

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 1059

Short Title: Prohibit Discriminatory Profiling. (Public)

Sponsors: Representative R. Moore.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I, if favorable, Appropriations

May 11, 2016

A BILL TO BE ENTITLED

AN ACT TO (1) PROHIBIT THE USE OF DISCRIMINATORY PROFILING BY LAW ENFORCEMENT OFFICERS IN THE PERFORMANCE OF THEIR DUTIES; (2) AMEND THE TYPES OF INFORMATION REQUIRED TO BE REPORTED BY CERTAIN LAW ENFORCEMENT AGENCIES CONCERNING TRAFFIC LAW ENFORCEMENT; (3) REQUIRE CERTAIN LAW ENFORCEMENT AGENCIES TO REPORT CERTAIN INFORMATION CONCERNING HOMICIDES; (4) REQUIRE LAW ENFORCEMENT OFFICERS TO RECEIVE ANNUAL EDUCATION AND TRAINING CONCERNING DISCRIMINATORY PROFILING; (5) REQUIRE THAT CERTAIN TRAINING BE PROVIDED TO MEMBERS OF NEIGHBORHOOD CRIME WATCH PROGRAMS ESTABLISHED BY COUNTIES AND CITIES; AND (6) APPROPRIATE FUNDS TO COVER THE COST OF AN INSTRUCTOR TO CONDUCT TRAINING.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 15A of the General Statutes is amended by adding a new Article to read:

"Article 18.

"Discriminatory Profiling.

"§ 15A-306. Prohibition on discriminatory profiling.

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

(1) Discriminatory profiling. – The practice of subjecting a person to investigation, detention, or arrest based on the person's real or perceived race, ethnicity, national origin, disability, religion, sexual orientation, or gender identity, rather than on the person's behavior or on information identifying the person as having engaged in criminal activity.

(2) Law enforcement officer. – Any employee of the following agencies who is actively serving in a position with assigned primary duties and responsibilities for prevention and detection of crime or the general enforcement of the criminal laws of the State, and who possesses the power of arrest by virtue of an oath administered under the authority of the State:

a. Any duly accredited State or local government agency possessing authority to enforce the criminal laws of the State.

b. Any company police agency certified by the Attorney General pursuant to Chapter 74E of the General Statutes.

c. Any campus police agency certified by the Attorney General pursuant to Chapter 74G of the General Statutes.



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1 d. Any special police agency created by the State.

2 (b) Prohibition. – No law enforcement officer shall engage in discriminatory profiling in
3 the performance of the officer's duties."

4 **SECTION 2.** G.S. 143B-903(a) reads as rewritten:

5 "(a) In addition to its other duties, the Department of Public Safety shall collect, correlate,
6 and maintain the following information regarding traffic law enforcement by law enforcement
7 officers:

8 ...

9 (3) The alleged traffic violation that led to the stop.

10 (3a) Whether the officers making the stop attempted to determine the immigration
11 status of the driver, passenger, or passengers.

12 (4) Whether a search was instituted as a result of the stop.

13 "

14 **SECTION 3.** Article 13 of Chapter 143B of the General Statutes is amended by
15 adding a new section to read:

16 "**§ 143B-904.1. Collection of homicide statistics.**

17 (a) Definition. – The term "law enforcement agency" means any duly accredited State or
18 local government agency possessing authority to enforce the criminal laws of the State.

19 (b) Additional Duties. – In addition to its other duties, the Department of Public Safety
20 shall collect, correlate, and maintain the following information regarding homicides committed in
21 the State:

22 (1) The number of homicides committed.

23 (2) The geographic location where the homicide was committed.

24 (3) Identifying characteristics of offenders and victims, including the race or
25 ethnicity, approximate age, gender identity, and sex.

26 (4) The number of homicide cases solved and the number of homicide cases that
27 remain unsolved.

28 (5) For homicide cases that were solved, the time required to solve the case,
29 including the date the investigation began and the date the case was considered
30 solved by the law enforcement agency.

31 (c) Reporting Requirement. – Law enforcement agencies shall submit the information
32 required under subsection (b) of this section to the Department within 60 days of the close of each
33 month. Any law enforcement agency that does not submit the information as required by this
34 subsection shall be ineligible to receive any law enforcement grants available by or through the
35 State until the information that is reasonably available is submitted.

36 (d) List. – The Department shall publish and distribute by December 1 of each year a list
37 indicating the law enforcement agencies that will be subject to the provisions of this section during
38 the calendar year commencing on the following January 1.

39 (e) Availability to Public. – The Department shall make any report or summary analyzing
40 the information required in subsection (b) of this section available to the public, including posting
41 the report or summary on the Web site maintained by the Department."

42 **SECTION 4.** G.S. 143B-904(a) reads as rewritten:

43 "(a) In addition to its other duties, the Department of Public Safety shall collect, maintain,
44 and annually publish the ~~number of~~ following information regarding deaths, by law enforcement
45 agency, resulting from the use of deadly force by law enforcement officers in the course and scope
46 of their official ~~duties~~ duties:

47 (1) The number of deaths, including any homicides that were justified or excused.

48 (2) The geographic location where the death occurred.

49 (3) Identifying characteristics of the law enforcement officers and the victims,
50 including the race or ethnicity, approximate age, gender identity, and sex."

51 **SECTION 5.** G.S. 17C-2 reads as rewritten:

1 **"§ 17C-2. Definitions.**

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

- 3 ...
- 4 (3) Criminal justice officers. – The administrative and subordinate personnel of all
 5 the departments, agencies, units or entities comprising the criminal justice
 6 agencies who are sworn law-enforcement officers, both State and local, with the
 7 power of arrest; State correctional officers; State probation/parole officers;
 8 State probation/parole officers-surveillance; officers, supervisory and
 9 administrative personnel of local confinement facilities; State juvenile justice
 10 officers; chief court counselors; and juvenile court counselors.
- 11 (4) Discriminatory profiling. – As defined in G.S. 15A-306.
- 12 (5) Entry level. – The initial appointment or employment of any person by a
 13 criminal justice agency, or any appointment or employment of a person
 14 previously employed by a criminal justice agency who has not been employed
 15 by a criminal justice agency for the 12-month period preceding this
 16 appointment or employment, or any appointment or employment of a
 17 previously certified criminal justice officer to a position which requires a
 18 different type of certification."

19 **SECTION 6.** G.S. 17C-6(a) reads as rewritten:

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

- 23 ...
- 24 (2) Establish minimum educational and training standards that must be met in order
 25 to qualify for entry level employment and retention as a criminal justice officer
 26 in temporary or probationary status or in a permanent position. The standards
 27 for entry level employment shall include the following:
- 28 a. ~~education~~ Education and training in response to, and investigation of,
 29 domestic violence cases, as well as training in investigation for
 30 evidence-based prosecutions.
- 31 b. Education and training concerning the prohibition against
 32 discriminatory profiling.
- 33 c. Education and training concerning the proper techniques for recording
 34 and storing information and completing reports, for the purpose of
 35 ensuring the accuracy and completeness of data required to be collected
 36 under G.S. 143B-903, 143B-904, 143B-904.1, and any other provision
 37 of law.
- 38 ...
- 39 (14) Establish minimum standards for in-service training for criminal justice
 40 officers. In-service training standards shall include all of the following:
- 41 a. ~~training~~ Training in response to, and investigation of, domestic violence
 42 cases, as well as training investigation for evidence-based prosecutions.
- 43 b. Training concerning the prohibition against discriminatory profiling.
- 44 c. Training concerning the proper techniques for recording and storing
 45 information and completing reports, for the purpose of ensuring the
 46 accuracy and completeness of data required to be collected under
 47 G.S. 143B-903, 143B-904, 143B-904.1, and any other provision of law.
- 48"

49 **SECTION 7.** G.S. 17E-2 reads as rewritten:

50 **"§ 17E-2. Definitions.**

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

- 1 (1) ~~"Commission" means the Commission. – The North Carolina Sheriffs'~~
 2 Education and Training Standards Commission.
- 3 (2) ~~"Office" or "department" means the Department or Office. – The sheriff of a~~
 4 county, his deputies, his employees and such equipment, space, provisions and
 5 quarters as are supplied for their use.
- 6 (2a) Discriminatory profiling. – As defined in G.S. 15A-306.
- 7 (3) ~~"Justice officer" means:~~ Justice officer. – Means any of the following:
- 8 a. A person who, through the special trust and confidence of the sheriff,
 9 has taken the oath of office prescribed by Chapter 11 of the General
 10 Statutes as a peace officer in the office of the sheriff. This term includes
 11 "deputy sheriffs", "reserve deputy sheriffs", and "special deputy
 12 sheriffs", but does not include clerical and support personnel not
 13 required to take an oath. The term "special deputy" means a person who,
 14 through appointment by the sheriff, becomes an unpaid criminal justice
 15 officer to perform a specific act directed by the ~~sheriff; or~~ sheriff.
- 16 b. A person who, through the special trust and confidence of the sheriff,
 17 has been appointed as a detention officer by the ~~sheriff; or~~ sheriff.
- 18 c. A person who is either the administrator or other custodial personnel of
 19 district confinement facilities as defined in G.S. 153A-219; however,
 20 nothing in this Chapter transfers any supervisory or administrative
 21 control over employees of district confinement facilities to the office of
 22 the ~~sheriff; or~~ sheriff.
- 23 d. A person who, through the special trust and confidence of the sheriff, is
 24 under the direct supervision and control of the sheriff and serves as a
 25 telecommunicator, or who is presented to the Commission for
 26 appointment as a telecommunicator by an employing entity other than
 27 the sheriff for the purpose of obtaining certification from the
 28 Commission as a telecommunicator."

29 **SECTION 8.** G.S. 17E-4 reads as rewritten:

30 **"§ 17E-4. Powers and duties of the Commission.**

31 (a) The Commission shall have the following powers, duties, and responsibilities, which
 32 are enforceable through its rules and regulations, certification procedures, or the provisions of
 33 G.S. 17E-8 and G.S. 17E-9:

- 34 (1) Promulgate rules and regulations for the administration of this Chapter, which
 35 rules may require (i) the submission by any agency of information with respect
 36 to the employment, education, and training of its justice officers, and (ii) the
 37 submission by any training school of information with respect to its programs
 38 that are required by this ~~Chapter;~~ Chapter.
- 39 (2) Establish minimum educational and training standards that may be met in order
 40 to qualify for entry level employment as an officer in temporary or probationary
 41 status or in a permanent position. The standards for entry level employment of
 42 officers shall include all of the following:
- 43 a. ~~training~~ Training in response to, and investigation of, domestic violence
 44 cases, as well as training in investigation for evidence-based
 45 prosecutions. For purposes of the domestic violence training
 46 requirement, the term "officers" shall include justice officers as defined
 47 in G.S. 17E-2(3)a., except that the term shall not include "special deputy
 48 sheriffs" as defined in ~~G.S. 17E-2(3)a.;~~ G.S. 17E-2(3)a.
- 49 b. Training concerning the prohibition against discriminatory profiling.
- 50 c. Training concerning the proper techniques for recording and storing
 51 information and completing reports, for the purpose of ensuring the

- 1 accuracy and completeness of data required to be collected under
 2 G.S. 143B-903, 143B-904, 143B-904.1, and any other provision of law.
 3 (3) Certify, pursuant to the standards that it may establish for the purpose, persons
 4 as qualified under the provisions of this Chapter who may be employed at entry
 5 level as ~~officers;~~officers.
 6 (4) Establish minimum standards for the certification of training schools and
 7 programs or courses of instruction that are required by this ~~Chapter;~~Chapter.
 8 (5) Certify, pursuant to the standards that it has established for the purpose, training
 9 schools and programs or courses of instruction that are required by this
 10 ~~Chapter;~~Chapter.
 11 (6) Establish standards and levels of education or equivalent experience for
 12 teachers who participate in programs or courses of instruction that are required
 13 by this ~~Chapter;~~Chapter.
 14 (7) Certify, pursuant to the standards that it has established for the purpose,
 15 teachers who participate in programs or courses of instruction that are required
 16 by this ~~Chapter;~~Chapter.
 17 (8) Investigate and make such evaluations as may be necessary to determine if
 18 agencies are complying with the provision of this ~~Chapter;~~Chapter.
 19 (9) Adopt and amend bylaws, consistent with law, for its internal management and
 20 ~~control;~~control.
 21 (10) Enter into contracts incident to the administration of its authority pursuant to
 22 this ~~Chapter;~~Chapter.
 23 (11) Establish minimum standards for in-service training for justice officers.
 24 In-service training standards shall include the following:
 25 a. ~~training~~-Training in response to, and investigation of, domestic violence
 26 cases, as well as training in investigation for evidence-based
 27 prosecutions. For purposes of the domestic violence training
 28 requirement, the term "justice officer" shall include those defined in
 29 G.S. 17E-2(3)a., except that the term shall not include "special deputy
 30 sheriffs" as defined in ~~G.S. 17E-2(3)a.;~~G.S. 17E-2(3)a.
 31 b. Training concerning the prohibition against discriminatory profiling.
 32 c. Training concerning the proper techniques for recording and storing
 33 information and completing reports, for the purpose of ensuring the
 34 accuracy and completeness of data required to be collected under
 35 G.S. 143B-903, 143B-904, 143B-904.1, and any other provision of law.
 36 (12) Establish minimum standards and levels of training for certification of
 37 instructors for the domestic violence training required by subdivisions (2) and
 38 (11) of this subsection.

39 The Commission may certify, and no additional certification shall be required from it,
 40 programs, courses and teachers certified by the North Carolina Criminal Justice Education and
 41 Training Standards Commission. Where the Commission determines that a program, course,
 42 instructor or teacher is required for an area which is unique to the office of sheriff, the
 43 Commission may certify such program, course, instructor, or teacher under such standards and
 44 procedures as it may establish.

45 (b) The Commission shall have the following powers, which shall be advisory in nature
 46 and for which the Commission is not authorized to undertake any enforcement actions:

- 47 (1) Certify, pursuant to the standards that it has established for the purpose, justice
 48 officers for those law-enforcement agencies that elect to comply with the
 49 minimum education, training, and experience standards established by the
 50 Commission for positions for which advanced or specialized training,
 51 education, and experience are ~~appropriate;~~appropriate.

- 1 (2) Consult and cooperate with counties, agencies of this State, other governmental
2 agencies, and with universities, colleges, junior colleges, and other institutions,
3 public or private, concerning the development of training schools and programs
4 or courses of ~~instruction;~~instruction.
- 5 (3) Study and make reports and recommendations concerning justice education and
6 training in North ~~Carolina;~~Carolina.
- 7 (4) Conduct and stimulate research by public and private agencies which shall be
8 designed to improve education and training in the administration of
9 ~~justice;~~justice.
- 10 (5) Study, obtain data, statistics, and information and make reports concerning the
11 recruitment, selection, education and training of persons serving justice
12 agencies in this State; to make recommendations for improvement in methods
13 of recruitment, selection, education and training of persons serving sheriffs'
14 ~~departments;~~departments.
- 15 (6) Study and make reports and recommendations to the Governor, Attorney
16 General, Chief Justice, President of the Senate and Speaker of the House,
17 concerning the manpower, salary and equipment needs of the sheriffs of the
18 ~~State;~~State.
- 19 (7) Make recommendations concerning any matters within its purview pursuant to
20 this ~~Chapter;~~Chapter.
- 21 (8) Appoint such advisory committees as it may deem ~~necessary;~~necessary.
- 22 (9) Do such things as may be necessary and incidental to the administration of its
23 authority pursuant to this ~~Chapter;~~Chapter.
- 24 (10) Formulate basic plans for and promote the development and improvement of a
25 comprehensive system of education and training for the officers and employees
26 of agencies consistent with its rules and ~~regulations;~~regulations.
- 27 (11) Maintain liaison among municipal, State and federal agencies with respect to
28 education and ~~training;~~training.
- 29 (12) Promote the planning and development of a systematic career development
30 program for sheriffs' department personnel."

31 **SECTION 9.** G.S. 153A-212.2 reads as rewritten:

32 **"§ 153A-212.2. Neighborhood crime watch programs.**

33 (a) Creation. – A county may establish neighborhood crime watch programs within the
34 county to encourage residents and business owners to promote citizen involvement in securing
35 homes, businesses, and personal property against criminal activity and to report suspicious
36 activities to law enforcement officials.

37 (b) Required Training. – A county shall provide training that does all of the following to
38 any member of a neighborhood crime watch program established pursuant to subsection (a) of this
39 section:

- 40 (1) Emphasizes that the role of a neighborhood crime watch program is to observe
41 and watch the community and report suspicious activities to law enforcement
42 officials.
- 43 (2) Develops effective methods for maintaining a visible presence in the
44 community without engaging persons suspected of committing criminal
45 activities.
- 46 (3) Emphasizes that members of the neighborhood crime watch program are to
47 adhere to the instructions given to them by law enforcement officials.
- 48 (4) Educates members of the neighborhood crime watch program about
49 discriminatory profiling, as defined in G.S. 15A-306, and develops effective
50 methods for ensuring that members of the neighborhood crime watch program
51 perform their duties without engaging in discriminatory profiling."

1 **SECTION 10.** G.S. 160A-289.2 reads as rewritten:

2 "**§ 160A-289.2. Neighborhood crime watch programs.**

3 (a) Creation. – A city may establish neighborhood crime watch programs within the city to
4 encourage residents and business owners to promote citizen involvement in securing homes,
5 businesses, and personal property against criminal activity and to report suspicious activities to
6 law enforcement officials.

7 (b) Required Training. – A city shall provide training that does all of the following to any
8 member of a neighborhood crime watch program established pursuant to subsection (a) of this
9 section:

10 (1) Emphasizes that the role of a neighborhood crime watch program is to observe
11 and watch the community and report suspicious activities to law enforcement
12 officials.

13 (2) Develops effective methods for maintaining a visible presence in the
14 community without engaging persons suspected of committing criminal
15 activities.

16 (3) Emphasizes that members of the neighborhood crime watch program are to
17 adhere to the instructions given to them by law enforcement officials.

18 (4) Educates members of the neighborhood crime watch program about
19 discriminatory profiling, as defined in G.S. 15A-306, and develops effective
20 methods for ensuring that members of the neighborhood crime watch program
21 perform their duties without engaging in discriminatory profiling."

22 **SECTION 11.** For the 2016-2017 fiscal year, there is appropriated from the General
23 Fund to the Department of Justice the sum of eighty thousand dollars (\$80,000) to provide funds
24 for a criminal justice coordinator to conduct basic and advanced training as detailed in Sections 6
25 and 8 of this act.

26 **SECTION 12.** Section 1 of this act is effective when it becomes law. Sections 2, 3,
27 and 4 apply to law enforcement actions that occur on or after the effective date of this act. The
28 remainder of this act becomes effective July 1, 2016, and applies to any misconduct committed on
29 or after that date.