143-341(8)i with the intent to defraud the State of North Carolina. (1925, c. 239, s. 1; 1981, c. 859, ss. 52, 53; 1983, c. 717, s. 75.)

**§ 14-248. Obtaining repairs and supplies for private vehicle at expense of State.**

It shall be unlawful for any officer, agent or employee to have any privately owned motor vehicle repaired at any garage belonging to the State or to any county, or any institution or agency

of the State, or to use any tires, oils, gasoline or other accessories purchased by the State, or any county, or any institution or agency of the State, in or on any such private car. (1925, c. 239, s. 2.)

**§ 14-249. Repealed by Session Laws 1981, c. 268, s. 1.**

**§ 14-250: Repealed by Session Laws 2001-424, s. 6.14(d).**

**§ 14-251. Violation made misdemeanor.**

Any person, firm or corporation violating any of the provisions of G.S. 14-247 to 14-250 shall be guilty of a Class 2 misdemeanor. Nothing in G.S. 14-247 through 14-251 shall apply to the purchase, use or upkeep or expense account of the car for the executive mansion and the Governor. (1925, c. 239, s. 5; 1969, c. 1224, s. 16; 1993, c. 539, s. 156; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 14-252. Five preceding sections applicable to cities and towns.**

General Statutes 14-247 through 14-251 in every respect shall also apply to cities and incorporated towns. (1931, c. 31.)