

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

S

1

SENATE BILL 492

Short Title: Crim. Justice Training Changes.

(Public)

---

Sponsors: Senator Sands.

---

Referred to: Veteran Affairs, Law Enforcement & Senior Citizens.

---

March 20, 1989

A BILL TO BE ENTITLED

1 AN ACT TO MAKE TECHNICAL CHANGES TO THE LAW CONCERNING THE  
2 NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING  
3 STANDARDS COMMISSION.  
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 17C-2(c) reads as rewritten:

7 "(c) 'Criminal justice officer(s)' means and incorporates the administrative and  
8 subordinate personnel of all the departments, agencies, units or entities comprising the  
9 'criminal justice agencies,' as defined in subsection ~~(a)~~, ~~(b)~~, who are sworn law-  
10 enforcement officers, both State and local, with the power of arrest; State correctional  
11 officers; State probation/parole ~~and parole officers;~~ officers, supervisory and  
12 administrative personnel of local confinement facilities; ~~or State youth eorrectional~~  
13 ~~officers-services officers;~~ State probation/parole intake officers; State probation/parole  
14 officers-surveillance; State probation/parole intensive officers; and State parole case  
15 analysts."

16 Sec. 2. G.S. 17C-3 reads as rewritten:

17 "**§ 17C-3. North Carolina Criminal Justice Education and Training Standards**  
18 **Commission established; members; terms; vacancies.**

19 (a) There is ~~hereby~~ established the North Carolina Criminal Justice Education  
20 and Training Standards Commission, hereinafter called 'the Commission,' in the  
21 Department of Justice. The Commission shall be composed of 26 members as follows:

22 (1) Police Chiefs. – Three police chiefs selected by the North Carolina  
23 Association of Chiefs of Police and one police chief appointed by the  
24 Governor.

- 1           (2) Police Officers. – Three police officials appointed by the North  
2 Carolina Association—of Police Executives Association, ~~one police~~  
3 ~~officer and one company police officer~~ and two criminal justice officers  
4 certified by the Commission as selected by the North Carolina Law-  
5 Enforcement Officers' Association.
- 6           (3) Departments. – The Attorney General of the State of North Carolina;  
7 the Secretary of the Department of Crime Control and Public Safety;  
8 the Secretary of the Department of Human Resources; the Secretary of  
9 the Department of Correction; the President of the Department of  
10 Community Colleges.
- 11           (4) At-large Groups. – One individual representing and appointed by each  
12 of the following organizations: one mayor selected by the League of  
13 Municipalities; one law-enforcement training officer selected by the  
14 North Carolina Law-Enforcement Training Officers' Association; one  
15 ~~criminal justice educator~~ criminal justice professional selected by the  
16 North Carolina Association of Criminal Justice Educators; ~~Criminal~~  
17 Justice Association; one sworn law-enforcement officer selected by the  
18 North State Law-Enforcement Officers' Association; one member  
19 selected by the North Carolina Law-Enforcement Women's  
20 Association; and one District Attorney selected by the North Carolina  
21 Association of District Attorneys.
- 22           (5) Citizens and Others. – The President of The University of North  
23 Carolina; the Director of the Institute of Government; and two citizens,  
24 one of whom shall be selected by the Governor and one of whom shall  
25 be selected by the Attorney General. The General Assembly shall  
26 appoint two persons, one upon the recommendation of the Speaker of  
27 the House of Representatives and one upon the recommendation of the  
28 President of the Senate. Appointments by the General Assembly shall  
29 be made in accordance with G.S. 120-122. Appointments by the  
30 General Assembly shall serve two-year terms to conclude on June 30th  
31 in odd-numbered years.

32           (b) The members shall be appointed for staggered terms. The initial appointments  
33 shall be made prior to September 1, 1983, and the appointees shall hold office until July  
34 1 of the year in which their respective terms expire and until their successors are  
35 appointed and qualified as provided hereafter:

36           For the terms of one year: one member from subdivision (1) of subsection (a),  
37 serving as a police chief; three members from subdivision (2) of subsection (a), one  
38 serving as a police official, ~~one serving as a police officer, and one serving as a company~~  
39 ~~police officer; official, and two criminal justice officers;~~ one member from subdivision  
40 (4) of subsection (a), appointed by the North Carolina Law-Enforcement Training  
41 Officers' Association; and two members from subdivision (5) of subsection (a), one  
42 appointed by the Governor and one appointed by the Attorney General.

43           For the terms of two years: one member from subdivision (1) of subsection (a),  
44 serving as a police chief; one member from subdivision (2) of subsection (a), serving as

1 a police official; and two members from subdivision (4) of subsection (a), one appointed  
2 by the League of Municipalities and one appointed by the North Carolina Association of  
3 District Attorneys.

4 For the terms of three years: two members from subdivision (1) of subsection (a),  
5 one police chief appointed by the North Carolina Association of Chiefs of Police and  
6 one police chief appointed by the Governor; one member from subdivision (2) of  
7 subsection (a), serving as a police official; and three members from subdivision (4) of  
8 subsection (a), one appointed by the North Carolina Law-Enforcement Women's  
9 Association, one appointed by the North Carolina ~~Association of Criminal Justice~~  
10 ~~Educators~~, Criminal Justice Association, and one appointed by the North State Law-  
11 Enforcement Officers' Association.

12 Thereafter, as the term of each member expires, his successor shall be appointed for  
13 a term of three years. Notwithstanding the appointments for a term of years, each  
14 member shall serve at the will of the appointing authority.

15 The Attorney General, the Secretary of the Department of Crime Control and Public  
16 Safety, the Secretary of the Department of Human Resources, the Secretary of the  
17 Department of Correction, the President of The University of North Carolina, the  
18 Director of the Institute of Government, and the President of the Department of  
19 Community Colleges shall be continuing members of the Commission during their  
20 tenure. These members of the Commission shall serve ex officio and shall perform their  
21 duties on the Commission in addition to the other duties of their offices. The ex officio  
22 members may elect to serve personally at any or all meetings of the Commission or may  
23 designate, in writing, one member of their respective office, department, university or  
24 agency to represent and vote for them on the Commission at all meetings the ex officio  
25 members are unable to attend.

26 Vacancies in the Commission occurring for any reason shall be filled, for the  
27 unexpired term, by the authority making the original appointment of the person causing  
28 the vacancy. A vacancy may be created by removal of a Commission member by  
29 majority vote of the Commission for misconduct, incompetence, or neglect of duty. A  
30 Commission member may be removed only pursuant to a hearing, after notice, at which  
31 the member subject to removal has an opportunity to be heard."

32 Sec. 3. G.S. 17C-4 reads as rewritten:

33 "**§ 17C-4. Compensation.**

34 (a) Members of the Commission who are State officers or employees shall  
35 receive no compensation for serving on the Commission, but may be reimbursed for  
36 their expenses in accordance with G.S. 138-6. Members of the Commission who are  
37 full-time salaried public officers or employees other than State officers or employees  
38 shall receive no compensation for serving on the Commission, but may be reimbursed  
39 for their expenses in accordance with G.S. 138-5(b). All other members of the  
40 Commission may receive compensation and reimbursement for expenses in accordance  
41 with G.S. 138-5.

42 (b) The Chairman of the Commission may appoint such ad hoc members of the  
43 Commission's standing and select committees as are necessary to carry out the business

1 of the Commission, and such service shall be reimbursed as provided in G.S. 17C-4(a),  
2 subject to the approval of the Attorney General."

3 Sec. 4. G.S. 17C-6 reads as rewritten:

4 **"§ 17C-6. Powers of Commission.**

5 (a) In addition to powers conferred upon the Commission elsewhere in this  
6 Chapter, the Commission shall have the following powers, which shall be enforceable  
7 through its rules and regulations, certification procedures, or the provisions of G.S. 17C-  
8 10:

- 9 (1) Promulgate rules and regulations for the administration of this  
10 Chapter, which rules may require (i) the submission by any criminal  
11 justice agency of information with respect to the employment,  
12 education, retention, and training of its criminal justice officers, and  
13 (ii) the submission by any criminal justice training school of  
14 information with respect to its criminal justice training programs that  
15 are required by this Chapter;
- 16 (2) Establish minimum educational and training standards that must be  
17 met in order to qualify for entry level employment and retention as a  
18 criminal justice officer in temporary or probationary status or in a  
19 permanent position;
- 20 (3) Certify, pursuant to the standards that it has established for the  
21 purpose, persons as qualified under the provisions of this Chapter to be  
22 employed at entry level and retained as criminal justice officers;
- 23 (4) Establish minimum standards for the certification of criminal justice  
24 training schools and programs or courses of instruction that are  
25 required by this Chapter;
- 26 (5) Certify, pursuant to the standards that it has established for the  
27 purpose, criminal justice training schools and programs or courses of  
28 instruction that are required by this Chapter;
- 29 (6) Establish minimum standards and levels of education ~~or equivalent~~ and  
30 experience for all criminal justice ~~teachers—instructors~~ who participate  
31 in programs or courses of instruction that are required by this Chapter;
- 32 (7) Certify, pursuant to the standards that it has established for the  
33 purpose, criminal justice ~~teachers—instructors~~ who participate in  
34 programs or courses of instruction that are required by this Chapter;
- 35 (8) ~~Make—Investigate and make~~ such evaluations as may be necessary to  
36 determine if criminal justice ~~agencies—agencies, schools, and~~  
37 individuals are complying with the provision of this Chapter;
- 38 (9) Adopt and amend bylaws, consistent with law, for its internal  
39 management and control;
- 40 (10) Enter into contracts incident to the administration of its authority  
41 pursuant to this Chapter;
- 42 (11) Establish minimum standards and levels of training for certification  
43 and periodic recertification of operators of and instructors for training

- 1 programs in radio microwave and other electronic speed-measuring  
2 instruments;
- 3 (12) Certify and recertify, pursuant to the standards that it has established,  
4 operators and instructors for training programs for each approved type  
5 of radio microwave and other electronic speed-measuring instruments;
- 6 (13) In conjunction with the Secretary of Crime Control and Public Safety,  
7 approve use of specific models and types of radio microwave and other  
8 speed-measuring instruments and establish the procedures for  
9 operation of each approved instrument and standards for calibration  
10 and testing for accuracy of each approved instrument.
- 11 (14) Establish minimum standards for in-service training for criminal  
12 justice officers.
- 13 (b) The Commission shall have the following powers, which shall be advisory in  
14 nature and for which the Commission is not authorized to undertake any enforcement  
15 actions:
- 16 (1) Identify types of criminal justice ~~positions~~ positions, other than entry  
17 level positions, for which advanced or specialized training and  
18 education are appropriate, and establish minimum standards for the  
19 certification of persons as being qualified for those positions on the  
20 basis of specified education, training, and experience; provided, that  
21 compliance with these minimum standards shall be discretionary on  
22 the part of criminal justice agencies with respect to their criminal  
23 justice officers;
- 24 (2) Certify, pursuant to the standards that it has established for the  
25 purpose, criminal justice officers for those criminal justice agencies  
26 that elect to comply with the minimum education, training, and  
27 experience standards established by the Commission for positions for  
28 which advanced or specialized training, education, and experience are  
29 appropriate;
- 30 (3) Consult and cooperate with counties, municipalities, agencies of this  
31 State, other governmental agencies, and with universities, colleges,  
32 junior colleges, and other institutions concerning the development of  
33 criminal justice training schools and programs or courses of  
34 instruction;
- 35 (4) Study and make reports and recommendations concerning criminal  
36 justice education and training in North Carolina;
- 37 (5) Conduct and stimulate research by public and private agencies which  
38 shall be designed to improve education and training in the  
39 administration of criminal justice;
- 40 (6) Study, obtain data, statistics, and information and make reports  
41 concerning the recruitment, selection, ~~education~~ education, retention,  
42 and training of persons serving criminal justice agencies in this State;  
43 to make recommendations for improvement in methods of recruitment,

1 selection, ~~education~~ education, retention, and training of persons  
2 serving criminal justice agencies;

3 (7) Make recommendations concerning any matters within its purview  
4 pursuant to this Chapter;

5 (8) Appoint such advisory committees as it may deem necessary;

6 (9) Do such things as may be necessary and incidental to the  
7 administration of its authority pursuant to this Chapter;

8 (10) Formulate basic plans for and promote the development and  
9 improvement of a comprehensive system of education and training for  
10 the officers and employees of criminal justice agencies consistent with  
11 its rules and regulations;

12 (11) Maintain liaison among local, State and federal agencies with respect  
13 to criminal justice education and training;

14 (12) Promote the planning and development of a systematic career  
15 development program for criminal justice professionals.

16 (c) All decisions and rules and regulations heretofore made by the North  
17 Carolina Criminal Justice Training and Standards Council and the North Carolina  
18 Criminal Justice Education and Training System Council shall remain in full force and  
19 effect unless and until repealed or suspended by action of the North Carolina Criminal  
20 Justice Education and Training Standards Commission established herein. The present  
21 Councils are terminated on December 31, 1979, and their power, duties and  
22 responsibilities vest in the North Carolina Criminal Justice Education and Training  
23 Standards Commission effective January 1, 1980.

24 (d) The standards established by the Commission pursuant to G.S. 17C-6(a)(11)  
25 and G.S. 17C-6(a)(12) and by the Commission and the Secretary of Crime Control and  
26 Public Safety pursuant to G.S. 17C-6(a)(13) shall not be less stringent than standards  
27 established by the U.S. Department of Transportation, National Highway Traffic Safety  
28 Administration, National Bureau of Standards, or the Federal Communications  
29 Commission."

30 Sec. 5. G.S. 17C-7 reads as rewritten:

31 "**§ 17C-7. Functions of the Department of Justice.**

32 (a) The Attorney General shall provide such staff assistance as the Commission  
33 shall require in the performance of its duties.

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

36 (c) Any papers, documents, or other records which become the property of the  
37 Commission that are placed in the criminal justice officer's personnel file maintained by  
38 the Commission shall be subject to the same disclosure requirements as set forth in  
39 Chapters 126, 153A, and 160A of the General Statutes regarding the privacy of  
40 personnel records."

41 Sec. 6. G.S. 17C-10 reads as rewritten:

42 "**§ 17C-10. Required standards.**

43 (a) Criminal justice officers shall not be required to meet any requirement of  
44 subsections (b) and (c) of this section as a condition of continued employment, nor shall

1 failure of any such criminal justice officer to fulfill such requirements make him  
2 ineligible for any promotional examination for which he is otherwise eligible if the  
3 criminal justice officer held a permanent appointment prior to ~~September 1, 1983,~~ June 1,  
4 1986, and is an officer, supervisor or administrator of a local confinement facility; prior  
5 to March 15, 1973, and is a sworn law enforcement officer with power of arrest; prior to  
6 January 1, 1974, and is a State adult correctional officer; prior to July 1, 1975, and is a  
7 State probation/parole and parole officer; ~~or~~ prior to July 1, 1974, and is a State youth  
8 ~~correctional officer services~~ officer; prior to January 15, 1980, and is a State  
9 probation/parole intake officer, prior to April 1, 1983, and is a State parole case analyst;  
10 prior to December 14, 1983, and is a State probation/parole officer-surveillance; or prior  
11 to February 1, 1987, and is a State probation/parole intensive officer.

12 The legislature finds, and it is ~~hereby~~ declared to be the policy of this Chapter, that  
13 such criminal justice officers have satisfied such entry level requirements by their  
14 experience. It is the intent of the Chapter that all criminal justice officers employed at  
15 the entry level after the Commission has adopted the required standards shall meet the  
16 requirements of this Chapter. All criminal justice officers who are exempted from the  
17 required entry level standards by this subsection shall be subject thereafter to the  
18 requirements of subsections (b) and (c) of this section as well as the requirements of  
19 G.S. 17C-6(a) in order to retain certification.

20 If any criminal justice officer exempted from the required standards by this  
21 provision fails to serve as a criminal justice officer for a 12-month period, said officer  
22 shall be required to comply with the required entry level standards established by the  
23 Commission pursuant to the authority otherwise granted in this ~~section.~~ section and in  
24 G.S. 17C-6(a).

25 ~~(b) The Commission shall provide, by regulation, that no person shall be~~  
26 ~~appointed as a criminal justice officer at entry level, except on a temporary or~~  
27 ~~probationary basis, unless such person has satisfactorily completed an initial preparatory~~  
28 ~~program of training at a school certified by the Commission. Upon separation of a~~  
29 ~~criminal justice officer from a criminal justice agency within the year of temporary or~~  
30 ~~probationary appointment, the probationary certification shall be terminated by the~~  
31 ~~Commission. Upon the reappointment to the same agency or appointment to another~~  
32 ~~criminal justice agency of an officer who has separated from an agency within the year~~  
33 ~~of probation, the officer shall be charged with the amount of time served during his~~  
34 ~~initial appointment and allowed the remainder of the one year probationary period to~~  
35 ~~complete the basic training requirement. Upon the reappointment to the same agency or~~  
36 ~~appointment to another agency of an officer who has separated from an agency within~~  
37 ~~the year of probation and who has remained out of service for more than one year from~~  
38 ~~the date of separation, the officer shall be allowed another one year period to satisfy the~~  
39 ~~basic training requirement. Any criminal justice officer appointed on a temporary or~~  
40 ~~probationary basis who does not comply with the training provisions of this Chapter~~  
41 ~~within one year shall not be authorized to exercise the powers of a criminal justice~~  
42 ~~officer and shall not be authorized to exercise the power of arrest. If, however, a~~  
43 ~~criminal justice officer has enrolled in a Commission approved preparatory program of~~  
44 ~~training that concludes later than the end of the officer's probationary period, the~~

1 ~~Commission may extend, for good cause shown, the probationary period for a period~~  
2 ~~not to exceed six months.~~

3 (b) The Commission shall provide, by regulation, for a period of probationary  
4 employment and certification for criminal justice officers. The Commission may  
5 prescribe such training requirements as are required for the award of either probationary  
6 or permanent certification of officers, in addition to the pre-employment requirements  
7 authorized in G.S. 17C-6(a). Any criminal justice officer appointed on a temporary or  
8 probationary basis who does not comply with the training provisions of this Chapter is  
9 not authorized to exercise the powers of a criminal justice officer to include the power  
10 of arrest. If, however, a criminal justice officer has enrolled in a Commission-approved  
11 preparatory program of training that concludes later than the end of the officer's  
12 probationary period, and the Commission does not require such training to be completed  
13 prior to the award of probationary certification, the Commission may extend, for good  
14 cause shown, the probationary period for a period not to exceed six months.

15 Upon separation of a criminal justice officer from a criminal justice agency within  
16 the prescribed period of temporary or probationary appointment, the officer's  
17 probationary certification shall be terminated by the Commission. Upon the  
18 reappointment to the same agency or appointment to another criminal justice agency of  
19 an officer who has separated from an agency within the probationary period, the officer  
20 shall be charged with the cumulative amount of time served during his initial or  
21 subsequent appointments and allowed the remainder of the probationary period to  
22 complete the Commission's requirements. Upon reappointment to the same agency or  
23 appointment to another agency of an officer who has separated from an agency within  
24 the probationary period and who has remained out of service for more than one year  
25 after the date of separation, the officer shall be allowed another probationary period to  
26 satisfy the Commission's requirements.

27 (c) In addition to the requirements of subsection (b) of this section, the  
28 Commission, by rules and regulations, shall fix other qualifications for the ~~employment~~  
29 employment, training, and retention of criminal justice officers including minimum age,  
30 education, physical and mental standards, citizenship, good moral character, experience,  
31 and such other matters as relate to the competence and reliability of persons to assume  
32 and discharge the responsibilities of criminal justice ~~offices, officers,~~ and the  
33 Commission shall prescribe the means for presenting evidence of fulfillment of these  
34 requirements. ~~When a person presents competent evidence that he has been granted an~~  
35 ~~unconditional pardon, to include but not be limited to a pardon of forgiveness, for a crime in~~  
36 ~~this State, any other state, or the United States, the Commission shall not deny, suspend, or~~  
37 ~~revoke that person's certification based solely on the commission of that crime or an alleged~~  
38 ~~lack of good moral character due to the commission of that crime.~~

39 Where minimum educational standards are not met, yet the individual shows  
40 potential and a willingness to achieve the standards by extra study, they may be waived  
41 by the Commission for the reasonable amount of time it will take to achieve the  
42 standards required. Such an educational waiver shall not exceed 12 months.

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



1 such evidence as may be required by its rules and regulations of satisfactory completion  
2 of a program or course of instruction in another jurisdiction equivalent in content and  
3 quality to that required by the Commission for approved criminal justice education and  
4 training programs in this State."

5 Sec. 7. G.S. 17C-11 reads as rewritten:

6 **"§ 17C-11. Injunctions authorized.**

7 The Commission is ~~hereby~~ authorized to bring a civil ~~action~~ action, in the county of  
8 the residence of the alleged ~~violation~~ violation, against any criminal justice ~~agency~~  
9 agency, which numbers among its employed or appointed criminal justice officers any  
10 criminal justice officer or individual when such officer or individual who fails to  
11 meet the required standards established by the Commission pursuant to G.S. 17C-6(a)  
12 and G.S. 17C-10 of this Chapter and proceeds or continues to perform  
13 criminal justice officer functions. The Commission may ~~to~~ enjoin such criminal justice  
14 officer or individual from performing such criminal justice officer functions, and such  
15 criminal justice agency from allowing such criminal justice officer or individual to  
16 perform any and all criminal justice officer functions, including exercising the power of  
17 arrest, until such time as such criminal justice officer or individual shall comply with  
18 the required standards established by the Commission pursuant to G.S. 17C-6(a) and  
19 G.S. 17C-10 of this Chapter."

20 Sec. 8. Chapter 17C of the General Statutes is amended by adding a new  
21 section to read:

22 **"§ 17C-13. Pardons.**

23 When a person presents competent evidence that he has been granted an  
24 unconditional pardon for a crime in this State, any other state, or the United States, the  
25 Commission may not deny, suspend, or revoke that person's certification based solely  
26 on the commission of that crime or for an alleged lack of good moral character due to  
27 the commission of that crime."

28 Sec. 9. This act shall become effective October 1, 1989.