

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

**H.B 1059**  
**May 10, 2016**  
**HOUSE PRINCIPAL CLERK**

H

D

HOUSE BILL DRH40574-MSa-45 (04/27)

Short Title: Prohibit Discriminatory Profiling. (Public)

Sponsors: Representative R. Moore.

Referred to:

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.

d. Any special police agency created by the State.



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

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

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

7       ...

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

9       (3a) Whether the officers making the stop attempted to determine the immigration  
10 status of the driver, passenger, or passengers.

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

12       ...."

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

15 **"§ 143B-904.1. Collection of homicide statistics.**

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

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

21       (1) The number of homicides committed.

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

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

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

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

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

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

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

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

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

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

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

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

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

51 **"§ 17C-2. Definitions.**

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

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

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

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

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

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

(2) Establish minimum educational and training standards that must be met in order to qualify for entry level employment and retention as a criminal justice officer in temporary or probationary status or in a permanent position. The standards for entry level employment shall include the following:

- a. ~~education~~ Education and training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions.
- b. Education and training concerning the prohibition against discriminatory profiling.
- c. Education and 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.

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

- 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 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           (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.