

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H

1

HOUSE BILL 548

Short Title: Duty to Report Giglio Information. (Public)

Sponsors: Representatives Szoka, K. Baker, and Hunter (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 2, if favorable, Rules, Calendar, and Operations of the House

April 14, 2021

A BILL TO BE ENTITLED

AN ACT TO REQUIRE LAW ENFORCEMENT OFFICERS AND JUSTICE OFFICERS TO NOTIFY THE NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION OR THE NORTH CAROLINA SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION, AS APPROPRIATE, WHEN THE OFFICER IS INFORMED THAT BECAUSE OF THE OFFICER'S BIAS, INTEREST, OR LACK OF CREDIBILITY, THE OFFICER MAY NOT BE CALLED TO TESTIFY AT TRIAL AS A LAW ENFORCEMENT OR JUSTICE OFFICER.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 17C of the General Statutes is amended by adding a new section to read:

"§ 17C-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 Criminal Justice Standards Division within 30 days of receiving the notification. 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.



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

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9 section is subsequently informed in writing that that the notification has been rescinded, the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12 is subsequently informed in writing that the notification has been rescinded.

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

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

22 **SECTION 2.** Chapter 17E of the General Statutes is amended by adding a new
23 section to read:

24 **§ 17E-16. Requirement to report material relevant to testimony.**

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

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

35 (b) The report to the Division shall be in writing and shall state who notified the person
36 that the person may not be called to testify at trial. A person required to report to the Division
37 under subsection (a) of this section shall make the same report to the person's agency head within
38 30 days of being notified that the person may not be called to testify at trial. An agency head who
39 receives a report that a person in the agency has been notified that they may not be called to
40 testify at trial shall also report the notification to the Division in writing within 30 days of the
41 agency head's receipt of that report.

42 (c) A superior court judge, district court judge, federal judge, district attorney, assistant
43 district attorney, United States attorney, or assistant United States attorney who notifies a person
44 that they may not be called to testify at trial as provided in subsection (a) of this section shall
45 report that notification to the Division and provide a copy of the written document or order within
46 30 days of notifying the person that they may not be called to testify at trial.

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

1 to this subsection is a State agency, the Division shall notify the elected district attorney in every
2 prosecutorial district of the State.

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

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

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

17 **SECTION 3.** This act becomes effective October 1, 2021, and applies to
18 notifications received prior to, on, or after that date by persons required to report pursuant to this
19 act.