

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 419

Short Title: Protect Officers From Retaliation. (Public)

Sponsors: Representatives Conrad, Avila, Dollar, and Cotham (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary I, if favorable, Rules, Calendar, and Operations of the House.

April 1, 2015

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

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 13 of Chapter 160A of the General Statutes is amended by
6 adding a new section to read:

7 "**§ 160A-290. Protection from retaliation for municipal law enforcement officers.**

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

9 (1) Employing agency. – A city or unified city-county government police
10 agency.

11 (2) Municipal 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 municipal 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 municipal 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 municipal 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 municipal law enforcement officer shall retaliate against another
2 municipal law enforcement officer because the officer or a person acting on
3 behalf of the officer reports or is about to report verbally or in writing any
4 activity described in subsection (b) of this section.

5 (3) No employing agency shall discharge, threaten, or otherwise discriminate
6 against a municipal 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 municipal law enforcement officer shall retaliate against another
12 municipal law enforcement officer because the officer has refused to carry
13 out a directive which may constitute a violation of State or federal law, rule,
14 or regulation or pose a substantial and specific danger to the public health
15 and safety.

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

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

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

37 **SECTION 2.** This act becomes effective October 1, 2015, and applies to acts
38 incurring liability on or after that date.