

## 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).)