

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 924

Short Title: Criminal Record Checks/DHR.

(Public)

Sponsors: Senator Odom.

Referred to: Children & Human Resources.

April 17, 1997

A BILL TO BE ENTITLED

AN ACT TO REQUIRE CRIMINAL RECORD CHECKS OF EMPLOYEES OF AND
APPLICANTS FOR EMPLOYMENT WITH THE DEPARTMENT OF HUMAN
RESOURCES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 114 of the General Statutes is amended by adding the following new section to read:

"§ 114-19.6. Criminal history record checks of employees of and applicants for employment with the Department of Human Resources.

(a) Definitions. – As used in this section, the term:

(1) 'Criminal history' means a State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon a covered person's fitness for employment in the Department of Human Resources. The crimes include, but are not limited to, criminal offenses as set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or

1 Material; Article 14, Burglary and Other Housebreakings; Article 15,
2 Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery;
3 Article 18, Embezzlement; Article 19, False Pretenses and Cheats;
4 Article 19A, Obtaining Property or Services by False or Fraudulent Use
5 of Credit Device or Other Means; Article 19B, Financial Transaction
6 Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26,
7 Offenses Against Public Morality and Decency; Article 26A, Adult
8 Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29,
9 Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses
10 Against the Public Peace; Article 36A, Riots and Civil Disorders;
11 Article 39, Protection of Minors; Article 40, Protection of the Family;
12 Article 59, Public Intoxication; and Article 60, Computer-Related
13 Crime. The crimes also include possession or sale of drugs in violation
14 of the North Carolina Controlled Substances Act, Article 5 of Chapter
15 90 of the General Statutes, and alcohol-related offenses such as sale to
16 underage persons in violation of G.S. 18B-302, or driving while
17 impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

18 (2) 'Covered person' means an individual who is an applicant for
19 employment or is employed with the Department of Human Resources.

20 (b) When requested by the the Department of Human Resources, the Department
21 of Justice may provide to the Department of Human Resources criminal history from the
22 State and National Repositories of Criminal Histories of an individual who is employed
23 or applies for employment with the Department of Human Resources. For requests for a
24 State criminal history record check only, the Department of Human Resources shall
25 provide to the Department of Justice a form consenting to the check signed by the
26 employee or applicant to be checked and any additional information required by the
27 Department of Justice. For requests that include a national criminal record check, the
28 Department of Human Resources shall provide to the Department of Justice the
29 fingerprints of the employee or applicant to be checked, any additional information
30 required by the Department of Justice, and a form consenting to the check of the criminal
31 record and to the use of fingerprints and other identifying information required by the
32 State or National Repositories signed by the employee or applicant to be checked. The
33 fingerprints of the employee or applicant shall be forwarded to the State Bureau of
34 Investigation for a search of the State's criminal history record file, and the State Bureau
35 of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation
36 for a national criminal history record check. The Department of Human Resources shall
37 keep all information pursuant to this section confidential. The Department of Justice
38 shall charge a reasonable fee for conducting the checks of the criminal history records
39 authorized by this section.

40 (c) All releases of criminal history information to the Department of Human
41 Resources shall be subject to, and in compliance with, rules governing the dissemination
42 of criminal history record checks as adopted by the North Carolina Division of Criminal
43 Information. All of the information the Department of Human Resources receives

1 through the checking of the criminal history is privileged information and for the
2 exclusive use of the Department of Human Resources.

3 (d) If the covered person's verified criminal history record check reveals one or
4 more convictions covered under subsection (a) of this section, then the conviction shall
5 constitute just cause for not selecting the person for employment, or for dismissing the
6 person from current employment with the Department of Human Resources. The
7 conviction shall not automatically prohibit employment; however, the following factors
8 shall be considered by the Department of Human Resources in determining whether
9 employment shall be denied:

10 (1) The level and seriousness of the crime;

11 (2) The date of the crime;

12 (3) The age of the person at the time of the conviction;

13 (4) The circumstances surrounding the commission of the crime, if known;

14 (5) The nexus between the criminal conduct of the person and job duties of
15 the person;

16 (6) The prison, jail, probation, parole, rehabilitation, and employment
17 records of the person since the date the crime was committed; and

18 (7) The subsequent commission by the person of a crime listed in
19 subsection (a) of this section.

20 (e) The Department of Human Resources may deny employment to or dismiss a
21 covered person who refuses to consent to a criminal history record check or use of
22 fingerprints or other identifying information required by the State or National
23 Repositories of Criminal Histories. The refusal shall constitute just cause for the
24 employment denial or the dismissal from employment.

25 (f) The Department of Human Resources may extend a conditional offer of
26 employment pending the results of a criminal history record check authorized by this
27 section."

28 Section 2. This act becomes effective October 1, 1997.