

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH30395-ST-28B

Short Title: Citizens Review Board/Law Enforcement. (Public)

Sponsors: Representative McNeill.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE USE OF CITIZEN REVIEW BOARDS TO INVESTIGATE
3 OR REVIEW ALLEGATIONS OF CERTAIN MISCONDUCT BY LAW
4 ENFORCEMENT OFFICERS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 13 of Chapter 160A of the General Statutes is amended by
7 adding a new section to read:

8 "§ 160A-289.3. Citizen review boards.

9 (a) A city may by ordinance establish a citizen review board to review appeals of
10 disciplinary actions involving allegations of misconduct by law enforcement officers employed
11 by that city's law enforcement agency. The ordinance shall comply with this section and shall
12 specify at least all of the following:

13 (1) The composition of the citizen review board, which shall be between five and
14 11 members.

15 (2) The qualifications to serve on the citizen review board, which shall at a
16 minimum include all of the following:

17 a. No member may be employed by the city.

18 b. Each member must be a qualified voter of the city.

19 c. Each member must attend a citizen's academy, if available.

20 d. Each member must have completed a ride-along with a law
21 enforcement officer within one year of appointment.

22 e. No person is eligible to serve as a member if that person has been
23 convicted of a felony against this State, the United States, or another
24 state, or of a Class A1 misdemeanor, and has not been restored to the
25 rights of citizenship in the manner prescribed by law.

26 f. Each member must submit to a criminal background check.

27 g. No member may be an immediate family member of any law
28 enforcement officer employed by the city. For purposes of this
29 sub-subdivision, immediate family shall be as defined in
30 G.S. 163A-250.

31 (3) The procedure for appointing members to the citizen review board, which
32 shall include application to the city and unanimous approval by the city
33 council for appointment.

34 (4) The manner in which hearings of the citizen review board are to be held.

35 (b) All members shall meet all qualifications set out in this section, and any additional
36 qualifications set out in the ordinance, prior to appointment. Members shall serve for a term of



1 two years and shall not serve two consecutive terms. Members may be removed for cause.
2 Vacancies shall be filled in accordance with the ordinance. At the first meeting, and every two
3 years thereafter, the board shall select a chairman from amongst its membership. Meetings shall
4 be upon call of the chairman if no regular meeting schedule is set forth in the ordinance.

5 (c) Members shall serve without compensation, but may receive reimbursement for
6 expenses in accordance with city ordinance or policy.

7 (d) Upon accepting the appointment, each member shall sign a confidentiality agreement.
8 Failure to sign, or breach of, the confidentiality agreement shall be a Class 1 misdemeanor, up to
9 a one thousand dollar (\$1,000) fine, and cause for removal.

10 (e) A citizen review board established by a city under this section shall have the following
11 powers and duties:

12 (1) Advise the chief officer of a law enforcement agency including the chief of
13 police, the city manager, and the governing board of a city.

14 (2) Make findings and recommendations on disciplinary action of a law
15 enforcement officer alleged to have committed misconduct. Such findings by
16 the citizen review board shall be categorized as sustained, not sustained,
17 exonerated, or unfounded.

18 (3) Recommend changes in policy or training of law enforcement officers to the
19 city council and the head of the law enforcement agency within the city that
20 established the citizen review board.

21 (f) A law enforcement officer and any other person involved in a hearing before the
22 citizen review board may be represented by an attorney or attorneys at the hearing.

23 (g) A citizen review board shall not:

24 (1) Possess the power of subpoena.

25 (2) Review appeals of decisions of the city manager or governing board of the
26 city.

27 (h) Notwithstanding G.S. 160A-168, but subject to any federal law restricting access and
28 the approval of the law enforcement officer being investigated, the head of the law enforcement
29 agency that employs the law enforcement officer alleged to have committed misconduct shall
30 make available to the citizen review board the personnel file of the law enforcement officer and
31 any other material deemed necessary by the governing body of the city for the citizen review
32 board to complete its investigation or review. The citizen review board shall maintain the
33 confidentiality of any information provided to it under this subsection.

34 (i) Any finding or recommendation by a citizen review board as to disciplinary action of
35 a law enforcement officer shall not be binding on the head of the law enforcement agency or the
36 city that employs the law enforcement officer and shall be confidential as part of the personnel
37 record.

38 (j) A citizen review board shall make a semiannual and an annual report of its actions
39 for each preceding year to the head of the law enforcement agency or agencies in the city that
40 established the citizen review board and the governing body of the city that established the citizen
41 review board. The specific content of the reports shall be prescribed by the governing body of
42 the city. Any report made under this subsection by the citizen review board shall be public record.

43 (k) No State funds shall be used to establish or operate a citizen review board established
44 under this section.

45 (l) A citizen review board established by a city under this section shall have no authority
46 to investigate or review allegations of misconduct by any of the following:

47 (1) A law enforcement officer employed by a county police department or
48 sheriff's department located in a county.

49 (2) A law enforcement officer employed by a company police agency certified by
50 the Attorney General pursuant to Chapter 74E of the General Statutes.

- 1 (3) A law enforcement officer employed by a campus police agency certified by
- 2 the Attorney General pursuant to Chapter 74G of the General Statutes.
- 3 (4) A law enforcement officer employed by a special police agency created by the
- 4 State.
- 5 (m) To the extent that any provisions of a local act may be inconsistent with the provisions
- 6 of this section, the provisions of this section shall control.
- 7 (n) For purposes of this section, the following definitions shall apply:
- 8 (1) Disciplinary action. – An oral or written reprimand, suspension, demotion, or
- 9 termination.
- 10 (2) Discriminatory profiling. – As defined in G.S. 15A-306.
- 11 (3) Head. – Any director or chief officer of a law enforcement agency including
- 12 the chief of police of a city.
- 13 (4) Law enforcement agency. – A city police department.
- 14 (5) Law enforcement officer. – Any employee of a city law enforcement agency
- 15 who is actively serving in a position with assigned primary duties and
- 16 responsibilities for prevention and detection of crime or the general
- 17 enforcement of the criminal laws of the State and who possesses the power of
- 18 arrest by virtue of an oath administered under the authority of the State.
- 19 (6) Misconduct. – Limited to excessive use of force, abuse of power, and
- 20 discriminatory profiling."

21 **SECTION 2.** This act becomes effective October 1, 2019.