

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S

D

SENATE DRS15187-LL-159 (3/10)

Short Title: Correctional/Probation Training Commission.

(Public)

Sponsors: Senators Snow, and Kinnaird.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE NORTH CAROLINA CORRECTIONAL AND
3 PROBATION OFFICER EDUCATION AND TRAINING STANDARDS COMMISSION.
4 The General Assembly of North Carolina enacts:

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

6 **"Chapter 17F.**

7 **"North Carolina Correctional and Probation Officer Education and Training Standards**
8 **Commission.**

9 **"§ 17F-1. Findings and policy.**

10 The General Assembly finds and declares that the administration of criminal justice is of
11 statewide concern, and that proper administration is important to the health, safety, and welfare
12 of the people of the State and is of such nature as to require education and training of a
13 professional nature. It is in the public interest that such education and training be made
14 available to persons who seek to become correctional officers and probation officers, to persons
15 who are serving as such officers in a temporary or probationary capacity, and to persons
16 already in regular service.

17 **"§ 17F-2. Definitions.**

18 Unless the context clearly requires otherwise, the following definitions apply to this
19 Chapter:

- 20 (1) "Commission" means the North Carolina Correctional and Probation Officer
21 Education and Training Standards Commission.
22 (2) "Correctional Officer" means an employee of the Division of Prisons of the
23 Department of Correction whose primary duties are the custody, supervision,
24 and treatment to control and rehabilitate criminal offenders in the custody of
25 the Department.
26 (3) "Probation Officer" means an employee of the Division of Community
27 Corrections of the Department of Correction whose primary duties are to
28 stay informed concerning the conduct and condition of each person on
29 probation under the officer's supervision by visiting, requiring reports, and
30 other methods, and reporting on that conduct and condition in writing as
31 required by the court or the Division.

32 **"§ 17F-3. North Carolina Correctional and Probation Officer Education and Training**
33 **Standards Commission established; members; terms; vacancies.**



1 (a) There is hereby established the North Carolina Correctional and Probation Officer
2 Training Standards Commission. The Commission shall be composed of 21 members as
3 follows:

- 4 (1) Correctional Officers. – Ten representatives of the Division of Prisons
5 representing each of the Division's five regional divisions, as delineated by
6 the Department of Correction.
- 7 (2) Probation Officers. – Four representatives of the Division of Community
8 Corrections, representing each of the Division's four regional divisions, as
9 delineated by the Department of Correction.
- 10 (3) Secretary of the Department of Correction or designee.
- 11 (4) Attorney General. – The Attorney General of the State of North Carolina or
12 designee.
- 13 (5) One person appointed by the General Assembly upon the recommendation
14 of the Speaker of the House of Representatives pursuant to G.S. 120-121 and
15 one person appointed by the General Assembly upon the recommendation of
16 the President Pro Tempore of the Senate pursuant to G.S. 120-121.
- 17 (6) Others. – The President of the University of North Carolina or the
18 President's designee, the President of the Community Colleges System or the
19 President's designee, and the Dean of the School of Government at the
20 University of North Carolina at Chapel Hill or the Dean's designee shall be
21 ex officio, nonvoting members of the Commission.

22 (b) Terms. – Members shall be appointed for staggered terms. Beginning September 1,
23 2009, five members representing the Division of Prisons and two members representing the
24 Division of Community Corrections shall be appointed to three-year terms; five members
25 representing the Division of Prisons and two members representing the Division of Community
26 Corrections shall be appointed to three-year terms. The two appointees of the General
27 Assembly shall serve a terms of two years. After the initial terms established herein have
28 expired, all members appointed to the Commission shall be appointed to terms of three years.

29 (c) Vacancies. – If any vacancy occurs in the membership of the Commission, the
30 appointing authority shall appoint another person to fill the unexpired term of the vacating
31 member.

32 (d) Compensation. – None of the members of the Commission shall receive
33 compensation for serving on the Commission. However, if the North Carolina Department of
34 Justice has funds available, then members of the Commission who are State officers or
35 employees may be reimbursed for their expenses in accordance with G.S. 138-6; members of
36 the Commission who are full-time salaried public officers or employees other than State
37 officers or employees may be reimbursed for their expenses in accordance with G.S. 138-5(b).
38 All other members of the Commission may receive compensation and reimbursement for
39 expenses in accordance with G.S. 138-5.

40 (e) Officers. – The chair shall be elected from among the membership. The
41 Commission shall select its other officers from among the membership as it deems necessary.
42 All officers serve for one year, or until successors are qualified.

43 (f) Removal. – The Commission may remove a member for misfeasance, malfeasance,
44 nonfeasance, or neglect of duty.

45 (g) The Commission has power to adopt its own rules of procedure. The Commission
46 shall meet no less than four times a year. It shall also meet on the call of the chair or vice-chair,
47 or any four members of the Commission.

48 (h) The Commission may appoint any resident of the State to an adjunct or special
49 committee created or appointed by it to study or make recommendations or reports on any
50 subject matter related to the duties of correctional or probation officers.

51 **"§ 17F-4. Compensation.**

1 (a) Members of the Commission who are State officers or employees shall receive no
2 compensation for serving on the Commission but may be reimbursed for their expenses in
3 accordance with G.S. 138-6. Members of the Commission who are full-time salaried public
4 officers or employees other than State officers or employees shall receive no compensation for
5 serving on the Commission but may be reimbursed for their expenses in accordance with
6 G.S. 138-5(b). All other members of the Commission may receive compensation and
7 reimbursement for expenses in accordance with G.S. 138-5.

8 (b) The chair of the Commission may appoint such ad hoc members of the
9 Commission's standing and select committees as are necessary to carry out the business of the
10 Commission, and such service shall be reimbursed as provided in subsection (a) of this section,
11 subject to the approval of the Attorney General.

12 **"§ 17F-5. Chair; vice-chair; other officers; meetings; reports.**

13 (a) The Commission shall elect one of the members of the Commission as chair at the
14 first regular meeting after July 1 of each year. The ex officio members shall not be eligible for
15 election as Chair.

16 (b) The Commission shall select a vice-chair and such other officers and committee
17 chair from among its members as it deems desirable at the first regular meeting of the
18 Commission after its creation and at the first regular meeting after July 1 of each year
19 thereafter. Nothing in this subsection, however, shall prevent the creation or abolition of
20 committees or offices of the Commission, other than the office of vice-chair, as the need may
21 arise at any time during the year.

22 (c) The Commission shall hold at least four regular meetings per year upon the call of
23 the chair. Special meetings shall be held upon the call of the chair or the vice-chair, or upon the
24 written request of five members of the Commission. Such special meetings must be held within
25 30 days.

26 (d) The Commission shall present regular and special reports and recommendations to
27 the Attorney General or the General Assembly, or both, as the need may arise or as the
28 Attorney General or General Assembly may request.

29 **"§ 17F-6. Powers of Commission.**

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

33 (1) Adopt rules and regulations for the administration of this Chapter, which
34 may require (i) the submission by the Department of Correction of
35 information with respect to the employment, education, retention, and
36 training of its correctional officers and probation officers, and (ii) the
37 submission by any criminal justice training school of information with
38 respect to its criminal justice training programs that are required by this
39 Chapter.

40 (2) Establish minimum educational and training standards that must be met in
41 order to qualify for entry-level employment and retention as a correctional
42 officer or probation officer in temporary or probationary status or in a
43 permanent position.

44 (3) Certify and recertify, pursuant to the standards that it has established for that
45 purpose, persons as qualified under the provisions of this Chapter to be
46 employed at entry level and retained as correctional officers and probation
47 officers.

48 (4) Establish minimum standards for the certification of criminal justice training
49 schools and programs or courses of instruction that are required by this
50 Chapter.

- 1 (5) Certify and recertify, pursuant to the standards that it has established for that
2 purpose, criminal justice training schools and programs or courses of
3 instruction that are required by this Chapter.
- 4 (6) Establish minimum standards and levels of education and experience for all
5 criminal justice instructors and school directors who participate in programs
6 or courses of instruction that are required by this Chapter.
- 7 (7) Certify and recertify, pursuant to the standards that it has established for the
8 purpose, criminal justice instructors and school directors who participate in
9 programs or courses of instruction that are required by this Chapter.
- 10 (8) Investigate and make such evaluations as may be necessary to determine if
11 criminal justice agencies, schools, and individuals are complying with the
12 provisions of this Chapter.
- 13 (9) Adopt and amend bylaws, consistent with law, for its internal management
14 and control.
- 15 (10) Enter into contracts incident to the administration of its authority pursuant to
16 this Chapter.
- 17 (11) Establish minimum standards for in-service training for correctional officers
18 and probation officers.
- 19 (b) The Commission shall have the following powers, which are advisory in nature and
20 for which the Commission is not authorized to undertake any enforcement actions:
 - 21 (1) Identify types of criminal justice positions in the Department of Correction,
22 other than entry level positions, for which advanced or specialized training
23 and education are appropriate, and establish minimum standards for the
24 certification of persons as being qualified for those positions on the basis of
25 specified education, training, and experience; however, compliance with
26 these minimum standards shall be discretionary on the part of criminal
27 justice agencies with respect to their correctional officers and probation
28 officers;
 - 29 (2) Certify, pursuant to the standards that it has established for the purpose,
30 correctional officers and probation officers for those criminal justice
31 agencies that elect to comply with the minimum education, training, and
32 experience standards established by the Commission for positions for which
33 advanced or specialized training, education, and experience are appropriate;
 - 34 (3) Study and make reports and recommendations concerning criminal justice
35 education and training in North Carolina;
 - 36 (4) Conduct and stimulate research by public and private agencies that shall be
37 designed to improve education and training in the administration of criminal
38 justice;
 - 39 (5) Study, obtain data, statistics, and information regarding, and make reports
40 concerning, best practices in the recruitment, selection, education, retention,
41 and training of persons serving criminal justice agencies and make
42 recommendations for improvement in methods of recruitment, selection,
43 education, retention, and training of persons serving criminal justice
44 agencies;
 - 45 (6) Make recommendations concerning any matters within its purview pursuant
46 to this Chapter;
 - 47 (7) Appoint such advisory committees as it may deem necessary;
 - 48 (8) Do such things as may be necessary and incidental to the administration of
49 its authority pursuant to this Chapter;
 - 50 (9) Formulate basic plans for and promote the development and improvement of
51 a comprehensive system of education and training for the officers and

1 employees of criminal justice agencies consistent with its rules and
2 regulations;

3 (10) Maintain liaison among local, State, and federal agencies with respect to
4 criminal justice education and training;

5 (11) Promote the planning and development of a systematic career development
6 program for criminal justice professionals.

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

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

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

12 (c) Any papers, documents, or other records which become the property of the
13 Commission that are placed in the criminal justice officer's personnel file maintained by the
14 Commission shall be subject to the same disclosure requirements as set forth in Chapters 126,
15 153A, and 160A of the General Statutes regarding the privacy of personnel records.

16 **"§ 17F-8. System established.**

17 The North Carolina Correctional and Probation Officer Education and Training Standards
18 Commission shall establish a North Carolina Correctional and Probation Officer Education and
19 Training System. The system shall be a cooperative arrangement among criminal justice
20 agencies, both State and local, and criminal justice education and training schools, both public
21 and private, to provide education and training to the officers and employees of the criminal
22 justice agencies of the State of North Carolina and its local governments. Members of the
23 system shall include the North Carolina Justice Academy as well as such other public or private
24 agencies or institutions within the state, that are engaged in criminal justice education and
25 training and desire to be affiliated with the system for the purpose of achieving greater
26 coordination of criminal justice education and training efforts in North Carolina.

27 **"§ 17F-9. Correctional and Probation Officer Standards Division of the Department of**
28 **Justice established; appointment of director; duties.**

29 (a) There is hereby established within the Department of Justice, the Correctional and
30 Probation Officer Standards Division, hereinafter referred to as "the Division," which shall be
31 organized and staffed in accordance with applicable laws and regulations and within the limits
32 of authorized appropriations.

33 (b) The Attorney General shall appoint a director for the Division chosen from a list of
34 three nominees submitted to him by the Commission who shall be responsible to and serve at
35 the pleasure of the Attorney General and the Commission.

36 (c) The Division shall administer such programs as are assigned to it by the
37 Commission. The Division shall also administer such additional related programs as may be
38 assigned to it by the Attorney General or the General Assembly. Administrative duties and
39 responsibilities shall include, but are not limited to, the following:

40 (1) Administering any and all programs assigned to the Division by the
41 Commission and reporting any violations of or deviations from the rules and
42 regulations of the Commission as the Commission may require;

43 (2) Compiling data, developing reports, identifying needs, and performing
44 research relevant to beneficial improvement of the criminal justice agencies;

45 (3) Developing new and revising existing programs for adoption consideration
46 by the Commission;

47 (4) Monitoring and evaluating programs of the Commission;

48 (5) Providing technical assistance to relevant agencies of the criminal justice
49 system to aid them in the discharge of program participation and
50 responsibilities;

- 1 (6) Disseminating information on Commission programs to concerned agencies
2 and/or individuals;
3 (7) Taking such other actions as may be deemed necessary or appropriate to
4 carry out its assigned duties and responsibilities;
5 (8) The director may divulge any information in the Division's personnel file of
6 a correctional officer, probation officer, or applicant for certification to the
7 head of the criminal justice agency employing the officer or considering the
8 applicant for employment when the director deems it necessary and essential
9 to the retention or employment of said officer or applicant. The information
10 may be divulged whether or not such information was contained in a
11 personnel file maintained by a State or by a local government agency.

12 **"§ 17F-10. Required standards.**

13 (a) The General Assembly finds, and it is declared to be the policy of this Chapter, that
14 such correctional officers and probation officers as defined in G.S. 17f-2 have satisfied such
15 entry-level requirements by their experience. It is the intent of the Chapter that all correctional
16 officers and probation officers employed at the entry level after the Commission has adopted
17 the required standards shall meet the requirements of this Chapter. All correctional officers and
18 probation officers who are exempted from the required entry-level standards by this subsection
19 shall be subject thereafter to the requirements of subsections (b) and (c) of this section as well
20 as the requirements of G.S. 17C-6(a) in order to retain certification.

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

26 (b) The Commission shall provide, by regulation, for a period of probationary
27 employment and certification for correctional officers and probation officers. The Commission
28 may prescribe such training requirements as are required for the award of either probationary or
29 permanent certification of officers, in addition to the pre-employment requirements authorized
30 in G.S. 17F-6(a). Any correctional officer or probation officer appointed on a temporary or
31 probationary basis who does not comply with the training provisions of this Chapter is not
32 authorized to exercise the powers of a correctional officer or probation officer to include the
33 power of arrest. If, however, a correctional officer or probation officer has enrolled in a
34 Commission-approved preparatory program of training that concludes later than the end of the
35 officer's probationary period, and the Commission does not require such training to be
36 completed prior to the award of probationary certification, the Commission may extend, for
37 good cause shown, the probationary period for a period not to exceed six months.

38 Upon separation of a correctional officer or probation officer from a criminal justice agency
39 within the prescribed period of temporary or probationary appointment, the officer's
40 probationary certification shall be terminated by the Commission. Upon the reappointment to
41 the same agency or appointment to another criminal justice agency of an officer who has
42 separated from an agency within the probationary period, the officer shall be charged with the
43 cumulative amount of time served during his initial or subsequent appointments and allowed
44 the remainder of the probationary period to complete the Commission's requirements. Upon
45 reappointment to the same agency or appointment to another agency of an officer who has
46 separated from an agency within the probationary period and who has remained out of service
47 for more than one year after the date of separation, the officer shall be allowed another
48 probationary period to satisfy the Commission's requirements.

49 (c) In addition to the requirements of subsection (b) of this section, the Commission, by
50 rules and regulations, shall fix other qualifications for the employment, training, and retention
51 of correctional officers and probation officers, including minimum age, education, physical and

1 mental standards, citizenship, good moral character, experience, and such other matters as
2 relate to the competence and reliability of persons to assume and discharge the responsibilities
3 of correctional officers and probation officers, and the Commission shall prescribe the means
4 for presenting evidence of fulfillment of these requirements.

5 Where minimum educational standards are not met, yet the individual shows potential and a
6 willingness to achieve the standards by extra study, they may be waived by the Commission for
7 the reasonable amount of time it will take to achieve the standards required. Such an
8 educational waiver shall not exceed 12 months.

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

14 **"§ 17F-11. Compliance; enforcement.**

15 (a) Any correctional officer or probation officer who the Commission determines does
16 not comply with this Chapter or any rules adopted under this Chapter shall not exercise the
17 powers of a correctional officer or probation officer and shall not exercise the power of arrest
18 unless the Commission waives that certification or deficiency. The Commission shall enforce
19 this section by the entry of appropriate orders effective upon service on either the criminal
20 justice agency or the criminal justice officer.

21 (b) Any person who desires to appeal the proposed denial, suspension, or revocation of
22 any certification authorized to be issued by the Commission shall file a written appeal with the
23 Commission not later than 30 days following notice of denial, suspension, or revocation.

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

31 **"§ 17F-12. Grants under the supervision of Commission and the State; donations and**
32 **appropriations.**

33 (a) The Commission may accept for any of its purposes and functions under this
34 Chapter any and all donations, both real and personal, and grants of money from any
35 governmental unit or public agency, or from any institution, person, firm, or corporation, and
36 may receive, utilize, and dispose of the same. Any arrangements pursuant to this section shall
37 be detailed in an annual report of the Commission. Such report shall include the identity of the
38 donor, the nature of the transaction, and the conditions, if any. Any money received by the
39 Commission pursuant to this section shall be deposited in the State Treasury to the account of
40 the Commission.

41 (b) The Commission, by rules and regulations, shall provide for administration of the
42 grant program authorized by this section. In promulgating such rules, the Commission shall
43 promote the most efficient and economical program of criminal justice training, including the
44 maximum utilization of existing facilities and programs for the purpose of avoiding
45 duplication.

46 (c) The Commission may provide grants as a reimbursement for actual expenses
47 incurred by the State or political subdivision thereof for the provisions of training programs of
48 officers from other jurisdictions within the State.

49 **"§ 17F-13. Pardons.**

50 When a person presents competent evidence that he has been granted an unconditional
51 pardon for a crime in this State, any other state, or the United States, the Commission may not

1 deny, suspend, or revoke that person's certification based solely on the commission of that
2 crime or for an alleged lack of good moral character due to the commission of that crime."

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

4 **"§ 17C-2. Definitions.**

5 Unless the context clearly otherwise requires, the following definitions apply in this
6 Chapter:

- 7 (1) Commission. – The North Carolina Criminal Justice Education and Training
8 Standards Commission.
- 9 (2) Criminal justice agencies. – The State and local law-enforcement agencies,
10 ~~the State correctional agencies, other~~ correctional agencies maintained by
11 local governments, and the juvenile justice agencies, but shall not include
12 deputy sheriffs, special deputy sheriffs, sheriffs' jailers, or other sheriffs'
13 department personnel governed by the provisions of Chapter 17E of these
14 General ~~Statutes.~~ Statutes or correctional officers and probation officers
15 governed by Chapter 17F of the General Statutes.
- 16 (3) Criminal justice officers. – The administrative and subordinate personnel of
17 all the departments, agencies, units or entities comprising the criminal justice
18 agencies who are sworn law-enforcement officers, both State and local, with
19 the power of arrest; ~~State correctional officers; State probation/parole~~
20 ~~officers; State probation/parole officers surveillance;~~ officers, supervisory
21 and administrative personnel of local confinement facilities; State juvenile
22 justice officers; chief court counselors; and juvenile court counselors.
- 23 (4) Entry level. – The initial appointment or employment of any person by a
24 criminal justice agency, or any appointment or employment of a person
25 previously employed by a criminal justice agency who has not been
26 employed by a criminal justice agency for the 12-month period preceding
27 this appointment or employment, or any appointment or employment of a
28 previously certified criminal justice officer to a position which requires a
29 different type of certification."

30 **SECTION 3.** G.S. 17C-3(a) reads as rewritten:

31 **"§ 17C-3. North Carolina Criminal Justice Education and Training Standards**
32 **Commission established; members; terms; vacancies.**

33 (a) There is established the North Carolina Criminal Justice Education and Training
34 Standards Commission, hereinafter called "the Commission." The Commission shall be
35 composed of ~~33~~ 28 members as follows:

- 36 (1) Police Chiefs. – Three police chiefs selected by the North Carolina
37 Association of Chiefs of Police and one police chief appointed by the
38 Governor.
- 39 (2) Police Officers. – Three police officials appointed by the North Carolina
40 Police Executives Association and two criminal justice officers certified by
41 the Commission as selected by the North Carolina Law-Enforcement
42 Officers' Association.
- 43 (3) Departments. – The Attorney General of the State of North Carolina; the
44 Secretary of Crime Control and Public Safety; ~~the Secretary of Correction;~~
45 the President of the North Carolina Community Colleges System; the
46 Secretary of Juvenile Justice and Delinquency Prevention.
- 47 (3a) Repealed by Session Laws 2001-440, s. 1.2, effective June 30, 2001.
- 48 (4) At-large Groups. – One individual representing and appointed by each of the
49 following organizations: one mayor selected by the League of
50 Municipalities; one law-enforcement training officer selected by the North
51 Carolina Law-Enforcement Training Officers' Association; one criminal

1 justice professional selected by the North Carolina Criminal Justice
2 Association; one sworn law-enforcement officer selected by the North State
3 Law-Enforcement Officers' Association; one member selected by the North
4 Carolina Law-Enforcement Women's Association; and one District Attorney
5 selected by the North Carolina Association of District Attorneys.

6 (5) Citizens and Others. – The President of The University of North Carolina;
7 the Dean of the School of Government at the University of North Carolina at
8 Chapel Hill; and two citizens, one of whom shall be selected by the
9 Governor and one of whom shall be selected by the Attorney General. The
10 General Assembly shall appoint four persons, two upon the recommendation
11 of the Speaker of the House of Representatives and two upon the
12 recommendation of the President Pro Tempore of the Senate. Appointments
13 by the General Assembly shall be made in accordance with G.S. 120-122.
14 Appointments by the General Assembly shall be for two-year terms to
15 conclude on June 30th in odd-numbered years.

16 ~~(6) Correctional Officers.— Four correctional officers in management positions
17 employed by the Department of Correction shall be appointed, two from the
18 Division of Community Corrections upon the recommendation of the
19 Speaker of the House of Representatives and two from the Division of
20 Prisons upon the recommendation of the President Pro Tempore of the
21 Senate. Appointments by the General Assembly shall be made in accordance
22 with G.S. 120-122. Appointments by the General Assembly shall serve
23 two year terms to conclude on June 30th in odd numbered years. The
24 Governor shall appoint one correctional officer employed by the Department
25 of Correction and assigned to the Office of Staff Development and Training.
26 The Governor's appointment shall serve a three year term."~~

27 **SECTION 4.** This act becomes effective September 1, 2009.