

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SENATE BILL 527
RATIFIED BILL**

AN ACT TO ENHANCE THE CAPACITY OF PRIVATE INSTITUTIONS OF HIGHER EDUCATION TO PROTECT THE SAFETY AND WELFARE OF THEIR STUDENTS, FACULTY, AND STAFF BY ENACTING THE CAMPUS POLICE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding a new Chapter to read:

**"Chapter 74G.
"Campus Police Act.**

"§ 74G-1. Title.

This Chapter is the "Campus Police Act" and may be cited by that name.

"§ 74G-2. Policy and scope.

(a) The purpose of this Chapter is to protect the safety and welfare of students, faculty, and staff in institutions of higher education by fostering integrity, proficiency, and competence among campus police agencies and campus police officers. To achieve this purpose, the General Assembly finds that a Campus Police Program needs to be established. As part of the Campus Police Program, the Attorney General is given the authority to certify a private, nonprofit institution of higher education, other than those described by G.S. 116-15(d), as a campus police agency and to commission an individual as a campus police officer.

(b) The purpose of this Chapter is also to assure, to the extent consistent with the State and federal constitutions, that this protection is not denied to students, faculty, and staff at private, nonprofit institutions of higher education originally established by or affiliated with religious denominations. To achieve this purpose, the General Assembly finds that:

- (1) Most of the State's private, nonprofit institutions of higher education were originally established by or affiliated with religious denominations;
- (2) These institutions have made and continue to make significant contributions in education to the State and the nation;
- (3) These institutions admit students regardless of their spiritual or religious beliefs;
- (4) These institutions' principal mission is educational;
- (5) All of these institutions are accredited by the Commission on Colleges of the Southern Association of Colleges and Schools and as such have independent governing boards of trustees;
- (6) The principal State power conferred on campus police by this Chapter is the power of arrest;
- (7) This power is important to protect the safety and welfare of students, faculty, and staff at these institutions;
- (8) In exercising the power of arrest, these officers apply standards established by State and federal law only; and
- (9) The exercise of this power is reviewable by the General Court of Justice and the federal courts.

(c) Public educational institutions operating under the authority of the Board of Governors of The University of North Carolina or the State Board of Community Colleges and private educational institutions that are licensed by the Board of Governors of The University of North Carolina pursuant to G.S. 116-15 or that are exempt from licensure by the Board of Governors pursuant to G.S. 116-15(c) may apply to the Attorney General to be certified as a campus police agency. A campus police agency may apply to the Attorney General to commission an individual designated by the agency to act as a campus police officer for the agency.

"§ 74G-3. Liability insurance policy or certificate of self-insurance required; suspension of campus police agency certification for failure to comply.

(a) An applicant for certification as a campus police agency must file with the Attorney General either a copy of a liability insurance policy that meets the requirements of this section or a certificate of self-insurance designating assets sufficient to satisfy the coverage requirements of this section if the applicant is a nonpublic entity. The policy or certificate of self-insurance must provide not less than one million dollars (\$1,000,000) of coverage per incident for personal injury or property damage resulting from a negligent act of the applicant or an agent or employee of the applicant operating in the course and scope of employment or under color of law. The form, execution, and terms of a liability insurance policy must meet the requirements of the Attorney General.

(b) An insurance carrier that issues a liability insurance policy required by this section may cancel the policy upon giving 30 days' written notice to both the campus police agency and the Attorney General. The written notice must be given by certified mail, return receipt requested. Cancellation of a liability insurance policy does not affect any liability on the policy that accrued prior to the effective cancellation date.

(c) A campus police agency that is a nonpublic entity must maintain the liability insurance policy or certificate of self-insurance required by this section in effect at all times. The Attorney General shall suspend the certification of a campus police agency that fails to maintain a liability insurance policy or certificate of self-insurance when required to do so by this section. A certification suspended for this reason may not be reinstated until the person whose certification was suspended files with the Attorney General an application for reinstatement and either the required liability insurance policy or certificate of self-insurance.

"§ 74G-4. Powers of Attorney General.

The Attorney General has the following powers in addition to those conferred elsewhere in this Chapter:

- (1) To establish minimum education, experience, and training standards and establish and require written or oral examinations for an applicant for certification as a campus police agency, a certified campus police agency, an applicant for commission as a campus police officer, or a commissioned campus police officer.
- (2) To require a campus police agency or a campus police officer to submit reports or other information.
- (3) To inspect records maintained by a campus police agency.
- (4) To conduct investigations regarding alleged violations of this Chapter or a rule adopted under this Chapter and to make evaluations as may be necessary to determine if a campus police agency or a campus police officer is complying with this Chapter or a rule adopted under this Chapter.
- (5) To deny, suspend, or revoke a certification as a campus police agency or a commission as a campus police officer for failure to meet the requirements of or comply with this Chapter or a rule adopted under this Chapter, in accordance with Article 3 of Chapter 150B of the General Statutes.

- (6) To appear in the name of the Campus Police Program and apply to the courts having jurisdiction for injunctions to prevent a violation of this Chapter or a rule adopted under this Chapter.
- (7) To delegate the authority to administer this Chapter.
- (8) To require that the Criminal Justice Standards Division provide administrative support staff for the Campus Police Program.
- (9) To adopt rules needed to implement this Chapter, in accordance with Chapter 150B of the General Statutes.

"§ 74G-5. Records.

(a) The Attorney General is the legal custodian of all books, papers, documents, or other records and property of the Campus Police Program.

(b) Any papers, documents, or other records that become the property of the Campus Police Program and are placed in a campus police officer's personnel file maintained by the Attorney General are subject to the same restrictions concerning disclosure as set forth in Chapters 126, 153A, and 160A of the General Statutes for other personnel records.

(c) Notwithstanding the provisions of subsection (b) of this section, the Attorney General may disclose the contents of any records maintained under the authority of this Chapter to the Criminal Justice Education and Training Standards Commission, the Sheriff's Education and Training Standards Commission, or any other criminal justice agency for certification or employment purposes.

"§ 74G-6. Oaths, powers, and authority of campus police officers.

(a) Requirements. – An individual who is commissioned as a campus police officer must take the oath of office required of a law enforcement officer before the individual assumes the duties of a campus police officer. The person in each campus police agency who is responsible for the agency's campus police officers must be commissioned as a campus police officer.

(b) Powers and Authority of Officers. – Campus police officers, while in the performance of their duties of employment, have the same powers as municipal and county police officers to make arrests for both felonies and misdemeanors and to charge for infractions on any of the following:

- (1) Real property owned by or in the possession and control of the institution employing the officer.
- (2) Any portion of any public road or highway passing through the real property described in subdivision (1) of this subsection or immediately adjoining it, wherever located.
- (3) Any other real property while in continuous and immediate pursuit of a person for an offense committed upon property described in subdivision (1) or (2) of this subsection.

In exercising the powers conferred by this subsection, campus police officers shall apply the standards established by the law of this State and the United States.

(c) Powers and Authority of Institutions. – The governing body of any private educational institution that has a campus police agency may:

- (1) Enter into joint agreements with the governing board of any municipality to extend the law enforcement authority of campus police officers into any or all of the municipality's jurisdiction and to determine the circumstances in which this extension of authority may be granted;
- (2) Enter into joint agreements with the governing board of any county and, with the consent of the sheriff, to extend the law enforcement authority of campus police officers into any or all of the county's jurisdiction and to determine the circumstances in which this extension of authority may be granted; and
- (3) Enter into joint agreements with the governing board of any other public or private educational institution that has a campus police

agency pursuant to this Chapter or pursuant to G.S. 116-40.5 to extend the law enforcement authority of its campus police officers into any or all of the other institution's jurisdiction and to determine the circumstances as to which its extension of authority may be granted.

(d) Concealed Weapons. – Campus police officers shall have, if duly authorized by their campus police agency and by the sheriff of the county in which the campus police agency is located, the authority to carry concealed weapons pursuant to and in conformity with G.S. 14-269(b)(5).

(e) Public Institutions Option. – Notwithstanding any of the provisions of this Chapter, the board of trustees of any constituent institution of The University of North Carolina may elect to have its officers certified under Chapter 17C and Chapter 116 of the General Statutes, and the board of trustees of any community college may elect to have its officers certified under Chapter 17C and Chapter 115D of the General Statutes rather than requesting certification as a campus police agency and campus police commission pursuant to the provisions of this Chapter.

(f) Exclusive Authority. – Notwithstanding any other provision of law, the authority granted to campus police officers certified under this Chapter shall be limited to the provisions of this Chapter.

"§ 74G-7. Badges, uniforms, weapons, and vehicles.

Campus police agencies shall be responsible for ensuring that all employees, whether or not commissioned, comply with the provisions of this Chapter and the rules adopted under this Chapter, including those provisions pertaining to the wearing of badges and uniforms, the carrying of weapons, and the operation of vehicles.

"§ 74G-8. Minimum standards for campus police officers.

Applicants for commission as a campus police officer and a commissioned campus police officer must meet and maintain the same minimum preemployment and in-service standards as are required for State law enforcement officers by the North Carolina Criminal Justice Education and Training Standards Commission and must meet and maintain any other preemployment and in-service requirements set by the Attorney General.

"§ 74G-9. Compensation of campus police officers.

The compensation of a campus police officer shall be paid by the campus police agency for which the officer is commissioned, as may be agreed on between them.

"§ 74G-10. Expiration, renewal, and termination of agency certification or officer commission.

(a) Agency. – Unless sooner suspended or revoked by the Attorney General, a campus police agency's certification expires on June 30 of the calendar year following the date it is issued. A campus police agency may renew the certification upon payment of the appropriate fee and compliance with this Chapter and the rules adopted under this Chapter. An entity whose campus police agency's certification was denied or revoked for a violation of this Chapter or a rule adopted under this Chapter is not eligible to apply again for that certification for three years.

(b) Officer. – Unless sooner suspended or revoked by the Attorney General, a campus police officer's commission expires on June 30 of the calendar year following the date it is issued. A campus police officer may renew a commission upon payment of the appropriate fee and compliance with this Chapter and the rules adopted under this Chapter. The Attorney General shall immediately revoke the commission of a campus police officer when any of the following occurs:

- (1) Termination of employment with the campus police agency for which the officer is commissioned.
- (2) Termination, suspension, or revocation of the certification of the campus police agency for which the officer is commissioned.
- (3) Failure to meet in-service training requirements as required by this Chapter or the rules adopted under this Chapter.
- (4) Violation of this Chapter or a rule adopted under this Chapter.

An individual whose campus police officer's commission was denied or revoked for a violation of this Chapter or a rule adopted under this Chapter is not eligible to apply again for a commission for three years.

"§ 74G-11. Immunity.

Neither the Attorney General nor any of the Attorney General's employees may be held criminally or civilly liable for any acts or omissions in carrying out the provisions of this Chapter or for the acts or omissions of agencies or officers certified or commissioned under this Chapter.

"§ 74G-12. Fees.

The Attorney General may charge fees for the items listed in the following table, not to exceed the amounts listed in the table:

| <u>Item</u> | <u>Maximum Fee</u> |
|---------------------------------------------------------------------------------|--------------------|
| <u>Application for certification as a campus police agency</u> | <u>\$ 250.00</u> |
| <u>Annual renewal of certification as a campus police agency</u> | <u>\$ 200.00</u> |
| <u>Application for reinstatement of certification as a campus police agency</u> | <u>\$ 1,000</u> |
| <u>Application for commission as a campus police officer</u> | <u>\$ 100.00</u> |
| <u>Annual renewal of commission as a campus police officer</u> | <u>\$ 50.00</u> |
| <u>Application for reinstatement of commission as a campus police officer</u> | <u>\$ 150.00</u> |

The fees imposed under this section are not refundable. Fees collected under this section shall be applied to the cost of administering this Chapter.

"§ 74G-13. Penalties and enforcement.

(a) No private person, firm, association, or corporation, and no public institution, agency, or other entity shall engage in, perform any services as, or in any way hold itself out as a campus police agency or engage in the recruitment or hiring of campus police officers without having first complied with the provisions of this Chapter. Any person, firm, association, or corporation or their agents and employees violating any of the provisions of this Chapter shall be guilty of a Class 1 misdemeanor.

(b) The Campus Police Program may apply in its own name to the superior court for an injunction to prevent any violation or threatened violation of this Chapter or a rule adopted under this Chapter, and the superior courts have jurisdiction to grant the requested relief, irrespective of whether or not criminal prosecution has been instituted or administrative sanctions imposed because of the violation. The venue for an action brought under this subsection shall be in any county selected by the Attorney General.

(c) This section does not relieve a campus police agency from any civil liability for the acts of its campus police officers in exercising or attempting to exercise the powers conferred by this Chapter."

SECTION 2. G.S. 74E-2(b) reads as rewritten:

"(b) ~~A public or private educational institution or hospital, a State institution, or a corporation engaged in providing on-site police security personnel services for persons or property may apply to the Attorney General to be certified as a company police agency. A company police agency may apply to the Attorney General to commission an individual designated by the agency to act as a company police officer for the agency.~~"

SECTION 3. G.S. 74E-6 reads as rewritten:

"§ 74E-6. Oaths, powers, and authority of company police officers.

(a) Requirements. – An individual who is commissioned as a company police officer must take the oath of office required of a law enforcement officer before the individual assumes the duties of a company police officer. The person in each company

police agency who is responsible for the agency's company police officers must be commissioned as a company police officer.

(b) Categories. – The following three distinct classifications of company police officers are established:

- (1) Campus Police Officers – ~~Only Those~~ those company police officers who are employed by any college or university that is a constituent institution of The University of North Carolina or any private college or university that is licensed or exempted from licensure as prescribed by ~~G.S. 116-15~~.G.S. 116-15, and who are employed by a campus police agency that was licensed pursuant to this Chapter prior to the enactment of Chapter 74G of the General Statutes.
- (2) Railroad Police Officers – Those company police officers who are employed by a certified rail carrier and commissioned as company police officers under this Chapter.
- (3) Special Police Officers – All company police officers not designated as a campus police officer or railroad police officer.

(c) All Company Police. – Company police officers, while in the performance of their duties of employment, have the same powers as municipal and county police officers to make arrests for both felonies and misdemeanors and to charge for infractions on any of the following:

- (1) Real property owned by or in the possession and control of their employer.
- (2) Real property owned by or in the possession and control of a person who has contracted with the employer to provide on-site company police security personnel services for the property.
- (3) Any other real property while in continuous and immediate pursuit of a person for an offense committed upon property described in subdivisions (1) or (2) of this subsection.

Company police officers shall have, if duly authorized by the superior officer in charge, the authority to carry concealed weapons pursuant to and in conformity with G.S. 14-269(b)(5).

(d) Campus Police. – Campus police officers have the powers contained in subsection (c) of this section and also have the powers in that subsection upon that portion of any public road or highway passing through or immediately adjoining the property described in that subsection, wherever located. The board of trustees of any college or university that qualifies as a campus police agency pursuant to this Chapter may enter into a mutual aid agreement with the governing board of a municipality or, with the consent of the county sheriff, a county to the same extent as a municipal police department pursuant to Chapter 160A.

(e) Railroad Police. – Railroad police officers have the powers contained in subsection (c) and also have the powers and authority granted by federal law or by a regulation promulgated by the United States Secretary of Transportation. Notwithstanding any of the provisions of this Chapter, the limitations on the power to make arrests contained in subsection (c) above, shall not be applicable to railroad police officers commissioned by the Attorney General pursuant to the authority of this Chapter.

~~(f) Campus Option. – Notwithstanding any of the provisions of this Chapter, the Board of Trustees of any constituent institution of The University of North Carolina may elect to have its officers certified under Chapter 17C and Chapter 116 of the General Statutes and the board of trustees of any community college may elect to have its officers certified under Chapter 17C and Chapter 115D of the General Statutes rather than requesting certification as a company police agency and company police commission pursuant to the provisions of this Chapter.~~

(g) Exclusive Authority. – Notwithstanding any other provision of law, the authority granted to company police officers shall be limited to the provisions of this Chapter."

SECTION 4. G.S. 14-415.10(4) reads as rewritten:

- "(4) Qualified former sworn law enforcement officer. – An individual who retired from service as a law enforcement officer with a local, State, campus police, or company police agency in North Carolina, other than for reasons of mental disability, who has been retired as a sworn law enforcement officer two years or less from the date of the permit application, and who satisfies all of the following:
- a. Immediately before retirement, the individual was a qualified law enforcement officer with a local, State, or company police agency in North Carolina.
 - b. The individual has a nonforfeitable right to benefits under the retirement plan of the local, State, or company police agency as a law enforcement officer or has 20 or more aggregate years of law enforcement service and has retired from a company police agency that does not have a retirement plan.
 - c. The individual is not prohibited by State or federal law from receiving a firearm."

SECTION 5. G.S. 14-415.10(5) reads as rewritten:

- "(5) Qualified sworn law enforcement officer. – A law enforcement officer employed by a local, State, campus police, or company police agency in North Carolina who satisfies all of the following:
- a. The individual is authorized by the agency to carry a handgun in the course of duty.
 - b. The individual is not the subject of a disciplinary action by the agency that prevents the carrying of a handgun.
 - c. The individual meets the requirements established by the agency regarding handguns."

SECTION 6.1. G.S. 14-34.2 reads as rewritten:

"§ 14-34.2. Assault with a firearm or other deadly weapon upon governmental officers or employees, company police officers, or campus police officers.

Unless a person's conduct is covered under some other provision of law providing greater punishment, any person who commits an assault with a firearm or any other deadly weapon upon an officer or employee of the State or of any political subdivision of the State, a company police officer certified pursuant to the provisions of Chapter 74E of the General Statutes, or a campus police officer certified pursuant to the provisions of Chapter 74G, Chapter 17C or Chapter 116 of the General Statutes, in the performance of his duties shall be guilty of a Class F felony."

SECTION 6.2. G.S. 14-33(c) reads as rewritten:

"(c) Unless the conduct is covered under some other provision of law providing greater punishment, any person who commits any assault, assault and battery, or affray is guilty of a Class A1 misdemeanor if, in the course of the assault, assault and battery, or affray, he or she:

- (1) Inflicts serious injury upon another person or uses a deadly weapon;
- (2) Assaults a female, he being a male person at least 18 years of age;
- (3) Assaults a child under the age of 12 years;
- (4) Assaults an officer or employee of the State or any political subdivision of the State, when the officer or employee is discharging or attempting to discharge his official duties;
- (5) Repealed by Session Laws 1999-105, s. 1, effective December 1, 1999; or
- (6) Assaults a school employee or school volunteer when the employee or volunteer is discharging or attempting to discharge his or her duties as

an employee or volunteer, or assaults a school employee or school volunteer as a result of the discharge or attempt to discharge that individual's duties as a school employee or school volunteer. For purposes of this subdivision, the following definitions shall apply:

- a. "Duties" means:
 1. All activities on school property;
 2. All activities, wherever occurring, during a school authorized event or the accompanying of students to or from that event; and
 3. All activities relating to the operation of school transportation.
- b. "Employee" or "volunteer" means:
 1. An employee of a local board of education; or a charter school authorized under G.S. 115C-238.29D, or a nonpublic school which has filed intent to operate under Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes;
 2. An independent contractor or an employee of an independent contractor of a local board of education, charter school authorized under G.S. 115C-238.29D, or a nonpublic school which has filed intent to operate under Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes, if the independent contractor carries out duties customarily performed by employees of the school; and
 3. An adult who volunteers his or her services or presence at any school activity and is under the supervision of an individual listed in sub-sub-subdivision 1. or 2. of this sub-subdivision.

(7) Assaults a public transit operator, including a public employee or a private contractor employed as a public transit operator, when the operator is discharging or attempting to discharge his or her duties.

(8) Assaults a company police officer certified pursuant to the provisions of Chapter 74E of the General Statutes or a campus police officer certified pursuant to the provisions of Chapter 74G, Chapter 17C, or Chapter 116 of the General Statutes in the performance of that person's duties."

SECTION 7. G.S. 15A-402(f) reads as rewritten:

"(f) Campus Police Officers, Immediate and Continuous Flight. – A campus police officer: (i) appointed by a campus law-enforcement agency established pursuant to G.S. 116-40.5(a); (ii) appointed by a campus law enforcement agency established under G.S. 115D-21.1(a); or (iii) commissioned by the Attorney General pursuant to Chapter 74E or Chapter 74G of the General Statutes and employed by a college or university which is licensed, or exempted from licensure, by G.S. 116-15 may arrest a person outside his territorial jurisdiction when the person arrested has committed a criminal offense within the territorial jurisdiction, for which the officer could have arrested the person within that territory, and the arrest is made during such person's immediate and continuous flight from that territory."

SECTION 8. G.S. 160A-288(d) reads as rewritten:

"(d) For purposes of this section, the following shall be considered the equivalent of a municipal police department:

- (1) Campus law-enforcement agencies established pursuant to G.S. 115D-21.1(a) or G.S. 116-40.5(a); and
- (2) Colleges or universities which are licensed, or exempted from licensure, by G.S. 116-15 and which employ company police officers

commissioned by the Attorney General pursuant to Chapter ~~74E~~;74E or Chapter 74G of the General Statutes; and

- (3) Law enforcement agencies operated or eligible to be operated by a municipality pursuant to G.S. 63-53(2)."

SECTION 9. G.S. 160A-288.2(d) reads as rewritten:

"(d) For the purposes of this section, the following shall be considered the equivalent of a municipal police department:

- (1) Campus law-enforcement agencies established pursuant to G.S. 116-40.5(a); and
- (2) Colleges or universities which are licensed, or exempted from licensure, by G.S. 116-15 and which employ company police officers commissioned by the Attorney General pursuant to Chapter ~~74E~~;74E or Chapter 74G of the General Statutes."

SECTION 10. G.S. 14-401.6(a) reads as rewritten:

"§ 14-401.6. Unlawful to possess, etc., tear gas except for certain purposes.

(a) It is unlawful for any person, firm, corporation or association to possess, use, store, sell, or transport within the State of North Carolina, any form of that type of gas generally known as "tear gas," or any container or device for holding or releasing that gas; except this section does not apply to the possession, use, storage, sale or transportation of that gas or any container or device for holding or releasing that gas:

- ..(4) By or for security guards registered under Chapter 74C of the General ~~Statutes or Statutes~~, company police officers commissioned under Chapter 74E of the General Statutes, or campus police officers commissioned under Chapter 74G of the General Statutes provided they are on duty and have received training according to standards prescribed by the State Bureau of Investigation;

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SECTION 11. G.S. 20-37.6(f) reads as rewritten:

"(f) Penalties for Violation. –

- ..(3) A law-enforcement officer, including a company police officer commissioned by the Attorney General under Chapter ~~74E~~;74E of the General Statutes, or a campus police officer commissioned by the Attorney General under Chapter 74G of the General Statutes, may cause a vehicle parked in violation of this section to be towed. The officer is a legal possessor as provided in G.S. 20-161(d)(2). The officer shall not be held to answer in any civil or criminal action to any owner, lienholder or other person legally entitled to the possession of any motor vehicle removed from a space pursuant to this section, except where the motor vehicle is willfully, maliciously, or negligently damaged in the removal from the space to a place of storage.

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SECTION 12. When this act becomes law, all certificates issued to police agencies at private institutions of higher education and commissions issued to their police officers pursuant to Chapter 74E of the General Statutes shall automatically convert to certification and commissions issued pursuant to this act and shall be administered in conformity with this act. Notwithstanding any of the provisions of Chapter 74G of the General Statutes, as enacted by this act, or the provisions of Chapter 74E of the General Statutes, the board of trustees of any educational institution that, on the effective date of this act, has a company police agency licensed pursuant to Chapter 74E of the General Statutes, may elect to continue to have its officers certified under Chapter 74E of the General Statutes rather than pursuant to Chapter 74G of the General Statutes, as enacted by this act, by making a written request to the Attorney General no later than October 1, 2005.

SECTION 13. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 18th day of
July, 2005.

Beverly E. Perdue
President of the Senate

James B. Black
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____m. this _____ day of _____, 2005