

## Chapter 17E.

### North Carolina Sheriffs' Education and Training Standards Commission.

#### Article 1.

#### General.

##### § 17E-1. Findings and policy.

The General Assembly finds and declares that the office of sheriff, the office of deputy sheriff and the other officers and employees of the sheriff of a county are unique among all of the law-enforcement offices of North Carolina. The administration of criminal justice has been declared by Article 1 of Chapter 17C of the General Statutes to be of statewide concern to the people of the State. The sheriff is the only officer of local government required by the Constitution. The sheriff, in addition to his criminal justice responsibilities, is the only officer who is also responsible for the courts of the State, and acting as their bailiff and marshal. The sheriff administers and executes criminal and civil justice and acts as the ex officio detention officer.

The deputy sheriff has been held by the Supreme Court of this State to hold an office of special trust and confidence, acting in the name of and with powers coterminous with his principal, the elected sheriff.

The offices of sheriff and deputy sheriff are therefore of special concern to the public health, safety, welfare and morals of the people of the State. The training and educational needs of such officers therefore require particularized and differential treatment from those of the criminal justice officers certified under Article 1 of Chapter 17C of the General Statutes. (1983, c. 558, s. 1; 1995, c. 103, s. 1; 2021-107, s. 3(a).)

##### § 17E-2. Definitions.

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

- (1) "Commission" means the North Carolina Sheriffs' Education and Training Standards Commission.
- (1a) "Critical incident" means an incident involving any use of force by a law enforcement officer that results in death or serious bodily injury to a person.
- (2) "Office" or "department" means the sheriff of a county, his deputies, his employees and such equipment, space, provisions and quarters as are supplied for their use.
- (3) "Justice officer" means:
  - 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
  - b. A person who, through the special trust and confidence of the sheriff, has been appointed as a detention officer by the sheriff; or
  - 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

- 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. (1983, c. 558, s. 1; c. 745, s. 1; 1991, c. 265, s. 1; 1995, c. 103, s. 2; 1997-443, s. 20.11(b); 2021-107, s. 3(a); 2021-138, s. 3(c).)

**§ 17E-3. North Carolina Sheriffs' Education and Training Standards Commission established; members; terms; vacancies.**

(a) There is hereby established the North Carolina Sheriffs' Education and Training Standards Commission. The Commission shall be composed of 17 members as follows:

- (1) Sheriffs. – Twelve sheriffs appointed by the North Carolina Sheriffs' Association, 10 representing each of the Commission Districts established in this section, and two appointed at large in such manner as shall be prescribed by the Constitution or bylaws of the Association.
- (2) Appointees of the General Assembly. – One person appointed by the Speaker of the House of Representatives pursuant to G.S. 120-121 and one person appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate pursuant to G.S. 120-121.
- (3) County Commissioners. – One county commissioner appointed by the Governor as recommended from three nominees from the North Carolina Association of County Commissioners.
- (4) Others. – The President of the Community Colleges System or the President's designee and the Dean of the School of Government at the University of North Carolina at Chapel Hill or the Dean's designee shall be ex officio, nonvoting members of the Commission.

(b) Terms. – Members shall be appointed for staggered terms. Beginning September 1, 1995, sheriffs representing Commission Districts 3, 6, and 9 shall be appointed to three-year terms; sheriffs representing Commission Districts 1, 4, and 7 shall be appointed to one-year terms; sheriffs representing Commission Districts 2, 5, 8, and 10 and the two at-large sheriffs, shall be appointed to two-year terms. The appointee of the House of Representatives shall serve a term of two years. The appointee of the Senate shall serve a term of two years. The county commissioner appointed by the North Carolina Association of County Commissioners shall serve a term of two years. After the initial terms established herein have expired, all sheriffs appointed to the Commission shall be appointed to terms of three years.

If an individual ceases to be a sheriff then his seat on the Commission becomes vacated upon his ceasing to be qualified to hold that seat. Any individual appointed or designated to serve on this Commission shall serve until his successor is appointed and qualified.

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

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

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

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

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

(h) The Commission may appoint any resident of the State to an adjunct or special committee created or appointed by it to study or make recommendations or reports on any subject matter related to its duties or the office of sheriff.

(i) Members of the Commission shall have the authority to designate, in writing, one member of his office to represent them and, if the member possesses voting authority, vote for them on the Commission at all meetings the voting member is unable to attend. This voting authority shall extend to all matters brought before the Commission which require a vote, to include the entry of final agency decisions and the adoption of administrative rules.

(j) The State is divided into 10 Commission Districts established for the appointment of members of the North Carolina Sheriffs' Education and Training Standards Commission as follows:

District 1: The Counties of Bertie, Camden, Chowan, Currituck, Gates, Hertford, Pasquotank, Perquimans, Tyrrell, and Washington.

District 2: The Counties of Caswell, Edgecombe, Franklin, Granville, Halifax, Nash, Northampton, Person, Vance, and Warren.

District 3: The Counties of Beaufort, Craven, Dare, Duplin, Hyde, Jones, Lenoir, Martin, Pamlico, and Pitt.

District 4: The Counties of Chatham, Durham, Greene, Harnett, Johnston, Lee, Orange, Wake, Wayne, and Wilson.

District 5: The Counties of Alleghany, Alexander, Ashe, Catawba, Gaston, Lincoln, Surry, Watauga, Wilkes, and Yadkin.

District 6: The Counties of Alamance, Davidson, Davie, Forsyth, Guilford, Iredell, Randolph, Rockingham, Rowan, and Stokes.

District 7: The Counties of Bladen, Brunswick, Carteret, Columbus, Cumberland, New Hanover, Onslow, Pender, Robeson, and Sampson.

District 8: The Counties of Anson, Cabarrus, Hoke, Mecklenburg, Montgomery, Moore, Richmond, Scotland, Stanly, and Union.

District 9: The Counties of Avery, Burke, Caldwell, Cleveland, Madison, McDowell, Mitchell, Polk, Rutherford, and Yancey.

District 10: The Counties of Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Swain, and Transylvania. (1983, c. 558, s. 1; 1991 (Reg. Sess., 1992), c. 1005, ss. 1, 2; 1993 (Reg. Sess., 1994), c. 562, s. 1; c. 767, s. 33; 1995, c. 103, s. 3; c. 490, s. 48; 2006-264, s. 29(e); 2021-107, s. 3(a).)

**§ 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.
- (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:
  - a. 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.
  - b. Training on juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.
  - c. Education and training to develop knowledge and increase awareness of effective mental health and wellness strategies for justice officers.
- (3) Certify, recertify, suspend, revoke, or deny, 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.
- (4) Establish minimum standards for the certification of training schools and programs or courses of instruction that are required by this Chapter.
- (5) Certify, recertify, suspend, revoke, or deny, 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.
- (6) Establish standards and levels of education or equivalent experience for criminal justice school instructors, including instructors with probationary or limited teaching privileges, qualified assistants, in-service training coordinators, executive officers, and school directors, who participate in programs or courses of instruction that are required by this Chapter.
- (7) Certify, recertify, suspend, revoke, or deny, pursuant to the standards that it has established for the purpose, criminal justice school instructors, including

- instructors with probationary or limited teaching privileges, qualified assistants, in-service training coordinators, executive officers, and school directors, who participate in programs or courses of instruction that are required by this Chapter or are required and approved by the instructor's agency, including programs or courses of instruction certified under Chapter 17C of the General Statutes or offered by an educational institution accredited by the Commission.
- (8) Investigate and make such evaluations as may be necessary to determine if agencies, criminal justice school instructors, including instructors with probationary or limited teaching privileges, qualified assistants, in-service training coordinators, executive officers, and school directors, are complying with the provision[s] of this Chapter.
  - (9) Adopt and amend bylaws, consistent with law, for its internal management and control.
  - (10) Enter into contracts incident to the administration of its authority pursuant to this Chapter.
  - (11) Establish minimum standards for in-service training for justice officers. In-service training standards for sworn law enforcement officers shall include all of the following training topics:
    - a. 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.
    - b. Juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.
    - c. Training to develop knowledge and increase awareness of effective mental health and wellness strategies for justice officers. The standards established shall include two hours of training on this issue every three years.
    - d. Ethics.
    - e. Mental health for justice officers.
    - f. Community policing.
    - g. Minority sensitivity.
    - h. Use of force.
    - i. The duty to intervene and report.
  - (12) Establish minimum standards and levels of training for certification of instructors for the domestic violence training and juvenile justice training required by subdivisions (2) and (11) of this subsection.
  - (13) Establish minimum educational and training standards for employment and continuing education for officers concerning:
    - a. Recognizing and appropriately interacting with persons who are deaf or hard of hearing.

- b. Drivers license and vehicle registration identifiers of persons who are deaf or hard of hearing, as authorized by G.S. 20-7(q2), including that those identifiers are optional.
- (14) Monitor compliance with G.S. 20-185.1(d).
  - (15) Establish minimum standards and levels of training for certification of diversion investigators and diversion supervisors, as defined in G.S. 90-113.74(i). As part of these minimum standards, the Commission shall require that certified diversion investigators receive training in the following:
    - a. Definition of drug diversion.
    - b. Categories of drugs most subject to diversion and misuse.
    - c. Methods used to divert drugs.
    - d. Proper investigation of drug diversion cases.
    - e. Appropriate use of the controlled substances reporting system to investigate drug diversion cases.
    - f. Requests of prescriptions and records related to prescriptions pursuant to G.S. 90-107.1, including best practices for working with pharmacies in a manner that minimizes disruption of customer service and pharmacy operations.
    - g. Data privacy and security provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and other pertinent federal and State laws governing privacy and security of confidential data and records.
    - h. Proper handling of confidential data and records from any source.
    - i. Criminal and civil penalties under federal and State law for improperly accessing, handling, or disclosing confidential prescription data or other confidential data or records.
  - (16) Certify and recertify at least once every three years, suspend, revoke, or deny, pursuant to the standards that it has established for the purpose, persons as qualified to be employed at entry level and retained as diversion investigators and diversion supervisors, as defined in G.S. 90-113.74(i).
  - (17) Search the National Decertification Index (NDI) maintained by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) using the name of every applicant for certification or applicant for lateral transfer, and any other personal identifying information necessary to complete the search, and shall utilize any record of conviction of a criminal offense received as a result of the search during the application and lateral transfer process to determine if the applicant has any record that would disqualify the applicant for certification.
  - (18) Establish initial and in-service educational and training standards for school resource officers, as set forth in G.S. 115C-105.58.

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

(b) [Recodified as G.S. 17E-4.1.] (1983, c. 558, s. 1; 1991, c. 265, s. 2; 1995, c. 103, ss. 4, 5; 2004-186, ss. 2.7, 2.9, 2.10, 2.12; 2017-57, s. 16D.4(cc); 2017-191, s. 3; 2018-5, s. 35.25(e); 2018-44, s. 14(b); 2018-142, s. 23(b); 2021-107, s. 3(a), (c); 2021-136, s. 1(b); 2021-137, s. 2(b); 2021-138, ss. 7(b), 11(b), 15(b); 2023-56, s. 2; 2024-1, s. 2.8A(b).)

#### **§ 17E-4.1. Advisory powers of the Commission.**

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.
- (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.
- (3) Study and make reports and recommendations concerning justice education and training in North 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.
- (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' offices.
- (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.
- (7) Make recommendations concerning any matters within its purview pursuant to this Chapter.
- (8) Appoint such advisory committees as it may deem necessary.
- (9) Do such things as may be necessary and incidental to the administration of its authority pursuant to this 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.
- (11) Maintain liaison among municipal, State and federal agencies with respect to education and training.
- (12) Promote the planning and development of a systematic career development program for sheriffs' office personnel. (1983, c. 558, s. 1; 1995, c. 103, s. 5; 2021-107, s. 3(a), (c); 2021-182, s. 3(c).)

#### **§ 17E-5. Functions of the Department of Justice.**

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

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

(c) Any papers, documents, or other records which become the property of the Commission that are placed in the criminal justice officer's personnel file maintained by the Commission shall be subject to the same disclosure requirements set forth in Chapters 126, 153A, and 160A of the General Statutes regarding the privacy of personnel records. (1983, c. 558, s. 1; 2021-107, s. 3(a); 2023-56, s. 3.)

**§ 17E-6. Justice Officers' Standards Division established; appointment of director; duties.**

(a) There is hereby established, within the Department of Justice, the Justice Officers' Standards Division hereinafter called "the Division," which shall be organized and staffed in accordance with applicable laws and regulations and within the limits of authorized appropriations.

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

(c) The Division shall administer such programs as are assigned to it by the Commission. Administrative duties and responsibilities shall include, but are not limited to, the following:

- (1) Administering any and all programs assigned to the Division by the Commission and reporting any violations of or deviations from the rules and regulations of the Commission as the Commission may require;
- (2) Compiling data, developing reports, identifying needs and performing research relevant to improvement of the agencies;
- (3) Developing new and revising existing programs for adoption consideration by the Commission;
- (4) Monitoring and evaluating programs of the Commission;
- (5) Providing technical assistance to agencies of the justice system to aid them in the discharge of program participation and responsibilities;
- (6) Disseminating information on Commission programs to concerned agencies or individuals;
- (7) Taking such other actions as may be deemed necessary or appropriate to carry out its assigned duties and responsibilities;
- (8) The director may divulge any information in the Division's personnel file of a justice officer or applicant for certification to the head of the department employing the officer or considering the applicant for employment when the director deems it necessary and essential to the retention or employment of said officer or applicant. The information may be divulged whether or not such information was contained in a personnel file maintained by a State or by a local government agency. (1983, c. 558, s. 1; 1995, c. 103, s. 6; 2021-107, s. 3(a).)

**§ 17E-6.5. Donations to the Commission; grants and appropriations.**

(a) The Commission may accept for any of its purposes and functions under this Chapter any and all donations, both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of same. Any arrangement pursuant to this section shall be detailed in a biennial report of



the Commission to the General Assembly. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any money received by the Commission pursuant to this section shall be deposited in the State Treasury to the account of the Commission.

(b) The Commission may authorize grants pursuant to this section and consistent with the powers conferred upon the Commission under G.S. 17E-6.

(c) The Commission in providing for the administration of the grant program authorized by this section shall promote the most efficient and economical program of criminal justice education and training, including the maximum utilization of existing facilities and programs for the purpose of avoiding duplication.

(d) The Commission may provide grants as a reimbursement for actual expenses incurred by the State or any political subdivision thereof for the provision of training programs providing said political subdivisions and State law-enforcement agencies do adhere to the selection and training standards established by the Commission. (1983, c. 558, s. 1; 1991 (Reg. Sess., 1992), c. 1030, s. 9; 2021-107, s. 3(b), (c).)

## Article 2.

### Justice Officers.

#### **§ 17E-7. Required standards.**

(a) Justice officers, other than those set forth in subsection (c1) of this section, shall not be required to meet any requirements of subsections (b) and (c) of this section as a condition of continued employment, nor shall failure of a justice officer to fulfill such requirements make him ineligible for any promotional examination for which he is otherwise eligible if the officer held an appointment prior to July 1, 1983, and is a sworn law-enforcement officer with power of arrest. The legislature finds, and it is hereby declared to be the policy of this Chapter, that such officers have satisfied such requirements by their experience. It is the intent of the Chapter that all justice officers employed at the entry level after the Commission has adopted the required standards shall meet the requirements of this Chapter. All justice officers who are exempted from the required entry level standards by this subsection are subject to the requirements of subsections (b) and (c) of this section as well as the requirements of G.S. 17E-4(a) in order to retain certification.

(b) The Commission shall provide, by regulation, that no person may be appointed as a justice officer at entry level, except on a temporary or probationary basis, unless such person has satisfactorily completed an initial preparatory program of training at a school certified by the Commission or has been exempted from that requirement by the Commission pursuant to this Chapter. Upon separation of a justice officer from a sheriff's office within the temporary or probationary period of appointment, the probationary certification shall be terminated by the Commission. Upon the reappointment to the same office or appointment to another office of an officer who has separated from an office within the probationary period, the officer shall be charged with the amount of time served during his initial appointment and allowed the remainder of the probationary period to complete the basic training requirement. Upon the reappointment to the same office or appointment to another office of an officer who has separated from an office within the probationary period and who has remained out of service for more than one year from the date of separation, the officer shall be allowed another probationary period to complete such training as the Commission shall require by rule for an officer returning to service.

(c) In addition to the requirements of subsection (b) of this section, the Commission, by rules and regulations, may fix other qualifications for the employment and retention of justice officers including minimum age, education, physical and mental standards, citizenship, good

moral character, experience, and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of the office. The Commission shall prescribe the means for presenting evidence of fulfillment of these requirements. The Commission shall require the administration of a psychological screening examination, including a face-to-face, in-person interview conducted by a licensed psychologist, to determine the justice officer's psychological suitability to properly fulfill the responsibilities of the justice officer. If face-to-face, in-person is not practicable, the face-to-face evaluation can be virtual as long as both the audio and video allow for a professional clinical evaluation in a clinical environment. The psychological screening examination shall be given (i) prior to the initial certification or (ii) prior to the criminal justice officer performing any action requiring certification by the Commission.

Where minimum educational standards are not met, yet the individual shows potential and a willingness to achieve the standards by extra study, they may be waived by the Commission for the reasonable amount of time it will take to achieve the standards required. Upon petition from a sheriff, the Commission may grant a waiver of any provisions of this section (17E-7) for any justice officer serving that sheriff.

(c1) Any justice officer appointed as a telecommunicator at the entry level after March 1, 1998, shall meet all requirements of this Chapter. Any person employed in the capacity of a telecommunicator as defined by the Commission on or before March 1, 1998, shall not be required to meet any entry-level requirements as a condition of continued employment but shall be reported to the Commission for certification. All justice officers who are exempted from the required entry-level standards by this subsection are subject to the requirements of subsections (b) and (c) of this section as well as the requirements of G.S. 17E-4(a) in order to retain certification.

(c2) Effective July 1, 2022, any person employed as a telecommunicator by a municipal police agency shall meet all the requirements for telecommunicators as set forth in this Chapter.

(d) The Commission may issue a certificate evidencing satisfaction of the requirements of subsections (b), (c), and (c1) of this section to any applicant who presents such evidence as may be required by its rules and regulations of satisfactory completion of a program or course of instruction in another jurisdiction. (1983, c. 558, s. 1; 1987, c. 783, s. 8; 1991, c. 265, s. 3; 1995, c. 103, s. 7; 1997-443, s. 20.11(c); 2019-200, s. 12; 2021-34, s. 1; 2021-107, s. 3(b); 2021-136, s. 1(d); 2021-138, s. 7(d); 2021-182, s. 3(d).)

#### **§ 17E-8. Special requirements; authorizations.**

(a) Nothing in this Chapter shall be construed as a condition precedent to the taking of the oath of office or the exercise of the powers, duties or privileges of the offices of sheriff or justice officer.

(b) Any sheriff or justice officer, who has taken the oath of office, or person who has received a special deputation for the purpose from the sheriff, acts validly, and his arrests, executions, levies and sales are valid, without regard to whether he has complied with this Chapter or the rules or regulations adopted under this Chapter, unless he has been ordered to cease and desist from such actions by the court, or pursuant to G.S. 17E-9. (1983, c. 558, s. 1; 1995, c. 103, s. 8; 2021-107, s. 3(b).)

#### **§ 17E-9. Compliance; enforcement.**

(a) Any justice officer who the Commission determines does not comply with this Chapter or any rules adopted under this Chapter shall not exercise the powers of a justice officer and shall not exercise the power of arrest unless the Commission waives that certification or deficiency. The

Commission shall enforce this section by the entry of appropriate orders effective upon service on either the department or the justice officer.

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

(c) The Commission may appear in its own name and apply to courts having jurisdiction for injunctions to prevent violations of this Chapter or of rules issued pursuant thereto; specifically, the performance of justice officer functions by officers or individuals who are not in compliance with the standards and requirements of this Chapter or of rules issued pursuant thereto. A single act of performance of a justice officer function by an officer or individual who is performing such function in violation of this Chapter is sufficient, if shown, to invoke the injunctive relief of this section. (1983, c. 558, s. 1; 1995, c. 103, s. 9; 2001-490, s. 1.4; 2021-107, s. 3(b).)

**§ 17E-10: Recodified as G.S. 17E-6.5 at the direction of the Revisor of Statutes, pursuant to Session Laws 2021-107, s. 3(b), (c), effective October 1, 2021, and applicable to elections and appointments to the office of sheriff on or after that date.**

**§ 17E-11. Application and construction of Article.**

(a) Nothing in this Article shall apply to the sheriff elected by the people.

(b) Nothing in this Article shall be construed as modifying the character of a sheriff from an elective office, or as modifying the character of the office of deputy sheriff from an appointive office.

(c) If a justice officer, or a criminal justice officer as defined in G.S. 17C-2(c), becomes sheriff, the justice officer is not required to maintain certification for the period served as sheriff. The Commission shall reinstate certification upon the conclusion of the period of service as sheriff and in conformance with the rules of the Commission for the application for certification. (1983, c. 558, s. 1; 1991, c. 265, s. 4; 2021-107, ss. 3(b), 4.)

**§ 17E-12. Pardons; expunctions.**

(a) When a person presents competent evidence that the person has been granted an unconditional pardon of innocence for a crime in this State, any other state, or the United States, the Commission may not deny, suspend, or revoke that person's certification based solely on the commission of that crime or for alleged lack of good moral character due to the commission of that crime.

(b) Notwithstanding G.S. 15A-145.4 or G.S. 15A-145.5, the Commission may gain access to a person's felony conviction records, including those maintained by the Administrative Office of the Courts in its confidential files containing the names of persons granted expunctions. The Commission may deny, suspend, or revoke a person's certification based solely on that person's felony conviction, whether or not that conviction was expunged, unless the conviction was expunged pursuant to G.S. 15A-145.4 or G.S. 15A-145.8A. (1995, c. 103, s. 10; 2011-278, s. 4; 2012-191, s. 7; 2021-107, s. 3(b); 2023-56, s. 4(b).)

**§ 17E-13: [Reserved]**

**§ 17E-14. Database of justice officer certification suspensions and revocations.**

The Commission shall develop and maintain a statewide database accessible to the public on its website that contains all revocations and suspensions of justice officer certifications by the Commission. (2021-138, s. 1(b).)

**§ 17E-15. Database for justice officer critical incident information.**

(a) The Division shall develop and maintain a statewide database for use by law enforcement agencies that tracks all critical incident data of justice officers in North Carolina.

(b) All law enforcement agencies in the State that employ personnel certified by the Commission shall provide any information requested by the Commission to maintain the database required by subsection (a) of this section.

(c) Information collected under this section that is confidential under State or federal law shall remain confidential.

(d) A justice officer who is reported to the Division as having been involved in a critical incident who disputes being involved in a critical incident has a right, prior to being placed in the database, to request a hearing in superior court for a determination of whether the officer's involvement was properly placed in the database. (2021-138, s. 3(d).)

**§ 17E-16. Requirement to report material relevant to testimony.**

(a) Any person who is certified by the Commission or has received a conditional offer of employment and who has been notified that the person may not be called to testify at trial based on bias, interest, or lack of credibility shall report and provide a copy of that notification to the Justice Officers' Standards Division within 30 days of receiving the notification, except as provided in subsection (h) of this section. This requirement shall only apply if the person is notified by one of the following methods:

- (1) In writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, assistant United States attorney, or the person's agency head.
- (2) In open court by a superior court judge, district court judge, or federal judge, and documented in a written order.

(b) The report to the Division shall be in writing and shall state who notified the person that the person may not be called to testify at trial. A person required to report to the Division under subsection (a) of this section shall make the same report to the person's agency head within 30 days of being notified that the person may not be called to testify at trial. An agency head who receives a report that a person in the agency has been notified that they may not be called to testify at trial shall also report the notification to the Division in writing within 30 days of the agency head's receipt of that report.

(c) A superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, or assistant United States attorney who notifies a person that they may not be called to testify at trial as provided in subsection (a) of this section shall report that notification to the Division and provide a copy of the written document or order within 30 days of notifying the person that they may not be called to testify at trial.

(d) If the Division transfers to another agency the certification of any person required to report to the Division pursuant to subsection (a) of this section, the Division shall provide written notification to both the head of the new agency and the elected district attorney in the prosecutorial district where the agency is located that the person has been previously notified that the person may not be called to testify at trial. If the new agency receiving notification pursuant to this subsection is

a State agency, the Division shall notify the elected district attorney in every prosecutorial district of the State.

(e) If any person required to report to the Division pursuant to subsection (a) of this section is subsequently informed in writing that that notification has been rescinded, the person shall provide the Division a copy of that document. The provisions of subsection (d) of this section do not apply if the person required to report pursuant to subsection (a) of this section is subsequently informed in writing that the notification has been rescinded.

(f) No later than March 1 each year, the Commission shall report to the Joint Legislative Oversight Committee on Justice and Public Safety regarding the number of individuals for whom the Division received a report required by subsection (a) of this section during the previous calendar year. The report shall include information for each case on whether a final agency decision has been entered pursuant to Chapter 150B of the General Statutes and what action, if any, has been taken against each certification. The report shall not include the name or any other identifying information of any person required to report pursuant to subsection (a) of this section.

(g) The reports and notifications received by the Division pursuant to this section shall not be public record.

(h) Any person who has received a notification that may meet the reporting requirement provided in subsection (a) of this section may apply for a hearing in superior court for a judicial determination of whether or not the person received a notification that the person may not be called to testify at trial based on bias, interest, or lack of credibility. This hearing is limited to reviewing whether (i) a person who is certified by the Commission or has received a conditional offer of employment, (ii) has been notified in writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, or assistant United States attorney; or notified in open court by a superior court judge, district court judge, or federal judge, and documented in a written order, and (iii) that notification states that the person may not be called to testify at trial based on bias, interest, or lack of credibility, not matters of law or admissibility. The person must provide notice of the hearing to the Division. One extension of 15 days will be added to the 30-day reporting requirement provided in subsection (a) of this section if notice of a hearing is received. (2021-137, s. 3(b).)

### Article 3.

#### Sheriffs.

#### **§ 17E-25. Disclosure of convictions and expungements for the office of sheriff.**

(a) Each individual filing, or intending to file, a notice of candidacy for election or any individual prior to appointment to fill a vacancy to the office of sheriff shall request the Commission to prepare a disclosure statement verifying that individual has no prior felony convictions or expungements of felony convictions. The individual shall provide such information as required by the Commission for the completion of the disclosure statement, including any evidence that the individual has been granted an unconditional pardon of innocence for a felony crime in this State, any other state, or the United States.

(b) Upon the request of an individual filing, or intending to file, a notice of candidacy for election as sheriff or any individual prior to appointment to fill a vacancy to the office of sheriff, the Commission shall prepare a disclosure statement verifying that the individual has no prior felony convictions or expungements for felony convictions. The disclosure statement shall be in a format as determined by the Commission but shall include at least all of the following:

- (1) Name of the individual.

- (2) Date the disclosure statement was prepared.
- (3) County of residence of the individual.
- (4) A statement that the individual has no prior felony convictions or expungements for felony convictions, if in fact the individual has no prior felony convictions or expungements for felony convictions.

(c) In preparing the disclosure statement, the Commission shall do at least all of the following:

- (1) Conduct a criminal history record check of State and national databases to determine if the individual has a record of a felony conviction.
- (2) Contact the Administrative Office of the Courts and request confirmation of whether or not the individual has previously received an expunction of a felony record.
- (3) Determine if the individual has ever been convicted of a felony in violation of Section 2 of Article VII of the North Carolina Constitution.

(d) Any request for a disclosure statement, any supporting documentation used in the preparation of any disclosure statement, and any disclosure statement prepared by the Commission in accordance with this section is confidential and not a public record under Chapter 132 of the General Statutes. (2021-107, s. 5.)

**§ 17E-26: Reserved for future codification purposes.**

**§ 17E-27: Reserved for future codification purposes.**

**§ 17E-28: Reserved for future codification purposes.**

**§ 17E-29: Reserved for future codification purposes.**

**§ 17E-30. Expunction records access.**

Notwithstanding G.S. 15A-145.4 or G.S. 15A-145.5, the Commission may gain access to an individual's felony conviction records, including those maintained by the Administrative Office of the Courts in its confidential files containing the names of persons granted expunctions for the purposes of this Article. (2021-107, s. 5.)

**§ 17E-31: Reserved for future codification purposes.**

**§ 17E-32: Reserved for future codification purposes.**

**§ 17E-33: Reserved for future codification purposes.**

**§ 17E-34: Reserved for future codification purposes.**

**§ 17E-35. Expiration of disclosure of convictions and expungements for the office of sheriff.**

Any disclosure statement prepared by the Commission shall be valid for the purpose of filing in accordance with G.S. 163-106, 162-5, or 162-5.1 for 90 days after issuance. (2021-107, s. 5.)