

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

SESSION LAW 2023-56
HOUSE BILL 611

AN ACT TO MODIFY VARIOUS POWERS OF THE CRIMINAL JUSTICE AND SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSIONS AND TO PROVIDE THAT CERTAIN EXPUNGED CRIMES COMMITTED BY MINORS CANNOT PREVENT LAW ENFORCEMENT CERTIFICATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 17C-6(a) reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Article, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

- ...
- (6) Establish minimum standards and levels of education and experience for all criminal justice ~~instructors~~ instructors, including instructors with probationary or limited teaching privileges, qualified assistants, in-service training coordinators, executive officers, and school directors, who participate in programs or courses of instruction that are required by this Article.
 - (7) Certify and recertify, suspend, revoke, or deny, pursuant to the standards that it has established for the purpose, criminal justice ~~instructors~~ instructors, including instructors with probationary or limited teaching privileges, qualified assistants, in-service training coordinators, executive officers, and school directors, who participate in programs or courses of instruction that are required by this Article or are required and approved by their respective criminal justice agency to include those certified under Chapter 17E or an educational institution accredited by the Commission.
 - (8) Investigate and make such evaluations as may be necessary to determine if criminal justice agencies, schools, and ~~individuals~~ instructors, including instructors with probationary or limited teaching privileges, qualified assistants, in-service training coordinators, executive officers, and school directors, are complying with the provisions of this Article.

...."

SECTION 2. G.S. 17E-4(a) reads as rewritten:

"(a) The Commission shall have the following powers, duties, and responsibilities, which are enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17E-8 and G.S. 17E-9:

- (1) Promulgate rules and regulations for the administration of this Chapter, which rules may require (i) the submission by any agency of information with respect to the employment, education, and training of its justice officers, and (ii) the submission by any training school of information with respect to its programs that are required by this ~~Chapter~~ Chapter.

...



- (3) Certify, recertify, suspend, revoke, or deny, pursuant to the standards that it may establish for the purpose, persons as qualified under the provisions of this Chapter who may be employed at entry level as ~~officers~~officers.
- (4) Establish minimum standards for the certification of training schools and programs or courses of instruction that are required by this ~~Chapter~~Chapter.
- (5) Certify, recertify, suspend, revoke, or deny, pursuant to the standards that it has established for the purpose, training schools and programs or courses of instruction that are required by this ~~Chapter~~Chapter.
- (6) Establish standards and levels of education or equivalent experience for ~~teachers~~criminal justice school instructors, including instructors with probationary or limited teaching privileges, qualified assistants, in-service training coordinators, executive officers, and school directors, who participate in programs or courses of instruction that are required by this ~~Chapter~~Chapter.
- (7) Certify, recertify, suspend, revoke, or deny, pursuant to the standards that it has established for the purpose, ~~teachers~~criminal justice school instructors, including instructors with probationary or limited teaching privileges, qualified assistants, in-service training coordinators, executive officers, and school directors, who participate in programs or courses of instruction that are required by this ~~Chapter~~Chapter or are required and approved by the instructor's agency, including programs or courses of instruction certified under Chapter 17C of the General Statutes or offered by an educational institution accredited by the Commission.
- (8) Investigate and make such evaluations as may be necessary to determine if ~~agencies~~agencies, criminal justice school instructors, including instructors with probationary or limited teaching privileges, qualified assistants, in-service training coordinators, executive officers, and school directors, are complying with the provision[s] of this ~~Chapter~~Chapter.
- (9) Adopt and amend bylaws, consistent with law, for its internal management and ~~control~~control.
- (10) Enter into contracts incident to the administration of its authority pursuant to this ~~Chapter~~Chapter.

...

The Commission may certify, and no additional certification shall be required from it, programs, courses and teachers certified by the North Carolina Criminal Justice Education and Training Standards Commission. Where the Commission determines that a program, course, instructor or teacher is required for an area which is unique to the office of sheriff, the Commission may certify such program, course, instructor, or teacher under such standards and procedures as it may establish."

SECTION 3. G.S. 17E-5 is amended by adding a new subsection to read:

"(c) Any papers, documents, or other records which become the property of the Commission that are placed in the criminal justice officer's personnel file maintained by the Commission shall be subject to the same disclosure requirements set forth in Chapters 126, 153A, and 160A of the General Statutes regarding the privacy of personnel records."

SECTION 4.(a) G.S. 17C-13 reads as rewritten:

"§ 17C-13. Pardons; expunctions.

(a) When a person presents competent evidence that he has been granted an unconditional pardon 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 an 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-expunged~~, unless the conviction was expunged pursuant to G.S. 15A-145.4 or G.S. 15A-145.8A."

SECTION 4.(b) G.S. 17E-12 reads as rewritten:

"§ 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-expunged~~, unless the conviction was expunged pursuant to G.S. 15A-145.4 or G.S. 15A-145.8A."

SECTION 5.(a) Rule. – For the purposes of this section and its implementation, "Commission and Conviction Definition Rule" means 12 NCAC 9A .0103.

SECTION 5.(b) Until the effective date of the revised permanent rule that the North Carolina Criminal Justice Education and Training Standards Commission is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Commission and Conviction Definition Rule as provided in subsection (c) of this section.

SECTION 5.(c) Implementation. – Notwithstanding 12 NCAC 09A .0103, the terms "commission of offense," "convicted," or "conviction" shall not include an offense expunged pursuant to G.S. 15A-145.4 or G.S. 15A-145.8A.

SECTION 5.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Commission and Conviction Definition Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section.

SECTION 5.(e) Effective Date. – This section is effective when it becomes law. Subsection (c) of this section expires on the date that the rule adopted pursuant to subsection (d) of this section becomes effective.

SECTION 6.(a) Rule. – For the purposes of this section and its implementation, "Commission and Conviction Definition Rule" means 12 NCAC 10B .0103.

SECTION 6.(b) Until the effective date of the revised permanent rule that the North Carolina Sheriffs' Education and Training Standards Commission is required to adopt pursuant to subsection (d) of this section, the Commission shall implement the Commission and Conviction Definition Rule as provided in subsection (c) of this section.

SECTION 6.(c) Implementation. – Notwithstanding 12 NCAC 10B .0103, the terms "commission," "convicted," or "conviction" shall not include an offense expunged pursuant to G.S. 15A-145.4 or G.S. 15A-145.8A.

SECTION 6.(d) Additional Rulemaking Authority. – The Commission shall adopt a rule to amend the Commission and Conviction Definition Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section.

SECTION 6.(e) Effective Date. – This section is effective when it becomes law. Subsection (c) of this section expires on the date that the rule adopted pursuant to subsection (d) of this section becomes effective.

SECTION 7. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of June, 2023.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 3:42 p.m. this 23rd day of June, 2023