

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

3

HOUSE BILL 138
Committee Substitute Favorable 5/9/89
Third Edition Engrossed 5/10/89

Short Title: Sheriff's Liability/Deputy's Acts.

(Public)

Sponsors:

Referred to:

February 2, 1989

A BILL TO BE ENTITLED

AN ACT TO CLARIFY A SHERIFF'S PERSONAL LIABILITY FOR THE ACTS OF HIS DEPUTY.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to Chapter 162 of the General Statutes to read:

"§ 162-26. Responsibility for act of deputy.

The sheriff shall have personal liability for an act performed by his deputy only if the act was:

- (1) Within the actual scope and course of the deputy's employment and in furtherance of his authorized duties as a deputy; or
- (2) Performed at the direction or command of the sheriff or done in accordance with the written policy of the Department; or
- (3) Performed with the sheriff's personal participation in the act or his later ratification of such act; or
- (4) Performed as part of a pattern of similar behavior by the deputy, which was known to the sheriff and which the sheriff had taken no action to correct, reprimand, or punish.

Provided, however, that the sheriff shall have no personal liability for an act of his deputy where such deputy was acting contrary to a direct order of the sheriff. Anything to the contrary notwithstanding, this section shall not apply to actions for amercements pursuant to law."

1 Sec. 2. This act is effective upon ratification.