

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE PRINCIPAL CLERK

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HOUSE DRH80251-ML-171 (03/28)

Short Title: Protect Officers from Retaliation. (Public)

Sponsors: Representatives Cotham, Dollar, Collins, and Murry (Primary Sponsors).

Referred to:

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

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 5 of Chapter 153A of the General Statutes is amended by
7 adding a new section to read:

8 "**§ 153A-99.2. Protection from retaliation for county law enforcement officers.**

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

10 (1) Employing agency. – A sheriff's department or county police department.

11 (2) County law enforcement officer. – A full-time paid employee of an
12 employing agency who is actively serving in a position with assigned
13 primary duties and responsibilities for prevention and detection of crime or
14 the general enforcement of the criminal laws of the State or serving civil
15 processes and who possesses the power of arrest by virtue of an oath
16 administered under the authority of the State.

17 (b) Statement of Policy. – It is the policy of this State that county law enforcement
18 officers shall be encouraged to report verbally or in writing to their supervisor, department
19 head, or other appropriate authority evidence of activity constituting any of the following:

20 (1) A violation of State or federal law, rule, or regulation.

21 (2) Fraud.

22 (3) Misappropriation of State and local government resources.

23 (4) Substantial and specific danger to the public health and safety.

24 (5) Gross mismanagement, a gross waste of monies, or gross abuse of authority.

25 Further, it is the policy of this State that county law enforcement officers be free of
26 intimidation or harassment when reporting to public bodies about matters of public concern,
27 including offering testimony to or testifying before appropriate legislative or judicial panels.

28 (c) Protection from Retaliation. –

29 (1) No employing agency shall discharge, threaten, or otherwise discriminate
30 against a county law enforcement officer regarding the officer's
31 compensation, terms, conditions, location, or privileges of employment
32 because the officer or a person acting on behalf of the officer reports or is
33 about to report verbally or in writing any activity described in subsection (b)
34 of this section unless the officer knows or has reason to believe that the
35 report is inaccurate.



1 (2) No county law enforcement officer shall retaliate against another county law
2 enforcement officer because the officer or a person acting on behalf of the
3 officer reports or is about to report verbally or in writing any activity
4 described in subsection (b) of this section.

5 (3) No employing agency shall discharge, threaten, or otherwise discriminate
6 against a county law enforcement officer regarding the officer's
7 compensation, terms, conditions, location, or privileges of employment
8 because the officer has refused to carry out a directive which in fact
9 constitutes a violation of State or federal law, rule, or regulation or poses a
10 substantial and specific danger to the public health and safety.

11 (4) No county law enforcement officer shall retaliate against another county law
12 enforcement officer because the officer has refused to carry out a directive
13 which may constitute a violation of State or federal law, rule, or regulation
14 or pose a substantial and specific danger to the public health and safety.

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

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

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

36 **SECTION 2.** Article 13 of Chapter 160A of the General Statutes is amended by
37 adding a new section to read:

38 **"§ 160A-290. Protection from retaliation for municipal law enforcement officers.**

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

40 (1) Employing agency. – A city or unified city-county government police
41 agency.

42 (2) Municipal law enforcement officer. – A full-time paid employee of an
43 employing agency who is actively serving in a position with assigned
44 primary duties and responsibilities for prevention and detection of crime or
45 the general enforcement of the criminal laws of the State or serving civil
46 processes and who possesses the power of arrest by virtue of an oath
47 administered under the authority of the State.

48 (b) Statement of Policy. – It is the policy of this State that municipal law enforcement
49 officers shall be encouraged to report verbally or in writing to their supervisor, department
50 head, or other appropriate authority evidence of activity constituting any of the following:

51 (1) A violation of State or federal law, rule, or regulation.

- 1 (2) Fraud.
- 2 (3) Misappropriation of State and local government resources.
- 3 (4) Substantial and specific danger to the public health and safety.
- 4 (5) Gross mismanagement, a gross waste of monies, or gross abuse of authority.

5 Further, it is the policy of this State that municipal law enforcement officers be free of
6 intimidation or harassment when reporting to public bodies about matters of public concern,
7 including offering testimony to or testifying before appropriate legislative or judicial panels.

8 (c) Protection from Retaliation. –

- 9 (1) No employing agency shall discharge, threaten, or otherwise discriminate
10 against a municipal law enforcement officer regarding the officer's
11 compensation, terms, conditions, location, or privileges of employment
12 because the officer or a person acting on behalf of the officer reports or is
13 about to report verbally or in writing any activity described in subsection (b)
14 of this section unless the officer knows or has reason to believe that the
15 report is inaccurate.
- 16 (2) No municipal law enforcement officer shall retaliate against another
17 municipal law enforcement officer because the officer or a person acting on
18 behalf of the officer reports or is about to report verbally or in writing any
19 activity described in subsection (b) of this section.
- 20 (3) No employing agency shall discharge, threaten, or otherwise discriminate
21 against a municipal law enforcement officer regarding the officer's
22 compensation, terms, conditions, location, or privileges of employment
23 because the officer has refused to carry out a directive which in fact
24 constitutes a violation of State or federal law, rule, or regulation or poses a
25 substantial and specific danger to the public health and safety.
- 26 (4) No municipal law enforcement officer shall retaliate against another
27 municipal law enforcement officer because the officer has refused to carry
28 out a directive which may constitute a violation of State or federal law, rule,
29 or regulation or pose a substantial and specific danger to the public health
30 and safety.

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

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

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

1 **SECTION 3.** This act becomes effective October 1, 2013, and applies to acts
2 incurring liability on or after that date.