

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H.B. 165
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40103-MS-42 (02/01)

Short Title: Citizens Review Boards Established. (Public)

Sponsors: Representatives R. Moore and Quick (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE USE OF CITIZEN REVIEW BOARDS TO INVESTIGATE OR REVIEW ALLEGATIONS OF CERTAIN POLICE MISCONDUCT AND TO REQUIRE THAT CERTAIN TRAINING BE PROVIDED TO MEMBERS OF NEIGHBORHOOD CRIME WATCH PROGRAMS ESTABLISHED BY COUNTIES AND CITIES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 10 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-212.3. Citizen review boards.

(a) Definitions. – The following definitions apply in this section:

- (1) Disciplinary action. – An oral or written reprimand, suspension, demotion, or termination.
- (2) Discriminatory profiling. – As defined in G.S. 15A-306.
- (3) Head. – As defined in G.S. 160A-288.
- (4) Law enforcement agency. – A county police department or sheriff's department. If a joint citizen review board is established under subsection (1) of this section, this term includes a city police department. This term does not include company police agencies certified by the Attorney General pursuant to Chapter 74E of the General Statutes, campus police agencies certified by the Attorney General pursuant to Chapter 74G of the General Statutes, or any special police agency created by the State.
- (5) Law enforcement officer. – Any employee of a law enforcement agency who is actively serving in a position with assigned primary duties and responsibilities for prevention and detection of crime or the general enforcement of the criminal laws of the State and who possesses the power of arrest by virtue of an oath administered under the authority of the State.
- (6) Misconduct. – Limited to excessive use of force, abuse of power, and discriminatory profiling.

(b) Creation. – A county may by ordinance establish a citizen review board, or may use an existing citizen review board, to investigate or review allegations of misconduct by law enforcement officers employed by a law enforcement agency located within the county that established the citizen review board. The ordinance shall specify at least all of the following:

- (1) The composition of the citizen review board.
- (2) The minimum qualifications to serve on the citizen review board.
- (3) The procedure for appointing persons to the citizen review board.
- (4) The duration of the terms of members on the citizen review board.



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- 1 (5) The manner in which hearings of the citizen review board are to be held.
2 (c) Powers and Duties. – A citizen review board shall have the following powers and
3 duties:
4 (1) Receive and investigate complaints by members of the general public against
5 law enforcement officers that allege misconduct.
6 (2) Review an internal investigation and discipline of a law enforcement officer
7 who is alleged to have committed misconduct.
8 (3) Subpoena witnesses, administer oaths, and compel the production of evidence.
9 (4) Make findings and decisions on disciplinary action of a law enforcement officer
10 alleged to have committed misconduct.
11 (5) Recommend changes in policy to the board of county commissioners and the
12 head of the law enforcement agency within the county that established the
13 citizen review board.
14 (6) Exercise any other power deemed necessary by the governing body of the
15 county to the discharge of its duties.
16 (d) Notice and Opportunity to Be Heard. – When investigating a complaint or reviewing
17 an internal investigation and discipline of a law enforcement officer alleged to have committed
18 misconduct, the citizen review board shall provide the law enforcement officer with reasonable
19 notice and an opportunity to be heard. A law enforcement officer and any other person involved in
20 a hearing before the citizen review board may be represented by an attorney or attorneys at the
21 hearing.
22 (e) Subpoena Power. – If a person fails or refuses to obey a subpoena issued pursuant to
23 this section, the citizen review board may apply to the General Court of Justice located in the
24 county that established the citizen review board for an order requiring that its order be obeyed, and
25 the court shall have jurisdiction to issue these orders after notice to all proper parties. The court
26 shall authorize subpoenas under this section if the court determines the subpoenas are necessary
27 for the citizen review board to complete its investigation or review. No testimony of any witness
28 before the citizen review board pursuant to a subpoena issued in exercise of the power conferred
29 by this section may be used against that witness in any civil or criminal action. Subpoenas issued
30 under this section shall be enforceable by the court through contempt powers.
31 (f) Personnel Records. – Notwithstanding G.S. 153A-98, but subject to any federal law
32 restricting access, the head of the law enforcement agency that employs the law enforcement
33 officer alleged to have committed misconduct shall make available to the citizen review board the
34 personnel file of the law enforcement officer and any other material deemed necessary by the
35 governing body of the county for the citizen review board to complete its investigation or review.
36 The citizen review board shall maintain the confidentiality of any information provided to it under
37 this subsection.
38 (g) Findings and Decisions. – Unless otherwise declared confidential by State or federal
39 law, the findings and decisions of a citizen review board are public records. Notwithstanding
40 G.S. 153A-103 or any other State law to the contrary, any decision by a citizen review board as to
41 disciplinary action of a law enforcement officer found to have committed misconduct shall be
42 binding on the head of the law enforcement agency that employs the law enforcement officer or
43 the city or county that employs the law enforcement officer.
44 (h) Appeals. – A county that establishes a citizen review board under this section shall
45 establish an appeals process under which a law enforcement officer may appeal any decision by a
46 citizen review board as to disciplinary action of a law enforcement officer. An appeals process
47 established under this subsection shall provide the law enforcement officer with a reasonable
48 period of time to request an appeal, afford an opportunity for a hearing, and require the hearing
49 officer or body to expeditiously provide a written disposition. If the hearing officer or body
50 overturns the decision of the citizen review board, the law enforcement officer shall be entitled to
51 all relief necessary to make the law enforcement officer whole.

1 (i) Judicial Review. – Any law enforcement officer aggrieved by a decision of a citizen
2 review board, and who has exhausted the appeals processes established under subsection (h) of
3 this section, is entitled to judicial review of the decision by the citizen review board in the same
4 manner as a party or person aggrieved by the final decision of an agency in a contested case is
5 entitled to judicial review of the decision under Article 4 of Chapter 150B of the General Statutes.
6 Judicial review under this subsection shall be conducted in accordance with Article 4 of Chapter
7 150B of the General Statutes.

8 (j) Reports. – A citizen review board shall make a semiannual and an annual report of its
9 actions for each preceding year to the head of the law enforcement agency in the county that
10 established the citizen review board and the governing body of the county that established the
11 citizen review board. The specific content of the reports shall be prescribed by the governing body
12 of the county. Any report made by the citizen review board shall be public record.

13 (k) Funding. – No State funds shall be used to establish or operate a citizen review board
14 established under this section.

15 (l) Joint Citizen Review Board. – A county and one or more cities in the county may
16 establish a joint citizen review board.

17 (m) Exceptions to General Authority. – A citizen review board established by a county
18 under this section shall have no authority to investigate or review allegations of misconduct by any
19 of the following:

20 (1) A law enforcement officer employed by a city police department located within
21 a city that has established a citizen review board pursuant to G.S. 160A-289.3,
22 unless the county and city have established a joint citizen review board.

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

25 (3) A law enforcement officer employed by a campus police agency certified by the
26 Attorney General pursuant to Chapter 74G of the General Statutes.

27 (4) A law enforcement officer employed by a special police agency created by the
28 State.

29 (n) Local Acts. – To the extent that any provisions of a local act may be inconsistent with
30 the provisions of this section, the provisions of this section shall control."

31 **SECTION 2.** Article 13 of Chapter 160A of the General Statutes is amended by
32 adding a new section to read:

33 **"§ 160A-289.3. Citizen review boards.**

34 (a) Definitions. – The following definitions apply in this section:

35 (1) Disciplinary action. – As defined in G.S. 153A-212.3.

36 (2) Discriminatory profiling. – As defined in G.S. 15A-306.

37 (3) Head. – As defined in G.S. 160A-288.

38 (4) Law enforcement agency. – A city police department. If a joint citizen review
39 board is established under subsection (l) of this section, this term includes a
40 county police department or sheriff's department. This term does not include
41 company police agencies certified by the Attorney General pursuant to Chapter
42 74E of the General Statutes, campus police agencies certified by the Attorney
43 General pursuant to Chapter 74G of the General Statutes, or any special police
44 agency created by the State.

45 (5) Law enforcement officer. – As defined in G.S. 153A-212.3.

46 (6) Misconduct. – As defined in G.S. 153A-212.3.

47 (b) Creation. – A city may by ordinance establish a citizen review board, or may use an
48 existing citizen review board, to investigate or review allegations of misconduct by law
49 enforcement officers employed by a law enforcement agency located within the city that
50 established the citizen review board. The ordinance shall specify at least all of the following:

51 (1) The composition of the citizen review board.

- 1 (2) The minimum qualifications to serve on the citizen review board.
2 (3) The procedure for appointing persons to the citizen review board.
3 (4) The duration of the terms of members on the citizen review board.
4 (5) The manner in which hearings of the citizen review board are to be held.

5 (c) Powers and Duties. – A citizen review board shall have the following powers and
6 duties:

- 7 (1) Receive and investigate complaints by members of the general public against
8 law enforcement officers that allege misconduct.
9 (2) Review an internal investigation and discipline of a law enforcement officer
10 who is alleged to have committed misconduct.
11 (3) Subpoena witnesses, administer oaths, and compel the production of evidence.
12 (4) Make findings and decisions on disciplinary action of a law enforcement officer
13 alleged to have committed misconduct.
14 (5) Recommend changes in policy to the council and the head of the law
15 enforcement agency within the city that established the citizen review board.
16 (6) Exercise any other power deemed necessary by the governing body of the city
17 to the discharge of its duties.

18 (d) Notice and Opportunity to Be Heard. – When investigating a complaint or reviewing
19 an internal investigation and discipline of a law enforcement officer alleged to have committed
20 misconduct, the citizen review board shall provide the law enforcement officer with reasonable
21 notice and an opportunity to be heard. A law enforcement officer and any other person involved in
22 a hearing before the citizen review board may be represented by an attorney or attorneys at the
23 hearing.

24 (e) Subpoena Power. – If a person fails or refuses to obey a subpoena issued pursuant to
25 this section, the citizen review board may apply to the General Court of Justice located in the
26 county in which the city that established the citizen review board is located for an order requiring
27 that its order be obeyed, and the court shall have jurisdiction to issue these orders after notice to all
28 proper parties. The court shall authorize subpoenas under this section if the court determines the
29 subpoenas are necessary for the citizen review board to complete its investigation or review. No
30 testimony of any witness before the citizen review board pursuant to a subpoena issued in exercise
31 of the power conferred by this section may be used against that witness in any civil or criminal
32 action. Subpoenas issued under this section shall be enforceable by the court through contempt
33 powers.

34 (f) Personnel Records. – Notwithstanding G.S. 160A-168, but subject to any federal law
35 restricting access, the head of the law enforcement agency that employs the law enforcement
36 officer alleged to have committed misconduct shall make available to the citizen review board the
37 personnel file of the law enforcement officer and any other material deemed necessary by the
38 governing body of the city for the citizen review board to complete its investigation or review. The
39 citizen review board shall maintain the confidentiality of any information provided to it under this
40 subsection.

41 (g) Findings and Decisions. – Unless otherwise declared confidential by State or federal
42 law, the findings and decisions of a citizen review board are public records. Notwithstanding
43 G.S. 153A-103 or any other State law to the contrary, any decision by a citizen review board as to
44 disciplinary action of a law enforcement officer found to have committed misconduct shall be
45 binding on the head of the law enforcement agency that employs the law enforcement officer or
46 the city or county that employs the law enforcement officer.

47 (h) Appeals. – A city that establishes a citizen review board under this section shall
48 establish an appeals process under which a law enforcement officer may appeal any decision by a
49 citizen review board as to disciplinary action of a law enforcement officer. An appeals process
50 established under this subsection shall provide the law enforcement officer with a reasonable
51 period of time to request an appeal, afford an opportunity for a hearing, and require the hearing

1 officer or body to expeditiously provide a written disposition. If the hearing officer or body
2 overturns the decision of the citizen review board, the law enforcement officer shall be entitled to
3 all relief necessary to make the law enforcement officer whole.

4 (i) Judicial Review. – Any law enforcement officer aggrieved by a decision of a citizen
5 review board, and who has exhausted the appeals processes established under subsection (h) of
6 this section, is entitled to judicial review of the decision by the citizen review board in the same
7 manner as a party or person aggrieved by the final decision of an agency in a contested case is
8 entitled to judicial review of the decision under Article 4 of Chapter 150B of the General Statutes.
9 Judicial review under this subsection shall be conducted in accordance with Article 4 of Chapter
10 150B of the General Statutes.

11 (j) Reports. – A citizen review board shall make a semiannual and an annual report of its
12 actions for each preceding year to the head of the law enforcement agency or agencies in the city
13 that established the citizen review board and the governing body of the city that established the
14 citizen review board. The specific content of the reports shall be prescribed by the governing body
15 of the county. Any report made by the citizen review board shall be public record.

16 (k) Funding. – No State funds shall be used to establish or operate a citizen review board
17 established under this section.

18 (l) Joint Citizen Review Board. – A county and one or more cities in the county may
19 establish a joint citizen review board.

20 (m) Exceptions to General Authority. – A citizen review board established by a city under
21 this section shall have no authority to investigate or review allegations of misconduct by any of
22 the following:

23 (1) A law enforcement officer employed by a county police department or sheriff's
24 department located in a county that has established a citizen review board
25 pursuant to G.S. 153A-212.3, unless the county and city have established a joint
26 citizen review board.

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

29 (3) A law enforcement officer employed by a campus police agency certified by the
30 Attorney General pursuant to Chapter 74G of the General Statutes.

31 (4) A law enforcement officer employed by a special police agency created by the
32 State.

33 (n) Local Acts. – To the extent that any provisions of a local act may be inconsistent with
34 the provisions of this section, the provisions of this section shall control."

35 **SECTION 3.** G.S. 153A-212.2 reads as rewritten:

36 **"§ 153A-212.2. Neighborhood crime watch programs.**

37 (a) Creation. – A county may establish neighborhood crime watch programs within the
38 county to encourage residents and business owners to promote citizen involvement in securing
39 homes, businesses, and personal property against criminal activity and to report suspicious
40 activities to law enforcement officials.

41 (b) Required Training. – A county shall provide training that does all of the following to
42 any member of a neighborhood crime watch program established pursuant to subsection (a) of this
43 section:

44 (1) Emphasizes that the role of a neighborhood crime watch program is to observe
45 and watch the community and report suspicious activities to law enforcement
46 officials.

47 (2) Develops effective methods for maintaining a visible presence in the
48 community without engaging persons suspected of committing criminal
49 activities.

50 (3) Emphasizes that members of the neighborhood crime watch program are to
51 adhere to the instructions given to them by law enforcement officials.

1 (4) Educates members of the neighborhood crime watch program about
2 discriminatory profiling, as defined in G.S. 15A-306, and develops effective
3 methods for ensuring that members of the neighborhood crime watch program
4 perform their duties without engaging in discriminatory profiling."

5 **SECTION 4.** G.S. 160A-289.2 reads as rewritten:

6 "**§ 160A-289.2. Neighborhood crime watch programs.**

7 (a) Creation. – A city may establish neighborhood crime watch programs within the city to
8 encourage residents and business owners to promote citizen involvement in securing homes,
9 businesses, and personal property against criminal activity and to report suspicious activities to
10 law enforcement officials.

11 (b) Required Training. – A city shall provide training that does all of the following to any
12 member of a neighborhood crime watch program established pursuant to subsection (a) of this
13 section:

14 (1) Emphasizes that the role of a neighborhood crime watch program is to observe
15 and watch the community and report suspicious activities to law enforcement
16 officials.

17 (2) Develops effective methods for maintaining a visible presence in the
18 community without engaging persons suspected of committing criminal
19 activities.

20 (3) Emphasizes that members of the neighborhood crime watch program are to
21 adhere to the instructions given to them by law enforcement officials.

22 (4) Educates members of the neighborhood crime watch program about
23 discriminatory profiling, as defined in G.S. 15A-306, and develops effective
24 methods for ensuring that members of the neighborhood crime watch program
25 perform their duties without engaging in discriminatory profiling."

26 **SECTION 5.** This act becomes effective December 1, 2017, and applies to any
27 misconduct committed on or after that date.