

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007**

S

1

**SENATE BILL 1396**

Short Title: Deputy Sheriff Employment Protection. (Public)

Sponsors: Senators East and Berger of Franklin.

Referred to: Rules and Operations of the Senate.

March 26, 2007

A BILL TO BE ENTITLED  
AN ACT RELATING TO THE "JUST CAUSE" TERMINATION OF DEPUTY  
SHERIFFS, AFFORDING ADMINISTRATIVE AND JUDICIAL REVIEW OF  
DISCIPLINARY ACTIONS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 126-5(a) reads as rewritten:

"(a) The provisions of this Chapter shall apply to:

- (1) All State employees not herein exempt, and
- (2) All employees of the following local entities:
  - a. Area mental health, developmental disabilities, and substance abuse authorities.
  - b. Local social services departments.
  - c. County health departments and district health departments.
  - d. Local emergency management agencies that receive federal grant-in-aid funds.

An employee of a consolidated county human services agency created pursuant to G.S. 153A-77(b) is not considered an employee of an entity listed in this subdivision.

(3) County employees not included under subdivision (2) of this subsection as the several boards of county commissioners may from time to time determine.

(4) Sheriffs' deputies as provided by G.S. 153A-103(b)."

**SECTION 2.** G.S. 153A-103 reads as rewritten:

**"§ 153A-103. Number of employees in offices of sheriff and register of deeds.**

(a) Subject to the limitations set forth below, the board of commissioners may fix the number of salaried employees in the ~~offices of the sheriff and~~ office of the register of deeds. In exercising the authority granted by this section, the board of commissioners is subject to the following limitations:

1           (1) Each ~~sheriff and~~ register of deeds elected by the people has the  
2 exclusive right to hire, discharge, and supervise the employees in ~~his~~  
3 the register's office. However, the board of commissioners must  
4 approve the appointment by ~~such an~~ the officer of a relative by blood  
5 or marriage of nearer kinship than first cousin or of a person who has  
6 been convicted of a crime involving moral turpitude.

7           (2) Each ~~sheriff and~~ register of deeds elected by the people is entitled to at  
8 least two deputies who shall be reasonably compensated by the county,  
9 provided that the register of deeds justifies to the Board of County  
10 Commissioners the necessity of the second deputy. Each deputy so  
11 appointed shall serve at the pleasure of the appointing officer.

12       Notwithstanding the foregoing provisions of this section, approval of the board of  
13 commissioners is not required for the reappointment or continued employment of a ~~near~~  
14 ~~relative of a sheriff or~~ register of deeds who was not related to the appointing officer at  
15 the time of initial appointment.

16       **(b)** The board of commissioners may fix the number of salaried employees in the  
17 office of the sheriff. Each sheriff elected by the people has the right to hire, discharge,  
18 and supervise employees as follows:

19           (1) Policy-making and executive managerial deputies serve at the pleasure  
20 of the sheriff. Non-sworn employees serve at the pleasure of the  
21 sheriff.

22           (2) Rank and file deputies may be terminated by the sheriff only for just  
23 cause and may request a contested case hearing under Article 3 of  
24 Chapter 150B of the General Statutes, with judicial review pursuant to  
25 Article 4 of Chapter 150B of the General Statutes.

26           (3) The board of commissioners must approve the appointment by the  
27 sheriff of a relative by blood or marriage of nearer kinship than first  
28 cousin or of a person who has been convicted of a crime involving  
29 moral turpitude. Approval of the board of commissioners is not  
30 required for the reappointment or continued employment of a near  
31 relative of a sheriff who was not related to the sheriff at the time of  
32 initial appointment."

33       **SECTION 3.** This act becomes effective July 1, 2007, and applies to  
34 disciplinary actions commenced on or after that date.