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Sponsors: Senator Sands.

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

March 20, 1989

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

35 (b) The members shall be appointed for staggered terms. The initial appointments
36 shall be made prior to September 1, 1983, and the appointees shall hold office until July
37 1 of the year in which their respective terms expire and until their successors are
38 appointed and qualified as provided hereafter:

39 For the terms of one year: one member from subdivision (1) of subsection (a),
40 serving as a police chief; three members from subdivision (2) of subsection (a), one
41 serving as a police official, ~~one serving as a police officer, and one serving as a company~~
42 ~~police officer;~~ official, and two criminal justice officers; one member from subdivision
43 (4) of subsection (a), appointed by the North Carolina Law-Enforcement Training

1 Officers' Association; and two members from subdivision (5) of subsection (a), one
2 appointed by the Governor and one appointed by the Attorney General.

3 For the terms of two years: one member from subdivision (1) of subsection (a),
4 serving as a police chief; one member from subdivision (2) of subsection (a), serving as
5 a police official; and two members from subdivision (4) of subsection (a), one appointed
6 by the League of Municipalities and one appointed by the North Carolina Association of
7 District Attorneys.

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

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

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

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

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

37 "**§ 17C-4. Compensation.**

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

1 Commission may receive compensation and reimbursement for expenses in accordance
2 with G.S. 138-5.

3 (b) The Chairman of the Commission may appoint such ad hoc members of the
4 Commission's standing and select committees as are necessary to carry out the business
5 of the Commission, and such service shall be reimbursed as provided in G.S. 17C-4(a),
6 subject to the approval of the Attorney General."

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

8 **"§ 17C-6. Powers of Commission.**

9 (a) In addition to powers conferred upon the Commission elsewhere in this
10 Chapter, the Commission shall have the following powers, which shall be enforceable
11 through its rules and regulations, certification procedures, or the provisions of G.S. 17C-
12 10:

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

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

- 1 (6) Study, obtain data, statistics, and information and make reports
2 concerning the recruitment, selection, ~~education~~education, retention,
3 and training of persons serving criminal justice agencies in this State;
4 to make recommendations for improvement in methods of recruitment,
5 selection, ~~education~~education, retention, and training of persons
6 serving criminal justice agencies;
- 7 (7) Make recommendations concerning any matters within its purview
8 pursuant to this Chapter;
- 9 (8) Appoint such advisory committees as it may deem necessary;
- 10 (9) Do such things as may be necessary and incidental to the
11 administration of its authority pursuant to this Chapter;
- 12 (10) Formulate basic plans for and promote the development and
13 improvement of a comprehensive system of education and training for
14 the officers and employees of criminal justice agencies consistent with
15 its rules and regulations;
- 16 (11) Maintain liaison among local, State and federal agencies with respect
17 to criminal justice education and training;
- 18 (12) Promote the planning and development of a systematic career
19 development program for criminal justice professionals.

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

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

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

35 "**§ 17C-7. Functions of the Department of Justice.**

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

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

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

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

2 "**§ 17C-10. Required standards.**

3 (a) Criminal justice officers shall not be required to meet any requirement of
4 subsections (b) and (c) of this section as a condition of continued employment, nor shall
5 failure of any such criminal justice officer to fulfill such requirements make him
6 ineligible for any promotional examination for which he is otherwise eligible if the
7 criminal justice officer held a permanent appointment prior to ~~September 1, 1983,~~ June 1,
8 1986, and is an officer, supervisor or administrator of a local confinement facility; prior
9 to March 15, 1973, and is a sworn law enforcement officer with power of arrest; prior to
10 January 1, 1974, and is a State adult correctional officer; prior to July 1, 1975, and is a
11 State probation/parole and parole officer; ~~or~~ prior to July 1, 1974, and is a State youth
12 ~~correctional officer services~~ officer; prior to January 15, 1980, and is a State
13 probation/parole intake officer, prior to April 1, 1983, and is a State parole case analyst;
14 prior to December 14, 1983, and is a State probation/parole officer-surveillance; or prior
15 to February 1, 1987, and is a State probation/parole intensive officer.

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

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

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

1 ~~within one year shall not be authorized to exercise the powers of a criminal justice~~
2 ~~officer and shall not be authorized to exercise the power of arrest. If, however, a~~
3 ~~criminal justice officer has enrolled in a Commission approved preparatory program of~~
4 ~~training that concludes later than the end of the officer's probationary period, the~~
5 ~~Commission may extend, for good cause shown, the probationary period for a period~~
6 ~~not to exceed six months.~~

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

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

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

43 Where minimum educational standards are not met, yet the individual shows
44 potential and a willingness to achieve the standards by extra study, they may be waived

1 by the Commission for the reasonable amount of time it will take to achieve the
2 standards required. Such an educational waiver shall not exceed 12 months.

3 (d) The Commission may issue a certificate evidencing satisfaction of the
4 requirements of subsections (b) and (c) of this section to any applicant who presents
5 such evidence as may be required by its rules and regulations of satisfactory completion
6 of a program or course of instruction in another jurisdiction equivalent in content and
7 quality to that required by the Commission for approved criminal justice education and
8 training programs in this State."

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

10 **"§ 17C-11. Injunctions authorized. Power of the Commission to seek injunction.**

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

20 The Commission may appear in its own name and apply to courts having jurisdiction
21 for injunctions to prevent violations of this Chapter or of rules issued pursuant thereto;
22 specifically, the performance of criminal justice officer functions by officers or
23 individuals who are not in compliance with the standards and requirements of G.S. 17C-
24 6(a) and G.S. 17C-10. A single act of performance of a criminal justice officer function
25 by an officer or individual who is performing such function in violation of this Chapter
26 is sufficient, if shown, to invoke the injunctive relief of this section."

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

29 **"§ 17C-13. Pardons.**

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

35 Sec. 9. This act shall become effective October 1, 1989 and shall not apply to
36 pending litigation.