

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

H

1

HOUSE BILL 193

Short Title: Prohibit Discriminatory Profiling. (Public)

Sponsors: Representatives R. Moore, Brockman, Farmer-Butterfield, and Meyer (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary I, if favorable, Appropriations.

March 11, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO (1) PROHIBIT THE USE OF DISCRIMINATORY PROFILING BY LAW
3 ENFORCEMENT OFFICERS IN THE PERFORMANCE OF THEIR DUTIES; (2)
4 AMEND THE TYPES OF INFORMATION REQUIRED TO BE REPORTED BY
5 CERTAIN LAW ENFORCEMENT AGENCIES CONCERNING TRAFFIC LAW
6 ENFORCEMENT; (3) REQUIRE CERTAIN LAW ENFORCEMENT AGENCIES TO
7 REPORT CERTAIN INFORMATION CONCERNING HOMICIDES; (4) REQUIRE
8 LAW ENFORCEMENT OFFICERS TO RECEIVE ANNUAL EDUCATION AND
9 TRAINING CONCERNING DISCRIMINATORY PROFILING; (5) AUTHORIZE THE
10 USE OF CITIZEN REVIEW BOARDS TO INVESTIGATE OR REVIEW
11 ALLEGATIONS OF CERTAIN POLICE MISCONDUCT; AND (6) REQUIRE THAT
12 CERTAIN TRAINING BE PROVIDED TO MEMBERS OF NEIGHBORHOOD CRIME
13 WATCH PROGRAMS ESTABLISHED BY COUNTIES AND CITIES.

14 The General Assembly of North Carolina enacts:

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

17 "Article 18.

18 "Discriminatory Profiling.

19 "**§ 15A-306. Prohibition on discriminatory profiling.**

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

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

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

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

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

General Assembly of North Carolina

Session 2015

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

d. Any special police agency created by the State.

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

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

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

...

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

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

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

...."

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

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

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

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

(1) The number of homicides committed.

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

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

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

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

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

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

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

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

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

- 49 (1) The number of deaths, including any homicides that were justified or
50 excused.
51 (2) The geographic location where the death occurred.

Page 2

H193 [Edition 1]

General Assembly of North Carolina

Session 2015

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

3 **SECTION 5.** 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 ...

- 8 (3) Criminal justice officers. – The administrative and subordinate personnel of
9 all the departments, agencies, units or entities comprising the criminal justice
10 agencies who are sworn law-enforcement officers, both State and local, with
11 the power of arrest; State correctional officers; State probation/parole
12 officers; State probation/parole officers-surveillance; officers, supervisory
13 and administrative personnel of local confinement facilities; State juvenile
14 justice officers; chief court counselors; and juvenile court counselors.

- 15 (4) Discriminatory profiling. – As defined in G.S. 15A-306.

- 16 (4)(5) Entry level. – The initial appointment or employment of any person by a
17 criminal justice agency, or any appointment or employment of a person
18 previously employed by a criminal justice agency who has not been
19 employed by a criminal justice agency for the 12-month period preceding
20 this appointment or employment, or any appointment or employment of a
21 previously certified criminal justice officer to a position which requires a
22 different type of certification."

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

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

27 ...

- 28 (2) Establish minimum educational and training standards that must be met in
29 order to qualify for entry level employment and retention as a criminal
30 justice officer in temporary or probationary status or in a permanent position.

31 The standards for entry level employment shall include the following:

32 a. ~~education~~Education and training in response to, and investigation of,
33 domestic violence cases, as well as training in investigation for
34 evidence-based prosecutions.

35 b. Education and training concerning the prohibition against
36 discriminatory profiling.

37 c. Education and training concerning the proper techniques for
38 recording and storing information, and completing reports, for the
39 purpose of ensuring the accuracy and completeness of data required
40 to be collected under G.S. 143B-903, 143B-904, 143B-904.1, and
41 any other provision of law.

42 ...

- 43 (14) Establish minimum standards for in-service training for criminal justice
44 officers. In-service training standards shall include all of the following:

45 a. ~~training~~Training in response to, and investigation of, domestic

violence cases, as well as training investigation for evidence-based prosecutions.

- b. Training concerning the prohibition against discriminatory profiling.
- c. Training concerning the proper techniques for recording and storing information, and completing reports, for the purpose of ensuring the accuracy and completeness of data required to be collected under

—

General Assembly of North Carolina

Session 2015

G.S. 143B-903, 143B-904, 143B-904.1, and any other provision of law.

...."

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

"§ 17E-2. Definitions.

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

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

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

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

- (a) The Commission shall have the following powers, duties, and responsibilities, which are enforceable through its rules and regulations, certification procedures, or the

provisions of G.S. 17E-8 and G.S. 17E-9:

- (1) Promulgate rules and regulations for the administration of this Chapter, which rules may require (i) the submission by any agency of information with respect to the employment, education, and training of its justice officers, and (ii) the submission by any training school of information with respect to its programs that are required by this ~~Chapter~~;Chapter.
- (2) Establish minimum educational and training standards that may be met in order to qualify for entry level employment as an officer in temporary or probationary status or in a permanent position. The standards for entry level employment of officers shall include all of the following:

Page 4

H193 [Edition 1]

General Assembly of North Carolina

Session 2015

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

prosecutions. For purposes of the domestic violence training requirement, the term "justice officer" shall include those defined in G.S. 17E-2(3)a., except that the term shall not include "special deputy sheriffs" as defined in ~~G.S. 17E-2(3)a.~~ G.S. 17E-2(3)a.

b. Training concerning the prohibition against discriminatory profiling.

c. Training concerning the proper techniques for recording and storing information, and completing reports, for the purpose of ensuring the accuracy and completeness of data required to be collected under G.S. 143B-903, 143B-904, 143B-904.1, and any other provision of law.

- (12) Establish minimum standards and levels of training for certification of instructors for the domestic violence training required by subdivisions (2) and (11) of this subsection.

...

General Assembly of North Carolina

Session 2015

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

- (1) Certify, pursuant to the standards that it has established for the purpose, justice officers for those law-enforcement agencies that elect to comply with the minimum education, training, and experience standards established by the Commission for positions for which advanced or specialized training, education, and experience are ~~appropriate;~~ appropriate.
- (2) Consult and cooperate with counties, agencies of this State, other governmental agencies, and with universities, colleges, junior colleges, and other institutions, public or private, concerning the development of training schools and programs or courses of ~~instruction;~~ instruction.
- (3) Study and make reports and recommendations concerning justice education and training in North ~~Carolina;~~ Carolina.
- (4) Conduct and stimulate research by public and private agencies which shall be designed to improve education and training in the administration of ~~justice;~~ justice.
- (5) Study, obtain data, statistics, and information and make reports concerning the recruitment, selection, education and training of persons serving justice agencies in this State; to make recommendations for improvement in methods of recruitment, selection, education and training of persons serving sheriffs' ~~departments;~~ departments.
- (6) Study and make reports and recommendations to the Governor, Attorney General, Chief Justice, President of the Senate and Speaker of the House, concerning the manpower, salary and equipment needs of the sheriffs of the ~~State;~~ State.
- (7) Make recommendations concerning any matters within its purview pursuant to this ~~Chapter;~~ Chapter.
- (8) Appoint such advisory committees as it may deem ~~necessary;~~ necessary.
- (9) Do such things as may be necessary and incidental to the administration of its authority pursuant to this ~~Chapter;~~ Chapter.
- (10) Formulate basic plans for and promote the development and improvement of a comprehensive system of education and training for the officers and employees of agencies consistent with its rules and ~~regulations;~~ regulations.
- (11) Maintain liaison among municipal, State and federal agencies with respect to

- education and ~~training~~training.
- (12) Promote the planning and development of a systematic career development program for sheriffs' department personnel."

SECTION 9. Article 10 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-212.3. Citizen review boards.

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

- (1) Disciplinary action. – An oral or written reprimand, suspension, demotion, or termination.
- (2) Discriminatory profiling. – As defined in G.S. 15A-306.
- (3) Head. – As defined in G.S. 160A-288.
- (4) Law enforcement agency. – A county police department or sheriff's department. If a joint citizen review board is established under subsection (1) of this section, this term includes a city police department. This term does not include company police agencies certified by the Attorney General pursuant to Chapter 74E of the General Statutes, campus police agencies

General Assembly of North Carolina

Session 2015

- certified by the Attorney General pursuant to Chapter 74G of the General Statutes, or any special police agency created by the State.
- (5) Law enforcement officer. – Any employee of a law enforcement agency 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.
- (6) Misconduct. – Limited to excessive use of force, abuse of power, and discriminatory profiling.
- (b) Creation. – A county may by ordinance establish a citizen review board, or may use an existing citizen review board, to investigate or review allegations of misconduct by law enforcement officers employed by a law enforcement agency located within the county that established the citizen review board. The ordinance shall specify at least all of the following:
- (1) The composition of the citizen review board.
- (2) The minimum qualifications to serve on the citizen review board.
- (3) The procedure for appointing persons to the citizen review board.
- (4) The duration of the terms of members on the citizen review board.
- (5) The manner in which hearings of the citizen review board are to be held.
- (c) Powers and Duties. – A citizen review board shall have the following powers and duties:
- (1) Receive and investigate complaints by members of the general public against law enforcement officers that allege misconduct.
- (2) Review an internal investigation and discipline of a law enforcement officer who is alleged to have committed misconduct.
- (3) Subpoena witnesses, administer oaths, and compel the production of evidence.
- (4) Make findings and decisions on disciplinary action of a law enforcement officer alleged to have committed misconduct.
- (5) Recommend changes in policy to the board of county commissioners and the head of the law enforcement agency within the county that established the citizen review board.
- (6) Exercise any other power deemed necessary by the governing body of the

33 county to the discharge of its duties.
34 (d) Notice and Opportunity to be Heard. – When investigating a complaint or reviewing
35 an internal investigation and discipline of a law enforcement officer alleged to have committed
36 misconduct, the citizen review board shall provide the law enforcement officer with reasonable
37 notice and an opportunity to be heard. A law enforcement officer and any other person involved
38 in a hearing before the citizen review board may be represented by an attorney or attorneys at
39 the hearing.
40 (e) Subpoena Power. – If a person fails or refuses to obey a subpoena issued pursuant to
41 this section, the citizen review board may apply to the General Court of Justice located in the
42 county that established the citizen review board for an order requiring that its order be obeyed,
43 and the court shall have jurisdiction to issue these orders after notice to all proper parties. The
44 court shall authorize subpoenas under this section if the court determines the subpoenas are
45 necessary for the citizen review board to complete its investigation or review. No testimony of
46 any witness before the citizen review board pursuant to a subpoena issued in exercise of the
47 power conferred by this section may be used against that witness in any civil or criminal action.
48 Subpoenas issued under this section shall be enforceable by the court through contempt powers.
49 (f) Personnel Records. – Notwithstanding G.S. 153A-98, but subject to any federal law
50 restricting access, the head of the law enforcement agency that employs the law enforcement
51 officer alleged to have committed misconduct shall make available to the citizen review board

H193 [Edition 1]

Page 7

General Assembly of North Carolina

Session 2015

1 the personnel file of the law enforcement officer and any other material deemed necessary by
2 the governing body of the county for the citizen review board to complete its investigation or
3 review. The citizen review board shall maintain the confidentiality of any information provided
4 to it under this subsection.

5 (g) Findings and Decisions. – Unless otherwise declared confidential by State or federal
6 law, the findings and decisions of a citizen review board are public records. Notwithstanding
7 G.S. 153A-103 or any other State law to the contrary, any decision by a citizen review board as
8 to disciplinary action of a law enforcement officer found to have committed misconduct shall
9 be binding on the head of the law enforcement agency that employs the law enforcement
10 officer or the city or county that employs the law enforcement officer.

11 (h) Appeals. – A county that establishes a citizen review board under this section shall
12 establish an appeals process under which a law enforcement officer may appeal any decision by
13 a citizen review board as to disciplinary action of a law enforcement officer. An appeals
14 process established under this subsection shall provide the law enforcement officer with a
15 reasonable period of time to request an appeal, afford an opportunity for a hearing, and require
16 the hearing officer or body to expeditiously provide a written disposition. If the hearing officer
17 or body overturns the decision of the citizen review board, the law enforcement officer shall be
18 entitled to all relief necessary to make the law enforcement officer whole.

19 (i) Judicial Review. – Any law enforcement officer aggrieved by a decision of a citizen
20 review board, and who has exhausted the appeals processes established under subsection (h) of
21 this section, is entitled to judicial review of the decision by the citizen review board in the same
22 manner as a party or person aggrieved by the final decision of an agency in a contested case is
23 entitled to judicial review of the decision under Article 4 of Chapter 150B of the General
24 Statutes. Judicial review under this subsection shall be conducted in accordance with Article 4
25 of Chapter 150B of the General Statutes.

26 (j) Reports. – A citizen review board shall make a semiannual and an annual report of
27 its actions for each preceding year to the head of the law enforcement agency in the county that
28 established the citizen review board and the governing body of the county that established the
29 citizen review board. The specific content of the reports shall be prescribed by the governing

body of the county. Any report made by the citizen review board shall be public record.

(k) Funding. – No State funds shall be used to establish or operate a citizen review board established under this section.

(l) Joint Citizen Review Board. – A county and one or more cities in the county may establish a joint citizen review board.

(m) Exceptions to General Authority. – A citizen review board established by a county under this section shall have no authority to investigate or review allegations of misconduct by any of the following:

(1) A law enforcement officer employed by a city police department located within a city that has established a citizen review board pursuant to G.S. 160A-289.3, unless the county and city have established a joint citizen review board.

(2) A law enforcement officer employed by a company police agency certified by the Attorney General pursuant to Chapter 74E of the General Statutes.

(3) A law enforcement officer employed by a campus police agency certified by the Attorney General pursuant to Chapter 74G of the General Statutes.

(4) A law enforcement officer employed by a special police agency created by the State.

(n) Local Acts. – To the extent that any provisions of a local act may be inconsistent with the provisions of this section, the provisions of this section shall control."

SECTION 10. Article 13 of Chapter 160A of the General Statutes is amended by adding a new section to read:

Page 8

H193 [Edition 1]

General Assembly of North Carolina

Session 2015

"§ 160A-289.3. Citizen review boards.

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

(1) Disciplinary action. – As defined in G.S. 153A-212.3.

(2) Discriminatory profiling. – As defined in G.S. 15A-306.

(3) Head. – As defined in G.S. 160A-288.

(4) Law enforcement agency. – A city police department. If a joint citizen review board is established under subsection (l) of this section, this term includes a county police department or sheriff's department. This term does not include company police agencies certified by the Attorney General pursuant to Chapter 74E of the General Statutes, campus police agencies certified by the Attorney General pursuant to Chapter 74G of the General Statutes, or any special police agency created by the State.

(5) Law enforcement officer. – As defined in G.S. 153A-212.3.

(6) Misconduct. – As defined in G.S. 153A-212.3.

(b) Creation. – A city may by ordinance establish a citizen review board, or may use an existing citizen review board, to investigate or review allegations of misconduct by law enforcement officers employed by a law enforcement agency located within the city that established the citizen review board. The ordinance shall specify at least all of the following:

(1) The composition of the citizen review board.

(2) The minimum qualifications to serve on the citizen review board.

(3) The procedure for appointing persons to the citizen review board.

(4) The duration of the terms of members on the citizen review board.

(5) The manner in which hearings of the citizen review board are to be held.

(c) Powers and Duties. – A citizen review board shall have the following powers and duties:

(1) Receive and investigate complaints by members of the general public against

27 law enforcement officers that allege misconduct.
28 (2) Review an internal investigation and discipline of a law enforcement officer
29 who is alleged to have committed misconduct.
30 (3) Subpoena witnesses, administer oaths, and compel the production of
31 evidence.
32 (4) Make findings and decisions on disciplinary action of a law enforcement
33 officer alleged to have committed misconduct.
34 (5) Recommend changes in policy to the council and the head of the law
35 enforcement agency within the city that established the citizen review board.
36 (6) Exercise any other power deemed necessary by the governing body of the
37 city to the discharge of its duties.
38 (d) Notice and Opportunity to be Heard. – When investigating a complaint or reviewing
39 an internal investigation and discipline of a law enforcement officer alleged to have committed
40 misconduct, the citizen review board shall provide the law enforcement officer with reasonable
41 notice and an opportunity to be heard. A law enforcement officer and any other person involved
42 in a hearing before the citizen review board may be represented by an attorney or attorneys at
43 the hearing.
44 (e) Subpoena Power. – If a person fails or refuses to obey a subpoena issued pursuant to
45 this section, the citizen review board may apply to the General Court of Justice located in the
46 county in which the city that established the citizen review board is located for an order
47 requiring that its order be obeyed, and the court shall have jurisdiction to issue these orders
48 after notice to all proper parties. The court shall authorize subpoenas under this section if the
49 court determines the subpoenas are necessary for the citizen review board to complete its
50 investigation or review. No testimony of any witness before the citizen review board pursuant
51 to a subpoena issued in exercise of the power conferred by this section may be used against that

General Assembly of North Carolina

Session 2015

1 witness in any civil or criminal action. Subpoenas issued under this section shall be enforceable
2 by the court through contempt powers.

3 (f) Personnel Records. – Notwithstanding G.S. 160A-168, but subject to any federal
4 law restricting access, the head of the law enforcement agency that employs the law
5 enforcement officer alleged to have committed misconduct shall make available to the citizen
6 review board the personnel file of the law enforcement officer and any other material deemed
7 necessary by the governing body of the city for the citizen review board to complete its
8 investigation or review. The citizen review board shall maintain the confidentiality of any
9 information provided to it under this subsection.

10 (g) Findings and Decisions. – Unless otherwise declared confidential by State or federal
11 law, the findings and decisions of a citizen review board are public records. Notwithstanding
12 G.S. 153A-103 or any other State law to the contrary, any decision by a citizen review board as
13 to disciplinary action of a law enforcement officer found to have committed misconduct shall
14 be binding on the head of the law enforcement agency that employs the law enforcement
15 officer or the city or county that employs the law enforcement officer.

16 (h) Appeals. – A city that establishes a citizen review board under this section shall
17 establish an appeals process under which a law enforcement officer may appeal any decision by
18 a citizen review board as to disciplinary action of a law enforcement officer. An appeals
19 process established under this subsection shall provide the law enforcement officer with a
20 reasonable period of time to request an appeal, afford an opportunity for a hearing, and require
21 the hearing officer or body to expeditiously provide a written disposition. If the hearing officer
22 or body overturns the decision of the citizen review board, the law enforcement officer shall be
23 entitled to all relief necessary to make the law enforcement officer whole.

(i) Judicial Review. – Any law enforcement officer aggrieved by a decision of a citizen review board, and who has exhausted the appeals processes established under subsection (h) of this section, is entitled to judicial review of the decision by the citizen review board in the same manner as a party or person aggrieved by the final decision of an agency in a contested case is entitled to judicial review of the decision under Article 4 of Chapter 150B of the General Statutes. Judicial review under this subsection shall be conducted in accordance with Article 4 of Chapter 150B of the General Statutes.

(j) Reports. – A citizen review board shall make a semiannual and an annual report of its actions for each preceding year to the head of the law enforcement agency or agencies in the city that established the citizen review board and the governing body of the city that established the citizen review board. The specific content of the reports shall be prescribed by the governing body of the county. Any report made by the citizen review board shall be public record.

(k) Funding. – No State funds shall be used to establish or operate a citizen review board established under this section.

(l) Joint Citizen Review Board. – A county and one or more cities in the county may establish a joint citizen review board.

(m) Exceptions to General Authority. – A citizen review board established by a city under this section shall have no authority to investigate or review allegations of misconduct by any of the following:

(1) A law enforcement officer employed by a county police department or sheriff's department located in a county that has established a citizen review board pursuant to G.S. 153A-212.3, unless the county and city have established a joint citizen review board.

(2) A law enforcement officer employed by a company police agency certified by the Attorney General pursuant to Chapter 74E of the General Statutes.

(3) A law enforcement officer employed by a campus police agency certified by the Attorney General pursuant to Chapter 74G of the General Statutes.

General Assembly of North Carolina

Session 2015

(4) A law enforcement officer employed by a special police agency created by the State.

(n) Local Acts. – To the extent that any provisions of a local act may be inconsistent with the provisions of this section, the provisions of this section shall control."

SECTION 11. G.S. 153A-212.2 reads as rewritten:

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

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

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

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

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

(3) Emphasizes that members of the neighborhood crime watch program are to

- 21 adhere to the instructions given to them by law enforcement officials.
- 22 (4) Educates members of the neighborhood crime watch program about
- 23 discriminatory profiling, as defined in G.S. 15A-306, and develops effective
- 24 methods for ensuring that members of the neighborhood crime watch
- 25 program perform their duties without engaging in discriminatory profiling."

26 **SECTION 12.** G.S. 160A-289.2 reads as rewritten:

27 **"§ 160A-289.2. Neighborhood crime watch programs.**

28 (a) Creation. – A city may establish neighborhood crime watch programs within the

29 city to encourage residents and business owners to promote citizen involvement in securing

30 homes, businesses, and personal property against criminal activity and to report suspicious

31 activities to law enforcement officials.

32 (b) Required Training. – A city shall provide training that does all of the following to

33 any member of a neighborhood crime watch program established pursuant to subsection (a) of

34 this section:

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

47 **SECTION 13.** Section 1 of this act is effective when this act becomes law. The

48 remainder of this act becomes effective December 1, 2015, and applies to any misconduct

49 committed on or after that date.