



## MEMORANDUM

TO: Members of the N.C. House of Representatives

FROM: North Carolina Sheriffs' Association  
North Carolina Association of Chiefs of Police  
North Carolina Police Executives Association  
North Carolina League of Municipalities  
North Carolina Association of County Commissioners

DATE: April 17, 2023

RE: House Bill 589, Protect Whistleblower LEOs from Retaliation

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It is the position of the following associations that House Bill 589, Protect Whistleblower LEOs from Retaliation, often presented as legislation to “protect law enforcement officers,” would actually protect bad or corrupt law enforcement officers.

For this and other reasons explained below, this legislation is **OPPOSED** by the following associations:

--- NC Sheriffs' Association	--- NC League of Municipalities
--- NC Association of Chiefs of Police	--- NC Association of County Commissioners
--- NC Police Executives Association	

### Key Points

- This bill targets law enforcement agencies with no evidence there is prevalent retaliatory discipline or terminations occurring in law enforcement agencies.
- This bill would make it exceedingly difficult to discipline or terminate an officer who files a report under this proposed law if the officer reports:
  - (1) an unauthorized use of force;
  - (2) violations of State or federal, city or county law, ordinance or regulation;
  - (3) fraud;
  - (4) misappropriation of State, city or county resources;
  - (5) activity that poses a substantial and specific danger to public health and safety; or
  - (6) gross mismanagement, including the gross waste of public monies or the gross abuse of authorityand who thereafter:
  - engages in conduct for which they should be disciplined or terminated; or
  - loses their law enforcement officer certification for bad conduct and is no longer certified to work as a law enforcement officer.
- Language prohibiting discipline or termination like this is often found in labor union contracts and serve as barriers to officer accountability.
- The bill fails to define important terms used such as fraud, misappropriation, and gross mismanagement allowing for varied interpretations and application of the terms in agencies across the state. This will lead to litigation in our state court system for years to come.

- Among other things, the bill will create mistrust among officers since it will require officers to report each other to a supervisor for things as simple as traffic offenses like speeding a few miles over the speed limit [a violation of state law]; for driving their vehicle on a short errand, such as stopping at a store to get a loaf of bread on the way home [misappropriation of resources]; and improperly parking an agency vehicle [violation of an ordinance.]
- To protect the public from the improper or unlawful actions of the few bad officers, it is essential that law enforcement agencies be able to discipline bad officers and terminate their employment when necessary. This legislation would make it exceedingly difficult if not impossible to do so.
- The bill is unnecessary because ample legal protections for employees already exist. Existing protections include:
  - First amendment speech protection;
  - Prohibition of unlawful employment discrimination based on race, color, creed, sex, religion, national origin, disability or age;
  - Prohibition of wrongful termination (i.e., for an unlawful reason or purpose that goes against public policy);
    - Examples of wrongful termination in North Carolina include:
      - Filing a worker's compensation claim;
      - Serving a term of jury duty;
      - Pursuing a health or safety claim;
      - Undertaking military duty; or
      - Pursuing an Employment Security Commission claim;
      - Refusing to violate the law at the employer's request; and
      - Engaging in legally protected activity.
  - Agency personnel policies that protect employees from unjustified discipline or termination and prove the right to appeal.
  - As a final protection for employees, criminal charges can be brought against employers in an appropriate fact situation. For example, it would be a crime for an employer to intimidate or interfere with a witness, or for a public official to willfully refuse to discharge the duties of his/her office. See N.C. Gen. Stat. § 14-226(a) and N.C. Gen. Stat. § 14-230.

Therefore, the Associations listed above are **OPPOSED** to this legislation which would protect bad or corrupt law enforcement officers and limit the authority of law enforcement agency heads to manage their agencies.

For additional information or with questions, contact either:

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