

NORTH CAROLINA SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

PROPOSED RULE AMENDMENT

12NCAC 10B .2005 MINIMUM TRAINING REQUIREMENTS



Public Hearing

09/02/2020 8:30am
1700 Tryon Park Drive
Raleigh, NC 27610

Full Commission Vote

October 19, 2020
(Teleconference Meeting)

Instructions for Oral and Written Comments

The public comment period begins on September 1, 2020, and ends at 5:00 p.m. on October 16, 2020. Public comments shall be in writing and shall be directed to:

Diane Konopka
North Carolina Department of Justice
Sheriffs' Education and Training Standards Division
Post Office Box 629
Raleigh, NC 27602-0629

"Public comment" is defined by NCGS 150B-21.3A(a)(5) as a written objection to all or part of a rule. Additionally, pursuant to NCGS 150B-21.3A(c)(2), in order for the Rules Review Commission to determine whether the public comment has merit, the public comment must address the specific substance of the rule and address any of the standards of Commission review, as set forth in NCGS 150B-21.9(a).

Statutory Authority for Proposed Rules Changes: NCGS 17E: On December 13, 2019, the North Carolina Sheriffs' Education and Training Standards Commission proposed an amendment to 12NCAC 10B .2005 to set out the in-service training topics for 2021.

Fiscal Impact: Yes (attached)

*****If approved, change would be effective January 1, 2021****

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

1 **12 NCAC 10B .2005 IS PROPOSED TO BE AMENDED AS FOLLOWS:**

2
3 **12 NCAC 10B .2005 MINIMUM TRAINING REQUIREMENTS**

4 (a) A Sheriff or Department Head may use a lesson plan developed by the North Carolina Justice Academy
5 or a lesson plan for any of the topic areas developed by another entity such as a different law enforcement
6 agency or training provider. The Sheriff or Department Head may also use a lesson plan developed by a
7 certified instructor, provided that the instructor develops the lesson plan in accordance with the
8 Instructional Systems Development model as taught in Criminal Justice Instructor Training and as
9 described in 12 NCAC 09B .0209. Lesson plans shall be designed to be delivered in hourly increments. A
10 student who completes the training shall receive the number of credits that correspond to the number of
11 hours assigned to the course, regardless of the amount of time the student spends completing the course,
12 where each hour of instruction shall be worth one credit (e.g., "Legal Update" is designed to be delivered
13 in four hours and will yield four credits). With the exception of Firearms Training and Requalification,
14 successful completion of training shall be demonstrated by passing tests as developed by the delivering
15 agency or as written by the North Carolina Justice Academy. A written test comprised of at least five
16 questions per hour of training shall be developed by the delivering agency, or the agency may use the
17 written test developed by the North Carolina Justice Academy, for each in-service training topic. A student
18 shall pass each test by achieving 70 percent correct answers. Firearms Training and Requalification shall
19 be demonstrated qualification with a firearm as set out in Section .2100 of this Subchapter.

20 (b) The in-service training for topic areas of the Sheriff's or Department Head's choosing required by this
21 Rule shall either:

- 22 (1) meet the requirements of Paragraph (a) of this Rule; or
23 (2) be delivered pursuant to National Certification Programs administered by the
24 International Association of Directors of Law Enforcement Standards and Training
25 (IADLEST) completed during the mandated in-service year to satisfy these topics in part
26 or in whole. It is not required that this IADLEST training be written in the Instructional
27 Systems Design (ISD) format or delivered by a Commission certified instructor.

28 ~~(c) The 2019 Law Enforcement In-Service Training Program requires 24 credits of training and successful~~
29 ~~completion in the following topic areas:~~

- 30 ~~(1)—— Legal Update;~~
31 ~~(2)—— Juvenile Law Update;~~
32 ~~(3)—— Individual Wellness: Coping with Stress and PTSD;~~

- ~~(4) — Best Practices for Officers During Community Dissent;~~
- ~~(5) — Law Enforcement Intelligence Update: Gangs and Divisive Groups;~~
- ~~(6) — Domestic Violence: Law and Procedure Update;~~
- ~~(7) — Opioid Awareness and Response;~~
- ~~(8) — Firearms Training and Requalification for deputy sheriffs as set out in Section .2100 of this Subchapter; and~~
- ~~(9) — Any topic areas of the Sheriff's choosing.~~

~~(d) The 2019 Detention Officer In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:~~

- ~~(1) — Detention Officer Legal Update;~~
- ~~(2) — Detention Intelligence Update: Gangs and Divisive Groups;~~
- ~~(3) — Individual Wellness: Coping with Stress and PTSD;~~
- ~~(4) — Inmate Suicide Prevention;~~
- ~~(5) — Opioid Awareness and Response; and~~
- ~~(6) — Any topic areas of the Sheriff's or Department Head's choosing.~~

~~(e) The 2019 Telecommunicator In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:~~

- ~~(1) — Individual Wellness: Coping with Stress and PTSD;~~
- ~~(2) — Civil Liability for Telecommunicators;~~
- ~~(3) — Human Fatigue in Shift Work; Strategies for Improving Performance;~~
- ~~(4) — Handling Difficult Callers; and~~
- ~~(5) — Any topic areas of the Sheriff's or Department Head's choosing.~~

~~(f)~~ (c) The 2020 Law Enforcement In-Service Training Program requires 24 credits of training and successful completion in the following topic areas:

- (1) 2020 Legal Update;
- (2) 2020 Long-Term Effects of Childhood Adversity;
- (3) 2020 The Signs Within: Suicide Prevention Education and Awareness;
- (4) 2020 Career Survival: Training and Standards Issues;
- (5) 2020 Communication Strategies When Encountering Persons Who are Deaf or Hard of Hearing;
- (6) 2020 Armed/Unarmed Security/Company Police: Understanding Their Roles and Authority;

(7) 2020 Firearms Training and Requalification for deputy sheriffs as set out in Section .2100 of this Subchapter; and

(8) Any topic areas of the Sheriff's choosing.

~~(g)~~ (d) The 2020 Detention Officer In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:

(1) 2020 Overcoming Negativity in the Detention Center;

(2) 2020 Documenting the Incident Refresher;

(3) 2020 The Signs Within: Suicide Prevention Education and Awareness

(4) 2020 Career Survival: Training and Standards Issues;

(5) 2020 Recognizing Signs of Assaultive Behavior; and

(6) Any topic areas of the Sheriff's or Department Head's choosing.

~~(h)~~ (e) The 2020 Telecommunicator In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:

(1) 2020 Suicide Callers;

(2) 2020 Overcoming Negativity in the Communications Center;

(3) 2020 Processing Calls/Quality Assurance;

(4) 2020 Responding to Domestic Violence Callers;

(5) 2020 Career Survival: Training and Standards Issues; and

(6) Any topic areas of the Sheriff's or Department Head's choosing.

(f) The 2021 Law Enforcement In-Service Training Program requires 24 credits of training and successful completion in the following topic areas:

(1) 2021 Legal Update;

(2) 2021 Continue to Make a Difference: Positive Engagement Stories and Studies;

(3) 2021 School Safety and Responding to School Incidents;

(4) 2021 Firearms Training and Requalification for deputy sheriffs as set out in Section .2100 of this Subchapter; and

(5) Any topic areas of the Sheriff's choosing.

(g) The 2021 Detention Officer In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:

(1) 2021 Detention Legal Updates;

(2) 2021 Followership: Being an Influential Employee;

(3) 2021 Inmate Mental Health; and

1 (4) Any topic areas of the Sheriff's or Department Head's choosing.

2 (h) The 2021 Telecommunicator In-Service Training Program requires 16 credits of training and successful
3 completion in the following topic areas:

4 (1) 2021 Followership: Being an Influential Employee;;

5 (2) 2021 Critical Thinking for Telecommunicators;

6 (3) 2021 Crisis Negotiations; and

7 (4) Any topic areas of the Sheriff's or Department Head's choosing.

8
9 *History Note: Authority G.S. 17E-4; 17E-7;*

10 *Eff. January 1, 2007;*

11 *Amended Eff. January 1, 2018; January 1, 2017; January 1, 2016; January 1, 2015; February 1,*
12 *2014; January 1, 2013; February 1, 2012; January 1, 2011; January 1, 2010; January 1, 2009;*
13 *January 1, 2008;*

14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
15 *2018;*

16 *Amended Eff. January 1, 2021; January 1, 2020; August 1, 2019; January 1, 2019.*
17
18
19



NOTICE OF TEXT

[Authority G.S. 150B-21.2(c)]

OAH USE ONLY

VOLUME:

ISSUE:

CHECK APPROPRIATE BOX:

☒ Notice with a scheduled hearing

☐ Notice without a scheduled hearing

☐ Republication of text. Complete the following cite for the volume and issue of previous publication, as well as blocks 1 - 4 and 7 - 13. If a hearing is scheduled, complete block 5.

Previous publication of text was published in Volume: Issue:

1. Rule-Making Agency: NC Sheriffs' Education and Training Standards Commission

2. Link to agency website pursuant to G.S. 150B-19.1(c): <http://ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-Standards/Sheriffs-Education-and-Training-Standards/All-Commission-Forms-and-Publications.aspx>

3. Proposed Action -- Check the appropriate box(es) and list rule citation(s) beside proposed action:

☐ ADOPTION:

☐ READOPTION with substantive changes:

☐ READOPTION without substantive changes:

X AMENDMENT: 12NCAC 10B .2005

☐ REPEAL:

4. Proposed effective date: 01/01/2021

5. Is a public hearing planned? X Yes ☐ No

If yes: Public Hearing date: 9/2/2020

Public Hearing time: 8:30am

Public Hearing Location: 1700 Tryon Park Drive. Raleigh, NC 27610

7. Explain Reason For Proposed Rule(s):

12NCAC 10B .2005: Sets out the annual in-service training topics for 2021.

8. Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

☐ Rule(s) is automatically subject to legislative review. Cite statutory reference:

9. The person to whom written comments may be submitted on the proposed rule(s):

Name: Diane N. Konopka

Address: Post Office Box 629

Raleigh, NC 27602

Phone (optional):

Fax (optional):

E-Mail (optional): dkonopka@ncdoj.gov

10. Comment Period Ends: 10/16/2020

11. Fiscal impact (check all that apply).

If this form contains rules that have different fiscal impacts, list the rule citations beside the appropriate impact.

☒ State funds affected 12NCAC 10B .2005

☐ Environmental permitting of DOT affected - Analysis submitted to Board of Transportation

☒ Local funds affected 12NCAC 10B .2005

☒ Substantial economic impact (\geq \$1,000,000) 12NCAC 10B .2005

☒ Approved by OSBM 12NCAC 10B .2005

☐ No fiscal note required by G.S. 150B-21.4

☐ No fiscal note required by G.S. 150B-21.3A(d)(2)

12. Rule-making Coordinator: Diane N. Konopka

Address: 1700 Tryon Park Drive
Raleigh, NC 27610

Phone: 919-662-4375

E-Mail: dkonopka@ncdoj.gov

Agency contact, if any:


Phone:

E-mail:

13. The Agency formally proposed the text of this rule(s) on

Date: 12/13/2019 12NCAC 10B .2005

14. Signature of Agency Head* or Rule-making Coordinator:



***If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

Typed Name: Diane N. Konopka

Title: Director

Impact Analysis

Rule Title: Education and Training Standards for 2021

Agency: Department of Justice

Contact: Diane Konopka, 919-662-4375, dkonopka@ncdoj.gov

Impact: State Impact: Yes
Local Impact: Yes
Substantial Economic Impact: Yes

Rule Citation: 12 NCAC 10B .2005

Statutory authority: G.S. 17E-4 and 17E-7

Summary of the Proposed Regulation

The NC Sheriffs' Education and Training Standards Commission is charged with setting the minimum education and training standards for justice officers (deputy sheriffs, detention officers, and telecommunicators) in this State. Deputy Sheriffs, detention officers, and telecommunicators each perform a vital role in ensuring that public health, safety and welfare are well guarded.

The Commission has determined that specific expertise is needed for individuals to teach particularized topical areas of instruction in order to ensure that the material is being taught by competent instructors. In order to ensure that deputy sheriffs, detention officers, and telecommunicators remain knowledgeable and competent in their job duties, the Commission has determined that annual in-service training should be required.

Table 1 below summarizes the quantified impacts of changes proposed for the 2021 in-service training, followed by a rule-by-rule description of the proposed changes and their impact (see proposed rule text in Appendix A).

TABLE 1. Summary of the 2021 Impacts of the Proposed Regulations, Millions

Affected Party	Quantified Benefits	Quantified Costs
Local Government	\$9.3	\$11.0
State Government	N/A	\$1.7
Private Entities	N/A	N/A
Total	\$9.3	\$12.7

Note: Only quantified benefits and costs are included in the table. In some cases, such as benefits to the public from improved performance and coordination among justice officers resulting from in-service training, unquantified benefits and costs are likely to be significant. Components may not sum to total due to rounding.

Impact of Proposed Changes to 12 NCAC 10B .2005

Description: The revisions set out what will be required for in-service training in 2021. These in-service training programs began in 2005 with deputies completing 4 hours of domestic violence training. Since 2006 deputies have been required to complete 24 hours/credits of in-service training. Since 2007, detention officers and telecommunicators have been required to complete 16 hours/credits. In 2020, deputies must likewise complete approximately 24 hours/credits, and detention officers and telecommunicators must complete 16 hours/credits. Effective in 2013, the in-service requirement was no longer based upon hours of instruction received, but rather credits, based upon the person completing the training and showing proficiency in the topics by passing tests.

Purpose: To improve performance, reduce errors and reduce the number of lawsuits, and protect public health, safety and welfare by ensuring each officer remains knowledgeable in the relevant subject areas of enforcement, corrections, or communications.

Baseline: Current rules only lay out the in-service training requirements through 2020. Without these rule changes there would be no requirements for 2021, with the exception of Firearms Qualification and Juvenile Minority Sensitivity Training. Annual Firearms Qualification is separately required in 12 NCAC 10B Section .2100 and may be conducted, at a minimum, in 4 hours. The 2021 Juvenile Minority Sensitivity Training topic for 2021 is 2021 Continue to make a Difference: Positive Engagement Stories and Studies which yields a credit of 2 hours. Therefore the impact of these rules is the cost related to the training requirements for deputies, detention officers, and telecommunicators.

Cost Estimates: The rule change for training only affects 2021, so the costs are confined to this one year. There is a cost impact to local governments and, to a lesser extent, the State. The local government costs are for training and the time that employees will be taken away from doing their jobs. The assumed baseline is that local governments would conduct no applicable training without these requirements.

Local cost estimate (includes three types of justice officers):

In-Service Training Costs: Deputy sheriffs are required to have a total of 24 credits of training in 2020, 18 credits of which is above the baseline since deputies are already required to undergo 4 hours/credits of firearms training and 2 hours/credits of Juvenile Minority Sensitivity Training (JMST). First, there is a cost of the time they must spend in training. The estimated average salary and benefits (assumed at 73% of average salary) for a deputy sheriff is \$67,000 per year.¹ In addition, they are estimated to work 2,080 hours a year (i.e. total compensation of \$32 per hour). Therefore, the opportunity cost of 18 hours spent in

¹ The value of benefits is estimated as 73% of annual salary (42% of total compensation) based on US Bureau of Labor Statistics data on the total compensation of service occupations in state and local governments, available online at <http://www.bls.gov/news.release/ecec.t03.htm>.

training is approximately \$580 per individual. This represents the value of the time the deputy sheriffs could have spent on law enforcement. There are approximately 8,878² full-time deputy sheriffs (and this number is unlikely to change significantly in 2021), putting the total estimated opportunity cost at \$5.1 million. In addition, there is a cost to conducting training. In 2013, the Commission polled a sample of colleges and agencies offering training to obtain an overall average hourly compensation rate for instructors. The high end hourly compensation rate is approximately \$39 per hour, while the low end is approximately \$18 per hour. Based on the number of responses, the average hourly compensation rate was calculated at \$26 per hour in 2013 dollars, which was used for the purposes of this analysis. Therefore, an instructor costs \$468 for 18 hours of training and is needed for every 20 students (about 444 instructors) at an annual cost of approximately \$208,000 in 2020 dollars.

Detention officers are required to have 16 credits of training in 2021. To obtain a conservative impact estimate, this analysis assumes that none of the detention officers will undergo the 4 hours of firearms training required by the current rules since most officers are not authorized to carry a firearm. First, there is a cost of the time they must spend in training. The estimated average salary and benefits (assumed to be 73% of average salary) for a detention officer is \$64,000 a year. In addition, they are estimated to work 2,080 hours a year (i.e. total compensation of \$31 per hour). Therefore, the opportunity cost of 16 hours spent in training is approximately \$490 per detention officer. This represents the time the detention officers could have spent on corrections functions. There are 7,612³ full-time detention officers, putting the total estimated opportunity cost at \$3.7 million. In addition, there is a cost to conducting training. An instructor costs an estimated \$416 for 16 hours of training and is needed for every 20 students (381 instructors), putting the annual cost at \$158,000.

Telecommunicators are required to have 16 credits of training in 2020 (note: telecommunicators do not have to undergo firearms training). First, there is a cost of the time they must spend in training. The estimated average salary and benefits for a telecommunicator is \$56,900 a year.⁴ In addition, they are estimated to work 2,080 hours a year (i.e. total compensation of \$27 per hour). Therefore, the opportunity costs of 16 spent in training is approximately \$440. This represents the time the telecommunicators could have spent on communications functions. There are approximately 1,239⁵ full-time telecommunicators, putting the total estimated opportunity cost of about \$550,000. In addition,

² Number of full-time deputies calculated from North Carolina Department of Justice Training and Standards Database, as of June 30, 2020.

³ Number of full-time detention officers calculated from North Carolina Department of Justice Training and Standards Database, as of June 30, 2020.

⁴ All average salaries are based on data from the 2018-19 County Salaries Index of the UNC School of Government, year 2018 data, available online at <https://www.sog.unc.edu/publications/reports/county-salaries-north-carolina-2019>. The value of benefits is estimated as 42% of total compensation based on BLS data, available online at <http://www.bls.gov/news.release/ecec.t03.htm>.

⁵ Number of full-time telecommunicators calculated from North Carolina Department of Justice Training and Standards Database, as of June 30, 2020.

there is a cost to conducting training. An instructor costs an estimated \$416 for 16 hours of training and is needed for every 20 students (62 instructors), putting the annual cost at \$26,000.

The total estimated opportunity cost of training for local justice officers is \$9.4 million, and the total estimated cost of instruction is \$390,000. Given that 5 of the 40 entities providing training are local agencies, it is assumed that \$48,750 of the cost of instruction is borne by local governments. However, it should be noted that a change to 12NCAC 10B .2005 (b) that will become effective August 1, 2019, allows the option for nationally approved training to count towards the sheriff's choice topic(s) for annual in-service training for justice officers. It is not required that this training be used, it is simply another option for in-service credit. There is a minimal cost to agencies who opt to use this training (maximum \$15.00/student/course). This option, together with the option to complete mandated in-service in an on-line format, would appear to reduce the costs associated with the in-service training mandate – while maintaining the benefits of annual in-service training. Since we do not track the training delivery method (in-person or on-line), we have not been able to accurately estimate the cost savings of on-line training in the past. However, due to the limitations placed on in-person training by the COVID-19 pandemic, it is believed that the vast majority of this training has and will be conducted on-line this year. Given the continued pandemic, together with the state-wide accessibility and opportunity for on-line training in a safe environment, it is reasonable to believe this will be the primary delivery method for in-service training in 2021.

Additionally, based on the training options noted above and the fact that in-service training is tracked by “credits” rather than “hours,” it is reasonable to assume that the costs associated with the annual in-service training as estimated in this Impact Analysis exceed actual costs incurred by this training.

Retesting Costs: Rule .2005 requires trainees to pass a written test for each in-service training topic with a score of 70% or higher. The rule implies that trainees can re-test if they fail to obtain an adequate score. An In- Service IMPACT Study Report, prepared by the North Carolina Justice Academy Research Office, found that 3.8% of individuals taking in-service training failed the initial end-of-training delivery test.

Each in-service test will have five test questions for each hour of instruction, and each test question is expected to take two minutes to complete. For the deputy sheriff in-service training, this equates to 3 hours for testing. Based on the historical failure rate of 3.8%, we estimate that 337 deputies may need to retest, for a total of 1,011 hours of retesting. At an average hourly total compensation rate of \$32, total opportunity costs for deputies needing to retest would be approximately \$33,000.

For the detention officer in-service training, this equates to 2.67 hours for testing. Based on the historical failure rate of 3.8%, we estimate that 289 detention officers may need to retest, for a total of 771 hours of retesting. At an average hourly total compensation rate of \$31, total opportunity costs for detention officers needing to retest would be approximately \$24,000.

For the telecommunicator in-service training, this equates to 2.67 hours for testing. Based on the historical failure rate of 3.8%, we estimate that 47 telecommunicators may need to retest, for a total of 125 hours of retesting. At an average hourly total compensation rate of approximately \$27, total opportunity costs for telecommunicator needing to retest would be approximately \$3,000.

Total opportunity cost of trainees for re-testing is \$60,000.

Retesting would also create a cost in terms of instructors who have to supervise the retesting. Assuming that 1 instructor would be needed for every 20 trainees, a total of 35 instructors would be needed (or 17, 15 and 3 instructors for deputy sheriffs, detention officers, and telecommunicators, respectively.) At an instructor hourly compensation of \$26, the total costs equates to about \$2,600. Given that 12% of the entities providing training are local governments, it is assumed that \$300 of the instructor costs for retesting is borne by local governments.

State cost estimate: Duties for administering the in-service training program are split between 5 existing positions in the Sheriffs' Standards Division at DOJ. The total annual salary cost to this Division, excluding benefits, is estimated at \$56,000 for the partial time spent by the positions.

Much of the work for developing the training program occurs at the NC Justice Academy. The Justice Academy received one Program Assistant funded at nearly \$34,000 during a previous legislative session. However, work there will continue to be split between this position and 14 other positions. The total annual salary cost is \$134,000 for both the Program Assistant position and the partial time spent by the other 14 positions.

Including the value of State-provided benefits, which are estimated to be an average of 54.9 percent of annual salary based on OSBM data, the total State cost is \$294,000.⁶

The state would also have to incur the costs related to the instruction of local justice officers that takes place in community colleges. Given that 35 of the 40 entities providing (in-person) training are community colleges, this analysis assumes that approximately \$341,000 of the training costs and \$2,400 of the retesting costs for instructors is borne by state government.

Indirect Impact

The proposed 2021 In-Service Training Requirements would result in additional, indirect costs stemming from rules that do not require to be changed but are impacted by the proposed rule change in .2005. These rules include 12 NCAC 10B .2003 and .2009 (see rule text in Appendix B). The impact of these two rules was initially estimated and presented in the fiscal note prepared when the rules were amended in 2012, but only covered the impact the rules would have in 2013.⁷ This fiscal note includes the impact of these rules for 2021, which presumably will not be much different from the total estimated impact to

⁶ Based on the OSHR 2018 Report on Salaries and Benefits, benefits are calculated as 54.9% of salary. The OSHR report is

available online at <https://oshr.nc.gov/state-employee-resources/classification-compensation/compensation#publications>

⁷ See the fiscal note for rules .2003 . and .2009 (as well as other rules), approved by the Office of State Budget and Management on June 20, 2012, at the following OSBM website: <https://ncosbm.s3.amazonaws.com/s3fs-public/documents/files/DOJ06202012.pdf>

local governments and community colleges in the 2012 fiscal note, aside from updating total compensation costs. Therefore, the indirect impact from the 2021 changes is estimated at of \$1.5 million for local governments and about \$1 million for community colleges.

Benefit Estimates from Proposed Rules

Unquantified Benefits: Unquantified benefits include improved performance, a reduction in errors and a resulting reduction of lawsuits, and better protection of public health, safety and welfare. Requiring in-service training in specified topical areas statewide ensures each officer – regardless of where he/she is employed – remains knowledgeable about changes in law, practical techniques, and other relevant topics such as domestic violence, autism, terrorism, school violence, etc. This standard framework makes joint operation, communication, and dealing with the public easier.

Quantified Benefits: An additional expected benefit is a decrease in staff turnover and turnover-related costs. The 2003 Sheriffs' Commission and Governor's Crime Commission published the results of Recruitment and Retention Studies⁸ for each type of justice officers impacted by these changes. Educational incentives and training opportunities were found to be highly ranked as an effective technique for retaining these employees. The turnover rate for deputy sheriffs, detention officers, and telecommunicators averaged 16 percent, according to the above 2003 study.

A 2000 study by Michele Graef and Erick Hill found that many studies of employee turnover estimated the cost of replacing skilled professional employees to be between 70 percent and 200 percent of the employee's average salary.⁹ An unpublished, early-2000s study by the Louisiana State University Staff Senate found that the direct and indirect turnover costs for protective services personnel amounted to roughly \$25,000 per vacancy (more than \$36,500 in 2019 dollars).^{10, 11} The conservative end of the studies reviewed by Graef and Hill (70 percent of annual salary, excluding benefits) yield turnover cost estimates of \$27,100 per vacancy for deputy sheriffs, \$25,900 for detention officers, and \$23,000 for telecommunicators. The estimated benefits from reducing turnover (see table below) are based on these per vacancy cost estimates.

⁸ NC Department of Public Safety. *Recruitment and Retention Study Series*. April 2003.

- Detention Facility Personnel: <https://www.ncdps.gov/div/gcc/PDFs/Pubs/NCCJAC/rrdetention.pdf>,
<https://www.ncdps.gov/div/gcc/PDFs/systemstats/wint04.pdf>
- Sworn Sheriffs' Personnel: <https://www.ncdps.gov/div/gcc/PDFs/Pubs/NCCJAC/rrsheriff.pdf>
- Telecommunications Officers: <https://www.ncdps.gov/div/gcc/PDFs/pubs/nccjac/rrsstel.pdf>

⁹ Graef, Michele I. and Erick L Hill. (2000). "Costing Child Protective Services Staff Turnover." *Child Welfare*, Sept/Oct,79 (5): 517.

¹⁰ Cited by Gilean Smith in "Love thy employee or make the cut? You decide," Examiner.com. February 28, 2011.

<http://www.examiner.com/article/love-thy-employees-or-make-the-cut-you-decide>

¹¹ To inflate costs estimated in 2000 to 2019, the analysis used NC Consumer Price Index Inflation Index reported by IHS Markit. The inflation factor between the two aforementioned years is about 1.46.

TABLE 2. Estimated Local Benefits from Training-Related Reductions in Employee Turnover

	Total Full-Time Employees (2014)	1 Percent of Total Employees	Estimated Benefits of Reducing Turnover (in millions)		
			1 percentage point	2 percentage points*	4 percentage points
Deputy Sheriff	8,878	89	\$2.41	\$4.82	\$9.64
Detention Officer	7,612	76	\$1.97	\$3.94	\$7.88
Telecommunicator	1,239	12	\$0.28	\$0.55	\$1.12
Total	17,729	177	\$4.66	\$9.31	\$18.64

* The Commission believes that a reduction in two percentage points is the most plausible assumption.

Note: Estimated benefits of reducing turnover based on cost per vacancy of 70 percent of a professional employee's annual salary (see text above for details).

A reduction in turnover of 1-4 percentage points resulting from the proposed in-service training would generate benefits of approximately \$4.66 million to \$18.64 million in 2021. Based on the combined evidence of the Graef-Hill study and the results of the 2003 recruitment and retention surveys, the Commission believes that a 2-percentage-point reduction in turnover resulting from mandating in-service training is a plausible, conservative estimate.

Alternatives

There are few, if any alternatives that are likely to improve performance and reduce the error rate across all jurisdictions other than training. Alternatives to the proposal include: 1) returning to complete local flexibility in training and 2) completely centralized training. Local flexibility could result in some justice officers no longer having the opportunity to attend training beyond the basic courses. In addition, as an officer changes from one agency to another, there is no assurance that the officer has received the most current training on recent legal updates, practical techniques, and others areas. Centralized training would somewhat improve the benefits by allowing uniform testing and measurement of testing success, but it would require hundreds of trainers and organizers. It would also require a large amount of travel time. These time and cost constraints did not allow centralized training to be feasible.

Risk Analysis

Although the cost and benefit estimates in this fiscal note are based on plausible assumptions, in several cases, alternative plausible assumptions result in significant changes to the cost and benefit estimates.

In the case of the benefits of mandated training, we used a conservative assumption of a two percentage-point reduction in turnover. If the actual impact of the Commission's mandated in-service training were to reduce turnover by one percentage point, the associated benefits would be \$4.66 million instead of \$9.31 million. If the actual impact were to reduce turnover by four percentage points, the associated benefits would be approximately \$18.64 million.

Similarly, there are alternative plausible assumptions regarding turnover costs. We estimated the benefits of turnover-related training benefits based on the assumption that turnover costs per vacancy equal approximately 70 percent of a professional employee's salary. If turnover costs per vacancy are only 50 percent of an employee's salary, then the benefits from reducing turnover would be approximately \$6.6 million in 2021 instead of \$9.3 million given a two-percentage-point reduction in turnover among justice officers. At a per vacancy cost of 100 percent of an employee's salary, the benefits from reducing turnover would be approximately \$13.3 million.

It should also be noted that a significant amount of in-service training is completed in an on-line format. As of July 1, 2020, the North Carolina Justice Academy reported on-line 2020 in-service completions as follows: Deputies – 77,952 credits; Detention Officers - 23,092 credits; and Telecommunicators – 7,810 credits. It should be noted that not all training was available on-line January 1, 2020; in fact, one of the telecommunicator courses only became available in an on-line format on July 1st.

Statistics provided by the North Carolina Justice Academy for on-line 2019 In-Service Training indicate the following credit/hour completions: Deputies – 82,184 credits (49,358 on-line credits were completed by July 1, 2019); Detention Officers 36,244 credits (18,420 on-line credits were completed by July 1, 2019); and Telecommunicators – 20,606 credits (5,750 on-line credits were completed by July 1, 2019). Therefore, for the first six months in 2020, on-line in-service training increased 37% for deputies; 20% for detention officers; and 26% for telecommunicators when compared to the first six months of 2019.

It is reasonable to assume that on-line training may be satisfied in a lesser period of time than the credits/hours assigned to the training and this training requires lesser input from a certified instructor, thereby reducing the overall total opportunity costs for officers and instructors. Though it is evident that the continued increase in on-line training represents a significant cost savings, based on current data, it is difficult to impossible to quantify these savings.

Conclusion

Please note that most costs represent opportunity costs and typically do not represent new cash outlays required by state or local agencies. The overwhelming majority of the officers impacted by these rule changes are salaried employees. The time they spend on these training requirements is time they are not spending on patrol or on their primary justice officer duties. However, this additional training can ensure that these employees are more efficient and productive employees after training is completed.

Some of the costs presented below, however, could be budgetary costs. Part of the costs related to instructors, may in fact be budgetary costs depending on whether community college or local law enforcement agency use in-house staff with instructor certification or hire from outside.

TABLE 3. Impacts from Proposed Rule Changes

BENEFITS	2021
<i>Local Government Benefits</i>	
Reduced direct and indirect costs associated with justice officer turnover due to training (.2005)	\$9.3m
<i>Public Benefits</i>	
Improved public safety office performance, improved coordination, and reduced errors by justice officers (.2005)	Significant, unquantified
COSTS	
<i>Local Government Costs</i>	
Opportunity costs of justice officers' time spent conducting in-service training (including retests) (.2005)	\$9.4
Direct costs associated with hiring instructors for in-service training (including retests) (.2005)	Less than \$0.1m
Opportunity costs of In-Service Training Coordinators associated with administrative tasks (.2003 & .2009)	\$1.5m
<i>Total Local Costs</i>	<i>\$11m</i>
<i>State costs</i>	
Direct costs associated with hiring instructors for in-service training (including retests) (.2005)	\$0.3m
Opportunity costs of community college school directors associated with administrative tasks (.2003 & .2009)	\$1.0m
Opportunity costs of NC Justice Academy and other Department of Justice Staff associated with administrative tasks (.2003 & .2009)	\$0.3m
<i>Total State Costs</i>	<i>\$1.7m</i>

Note: Minor unquantified benefits not included in the above table. Parts may not sum to totals due to rounding.

APPENDIX A

12 NCAC 10B .2005 IS PROPOSED TO BE AMENDED AS FOLLOWS:

12 NCAC 10B .2005 MINIMUM TRAINING REQUIREMENTS

(a) A Sheriff or Department Head may use a lesson plan developed by the North Carolina Justice Academy or a lesson plan for any of the topic areas developed by another entity such as a different law enforcement agency or training provider. The Sheriff or Department Head may also use a lesson plan developed by a certified instructor, provided that the instructor develops the lesson plan in accordance with the Instructional Systems Development model as taught in Criminal Justice Instructor Training and as described in 12 NCAC 09B .0209. Lesson plans shall be designed to be delivered in hourly increments. A student who completes the training shall receive the number of credits that correspond to the number of hours assigned to the course, regardless of the amount of time the student spends completing the course, where each hour of instruction shall be worth one credit (e.g., "Legal Update" is designed to be delivered in four hours and will yield four credits). With the exception of Firearms Training and Requalification, successful completion of training shall be demonstrated by passing tests as developed by the delivering agency or as written by the North Carolina Justice Academy. A written test comprised of at least five questions per hour of training shall be developed by the delivering agency, or the agency may use the written test developed by the North Carolina Justice Academy, for each in-service training topic. A student shall pass each test by achieving 70 percent correct answers. Firearms Training and Requalification shall be demonstrated qualification with a firearm as set out in Section .2100 of this Subchapter.

(b) The in-service training for topic areas of the Sheriff's or Department Head's choosing required by this Rule shall either:

- (1) meet the requirements of Paragraph (a) of this Rule; or
- (2) be delivered pursuant to National Certification Programs administered by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) completed during the mandated in-service year to satisfy these topics in part or in whole. It is not required that this IADLEST training be written in the Instructional Systems Design (ISD) format or delivered by a Commission certified instructor.

~~(c) The 2019 Law Enforcement In-Service Training Program requires 24 credits of training and successful completion in the following topic areas:~~

- ~~(1) Legal Update;~~
- ~~(2) Juvenile Law Update;~~
- ~~(3) Individual Wellness: Coping with Stress and PTSD;~~
- ~~(4) Best Practices for Officers During Community Dissent;~~

- ~~(5) — Law Enforcement Intelligence Update: Gangs and Divisive Groups;~~
- ~~(6) — Domestic Violence: Law and Procedure Update;~~
- ~~(7) — Opioid Awareness and Response;~~
- ~~(8) — Firearms Training and Requalification for deputy sheriffs as set out in Section .2100 of this Subchapter; and~~
- ~~(9) — Any topic areas of the Sheriff's choosing.~~

~~(d) The 2019 Detention Officer In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:~~

- ~~(1) — Detention Officer Legal Update;~~
- ~~(2) — Detention Intelligence Update: Gangs and Divisive Groups;~~
- ~~(3) — Individual Wellness: Coping with Stress and PTSD;~~
- ~~(4) — Inmate Suicide Prevention;~~
- ~~(5) — Opioid Awareness and Response; and~~
- ~~(6) — Any topic areas of the Sheriff's or Department Head's choosing.~~

~~(e) The 2019 Telecommunicator In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:~~

- ~~(1) — Individual Wellness: Coping with Stress and PTSD;~~
- ~~(2) — Civil Liability for Telecommunicators;~~
- ~~(3) — Human Fatigue in Shift Work; Strategies for Improving Performance;~~
- ~~(4) — Handling Difficult Callers; and~~
- ~~(5) — Any topic areas of the Sheriff's or Department Head's choosing.~~

~~(f)~~ (c) The 2020 Law Enforcement In-Service Training Program requires 24 credits of training and successful completion in the following topic areas:

- (1) 2020 Legal Update;
- (2) 2020 Long-Term Effects of Childhood Adversity;
- (3) 2020 The Signs Within: Suicide Prevention Education and Awareness;
- (4) 2020 Career Survival: Training and Standards Issues;
- (5) 2020 Communication Strategies When Encountering Persons Who are Deaf or Hard of Hearing;
- (6) 2020 Armed/Unarmed Security/Company Police: Understanding Their Roles and Authority;
- (7) 2020 Firearms Training and Requalification for deputy sheriffs as set out in Section .2100 of this Subchapter; and
- (8) Any topic areas of the Sheriff's choosing.

~~(g)~~ (d) The 2020 Detention Officer In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:

- (1) 2020 Overcoming Negativity in the Detention Center;
- (2) 2020 Documenting the Incident Refresher;
- (3) 2020 The Signs Within: Suicide Prevention Education and Awareness
- (4) 2020 Career Survival: Training and Standards Issues;
- (5) 2020 Recognizing Signs of Assaultive Behavior; and
- (6) Any topic areas of the Sheriff's or Department Head's choosing.

~~(h)~~ (e) The 2020 Telecommunicator In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:

- (1) 2020 Suicide Callers;
- (2) 2020 Overcoming Negativity in the Communications Center;
- (3) 2020 Processing Calls/Quality Assurance;
- (4) 2020 Responding to Domestic Violence Callers;
- (5) 2020 Career Survival: Training and Standards Issues; and
- (6) Any topic areas of the Sheriff's or Department Head's choosing.

(f) The 2021 Law Enforcement In-Service Training Program requires 24 credits of training and successful completion in the following topic areas:

- (1) 2021 Legal Update;
- (2) 2021 Continue to Make a Difference: Positive Engagement Stories and Studies;
- (3) 2021 School Safety and Responding to School Incidents;
- (4) 2021 Firearms Training and Requalification for deputy sheriffs as set out in Section .2100 of this Subchapter; and
- (5) Any topic areas of the Sheriff's choosing.

(g) The 2021 Detention Officer In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:

- (1) 2021 Detention Legal Updates;
- (2) 2021 Followership: Being an Influential Employee;
- (3) 2021 Inmate Mental Health; and
- (4) Any topic areas of the Sheriff's or Department Head's choosing.

(h) The 2021 Telecommunicator In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:

- (1) 2021 Followership: Being an Influential Employee;;

- (2) 2021 Critical Thinking for Telecommunicators;
- (3) 2021 Crisis Negotiations; and
- (4) Any topic areas of the Sheriff's or Department Head's choosing.

History Note: Authority G.S. 17E-4; 17E-7;

Eff. January 1, 2007;

Amended Eff. January 1, 2018; January 1, 2017; January 1, 2016; January 1, 2015; February 1, 2014;

January 1, 2013; February 1, 2012; January 1, 2011; January 1, 2010; January 1, 2009; January 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018;

Amended Eff. January 1, 2021; January 1, 2020; August 1, 2019; January 1, 2019.

APPENDIX B
Current Rules Indirectly Impacted by the Proposed Amendments

12 NCAC 10B .2003 IN-SERVICE TRAINING COORDINATOR

(a) If a Sheriff or Department Head chooses to conduct its own in-service training, then the Sheriff or Department Head must also appoint an "In-Service Training Coordinator" who meets the following criteria:

- (1) Has four years of experience as a criminal justice officer or as an administrator or specialist in a field directly related to the criminal justice system;
- (2) Holds General Instructor certification; and
- (3) Has successfully participated in the "Coordinating In-Service Training" course presented by the NC Justice Academy for the purpose of familiarization with trainee and instructor evaluation.

The Sheriff or Department Head shall submit an application for such appointment to the Division for approval of this designation.

(b) An In-Service Training Coordinator shall:

- (1) Administer the delivery of the course curriculum.
- (2) Select and schedule instructors.
- (3) Ensure that each instructor utilizes a lesson plan previously approved by the Sheriff or his or her designee.
- (4) Monitor, or designate a certified instructor to monitor the presentations of instructors during course deliveries and prepare a written evaluation on their performance and suitability for subsequent instructional assignments. The observations shall be of sufficient duration to ensure the instructor is using the Instructional System Development model, as taught in Criminal Justice Instructor Training set out in 12 NCAC 09B .0209, and that the delivery is objective based, documented by and consistent with a Commission-approved lesson plan.
- (5) Maintain records of all in-service training received by the agency's deputies, detention officers, and telecommunicators including:
 - (A) the course title;
 - (B) the delivery hours of course;
 - (C) the course delivery dates;
 - (D) the names and addresses of instructors utilized for each topic; and
 - (E) A roster of enrolled trainees documenting class attendance.

History Note: Authority G.S. 17E-4; 17E-7;
Eff. January 1, 2007;
Amended Eff. January 1, 2013.

12 NCAC 10B .2009 TRAINING DELIVERY

The training provider shall ensure that the:

- (1) training is documented by roster that includes:
 - (a) student names;
 - (b) date and time of training;
 - (c) instructional topic;
 - (d) hours taught;
 - (e) instructor's name; and

(f) training provider.

The training provider may also issue a certificate to the officer;

- (2) training is taught by a Commission certified instructor;
- (3) instructors use the lesson plans prepared by the NC Justice Academy, another entity or develop their own developed in accordance with the provisions of 12 NCAC 10B .2005(a);
- (4) instructors provide each student with a copy of the student lesson plan during the course delivery; and
- (5) a copy of the lesson plan(s) is maintained indefinitely by the training provider.

History Note: *Authority G.S. 17E-4; 17E-7;*
 Eff. January 1, 2013.

