

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

H.B. 643  
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HOUSE PRINCIPAL CLERK

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HOUSE DRH80251-ML-171 (03/28)

Short Title: Protect Officers from Retaliation. (Public)

Sponsors: Representatives Cotham, Dollar, Collins, and Murry (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROTECT MUNICIPAL AND COUNTY LAW ENFORCEMENT OFFICERS  
3 WHO REPORT IMPROPER OR UNLAWFUL GOVERNMENT ACTIVITY FROM  
4 RETALIATION.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 5 of Chapter 153A of the General Statutes is amended by  
7 adding a new section to read:

8 **"§ 153A-99.2. Protection from retaliation for county law enforcement officers.**

9 (a) Definitions. – The following definitions apply in this section:

10 (1) Employing agency. – A sheriff's department or county police department.

11 (2) County law enforcement officer. – A full-time paid employee of an  
12 employing agency who is actively serving in a position with assigned  
13 primary duties and responsibilities for prevention and detection of crime or  
14 the general enforcement of the criminal laws of the State or serving civil  
15 processes and who possesses the power of arrest by virtue of an oath  
16 administered under the authority of the State.

17 (b) Statement of Policy. – It is the policy of this State that county law enforcement  
18 officers shall be encouraged to report verbally or in writing to their supervisor, department  
19 head, or other appropriate authority evidence of activity constituting any of the following:

20 (1) A violation of State or federal law, rule, or regulation.

21 (2) Fraud.

22 (3) Misappropriation of State and local government resources.

23 (4) Substantial and specific danger to the public health and safety.

24 (5) Gross mismanagement, a gross waste of monies, or gross abuse of authority.

25 Further, it is the policy of this State that county law enforcement officers be free of  
26 intimidation or harassment when reporting to public bodies about matters of public concern,  
27 including offering testimony to or testifying before appropriate legislative or judicial panels.

28 (c) Protection from Retaliation. –

29 (1) No employing agency shall discharge, threaten, or otherwise discriminate  
30 against a county law enforcement officer regarding the officer's  
31 compensation, terms, conditions, location, or privileges of employment  
32 because the officer or a person acting on behalf of the officer reports or is  
33 about to report verbally or in writing any activity described in subsection (b)  
34 of this section unless the officer knows or has reason to believe that the  
35 report is inaccurate.



1           (2)   No county law enforcement officer shall retaliate against another county law  
2           enforcement officer because the officer or a person acting on behalf of the  
3           officer reports or is about to report verbally or in writing any activity  
4           described in subsection (b) of this section.

5           (3)   No employing agency shall discharge, threaten, or otherwise discriminate  
6           against a county law enforcement officer regarding the officer's  
7           compensation, terms, conditions, location, or privileges of employment  
8           because the officer has refused to carry out a directive which in fact  
9           constitutes a violation of State or federal law, rule, or regulation or poses a  
10          substantial and specific danger to the public health and safety.

11          (4)   No county law enforcement officer shall retaliate against another county law  
12          enforcement officer because the officer has refused to carry out a directive  
13          which may constitute a violation of State or federal law, rule, or regulation  
14          or pose a substantial and specific danger to the public health and safety.

15          (d)   Civil Actions for Injunctive Relief or Other Remedies. – For claims arising under  
16          this section only, a county law enforcement officer injured by a violation of this section may  
17          maintain an action in superior court for damages, an injunction, or other remedies provided in  
18          this section against the person or employing agency who committed the violation within one  
19          year after the occurrence of the alleged violation of this section. Any claim arising under  
20          Article 21 of Chapter 95 of the General Statutes may be maintained pursuant to the provisions  
21          of that Article only and may be redressed only by the remedies and relief available under that  
22          Article.

23          (e)   Remedies. – A court, in rendering a judgment in an action brought pursuant to this  
24          section, may order an injunction, damages, reinstatement of the county law enforcement  
25          officer, the payment of back wages, full reinstatement of fringe benefits and seniority rights,  
26          costs, reasonable attorneys' fees, or any combination of these. If an application for a permanent  
27          injunction is granted, the officer shall be awarded costs and reasonable attorneys' fees. If in an  
28          action for damages the court finds that the officer was injured by a willful violation of this  
29          section, the court shall award as damages three times the amount of actual damages plus costs  
30          and reasonable attorneys' fees against the person or employing agency found to be in violation  
31          of this section.

32          (f)   Notice of Employee Protections and Obligations. – It shall be the duty of the  
33          employing agency of the county law enforcement officer to post notice in accordance with  
34          G.S. 95-9 or use other appropriate means to keep county law enforcement officers informed of  
35          their protections and obligations under this Article."

36          **SECTION 2.** Article 13 of Chapter 160A of the General Statutes is amended by  
37 adding a new section to read:

38          **"§ 160A-290. Protection from retaliation for municipal law enforcement officers.**

39          (a)   Definitions. – The following definitions apply in this section:

40          (1)   Employing agency. – A city or unified city-county government police  
41          agency.

42          (2)   Municipal law enforcement officer. – A full-time paid employee of an  
43          employing agency who is actively serving in a position with assigned  
44          primary duties and responsibilities for prevention and detection of crime or  
45          the general enforcement of the criminal laws of the State or serving civil  
46          processes and who possesses the power of arrest by virtue of an oath  
47          administered under the authority of the State.

48          (b)   Statement of Policy. – It is the policy of this State that municipal law enforcement  
49          officers shall be encouraged to report verbally or in writing to their supervisor, department  
50          head, or other appropriate authority evidence of activity constituting any of the following:

51          (1)   A violation of State or federal law, rule, or regulation.

- 1           (2)    Fraud.
- 2           (3)    Misappropriation of State and local government resources.
- 3           (4)    Substantial and specific danger to the public health and safety.
- 4           (5)    Gross mismanagement, a gross waste of monies, or gross abuse of authority.

5       Further, it is the policy of this State that municipal law enforcement officers be free of  
6 intimidation or harassment when reporting to public bodies about matters of public concern,  
7 including offering testimony to or testifying before appropriate legislative or judicial panels.

8       (c)    Protection from Retaliation. –

- 9           (1)    No employing agency shall discharge, threaten, or otherwise discriminate  
10 against a municipal law enforcement officer regarding the officer's  
11 compensation, terms, conditions, location, or privileges of employment  
12 because the officer or a person acting on behalf of the officer reports or is  
13 about to report verbally or in writing any activity described in subsection (b)  
14 of this section unless the officer knows or has reason to believe that the  
15 report is inaccurate.
- 16          (2)    No municipal law enforcement officer shall retaliate against another  
17 municipal law enforcement officer because the officer or a person acting on  
18 behalf of the officer reports or is about to report verbally or in writing any  
19 activity described in subsection (b) of this section.
- 20          (3)    No employing agency shall discharge, threaten, or otherwise discriminate  
21 against a municipal law enforcement officer regarding the officer's  
22 compensation, terms, conditions, location, or privileges of employment  
23 because the officer has refused to carry out a directive which in fact  
24 constitutes a violation of State or federal law, rule, or regulation or poses a  
25 substantial and specific danger to the public health and safety.
- 26          (4)    No municipal law enforcement officer shall retaliate against another  
27 municipal law enforcement officer because the officer has refused to carry  
28 out a directive which may constitute a violation of State or federal law, rule,  
29 or regulation or pose a substantial and specific danger to the public health  
30 and safety.

31       (d)    Civil Actions for Injunctive Relief or Other Remedies. – For claims arising under  
32 this section only, a municipal law enforcement officer injured by a violation of this section may  
33 maintain an action in superior court for damages, an injunction, or other remedies provided in  
34 this section against the person or employing agency who committed the violation within one  
35 year after the occurrence of the alleged violation of this section. Any claim arising under  
36 Article 21 of Chapter 95 of the General Statutes may be maintained pursuant to the provisions  
37 of that Article only and may be redressed only by the remedies and relief available under that  
38 Article.

39       (e)    Remedies. – A court, in rendering a judgment in an action brought pursuant to this  
40 section, may order an injunction, damages, reinstatement of the municipal law enforcement  
41 officer, the payment of back wages, full reinstatement of fringe benefits and seniority rights,  
42 costs, reasonable attorneys' fees, or any combination of these. If an application for a permanent  
43 injunction is granted, the officer shall be awarded costs and reasonable attorneys' fees. If in an  
44 action for damages the court finds that the officer was injured by a willful violation of this  
45 section, the court shall award as damages three times the amount of actual damages plus costs  
46 and reasonable attorneys' fees against the person or employing agency found to be in violation  
47 of this section.

48       (f)    Notice of Employee Protections and Obligations. – It shall be the duty of the  
49 employing agency of the municipal law enforcement officer to post notice in accordance with  
50 G.S. 95-9 or use other appropriate means to keep municipal law enforcement officers informed  
51 of their protections and obligations under this section."

1                   **SECTION 3.** This act becomes effective October 1, 2013, and applies to acts  
2 incurring liability on or after that date.