

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2013

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SENATE BILL 401*

Short Title: Share Arrest Warrant Status/Pub. Assistance. (Public)

Sponsors: Senators Tucker (Primary Sponsor); Goolsby, Hise, Randleman, and Soucek.

Referred to: Judiciary II.

March 26, 2013

A BILL TO BE ENTITLED

1 AN ACT REQUIRING A COUNTY DEPARTMENT OF SOCIAL SERVICES (DSS) TO
2 CONDUCT A CRIMINAL CHECK ON APPLICANTS FOR OR RECIPIENTS OF
3 TEMPORARY ASSISTANCE TO NEEDY FAMILY (TANF) BENEFITS OR FOOD
4 AND NUTRITION SERVICES (FNS) BENEFITS, TO REQUIRE DSS TO SHARE
5 INFORMATION WITH A LOCAL LAW ENFORCEMENT AGENCY REGARDING AN
6 APPLICANT FOR OR RECIPIENT OF TANF OR FNS BENEFITS WHO HAS AN
7 OUTSTANDING ARREST WARRANT, AND TO DENY TANF OR FNS BENEFITS
8 TO AN APPLICANT OR RECIPIENT SUBJECT TO AN OUTSTANDING WARRANT
9 FOR A FELONY OR FOR A PROBATION OR PAROLE VIOLATION.
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11 Whereas, federal law, specifically, 42 U.S.C. § 601, et seq., requires that states
12 receiving funds under certain federal grant programs shall not use any part of the grant to
13 provide assistance to any individual who is (i) fleeing to avoid prosecution, custody, or
14 confinement after conviction, under the laws of the place from which the individual flees, for a
15 crime, or an attempt to commit a crime, which is a felony under the laws of the place from
16 which the individual flees, or (ii) violating a condition of probation or parole imposed under
17 federal or State law; and

18 Whereas, states receiving these federal grant funds are authorized under federal law
19 to establish safeguards against the use or disclosure of information about applicants or
20 recipients for assistance under the state program funded under federal law; and

21 Whereas, federal law expressly authorizes the State agency administering the
22 program to furnish a federal, State, or local law enforcement officer, upon the request of the
23 officer, with the current address of any recipient if the officer furnishes the agency with the
24 name of the applicant or recipient under specified circumstances; and

25 Whereas, conducting a criminal background check on applicants for or recipients of
26 public assistance benefits is necessary in order to ensure compliance with federal laws
27 prohibiting a fleeing felon or probation or parole violator from receiving public assistance
28 benefits; and

29 Whereas, the apprehension of individuals by law enforcement may be necessary to
30 protect and safeguard the public; and

31 Whereas, State agencies administering the program may have or receive information
32 that is necessary for a law enforcement agency to conduct the official duties of the agency, and
33 the location or apprehension of the applicant or recipient is within a law enforcement agency's
34 official duties; Now, therefore,

35 The General Assembly of North Carolina enacts:



1 SECTION 1. Part 1 of Article 2 of Chapter 108A of the General Statutes is
2 amended by adding the following new section to read:

3 **"§ 108A-26.1. Information sharing of outstanding arrest warrant of applicant for or**
4 **recipient of program assistance.**

5 (a) A county department of social services shall notify an applicant for program
6 assistance under Part 2 or Part 5 of this Article that release of confidential information from the
7 applicant's records may not be protected if a felony or misdemeanor arrest warrant is issued
8 against the applicant. A county department of social services shall notify all recipients under a
9 program of public assistance under Part 2 or Part 5 of this Article at the time of renewal of the
10 recipient's application for such program assistance that release of confidential information from
11 the recipient's records may not be protected if a felony or misdemeanor arrest warrant is issued
12 against the recipient.

13 (b) Notwithstanding G.S. 108A-80 and to the extent otherwise allowed by federal and
14 State law, a county department of social services shall conduct a criminal history record check
15 of an applicant for or recipient of program assistance under Part 2 or Part 5 of this Article. The
16 county department of social services shall ensure that the State and national criminal history of
17 an applicant, or of a recipient at the time of benefits renewal, is checked. If an applicant or
18 recipient's criminal history record check reveals that a warrant has been issued for the arrest of
19 the applicant or recipient for the commission of a felony or a misdemeanor, the county
20 department of social services shall, within 24 hours or by the end of the next business day after
21 receiving information of the existence of the warrant for arrest, notify a local law enforcement
22 agency in the county where the applicant or recipient is seeking benefits of the existence of the
23 warrant for arrest. Information that may be released pursuant to this section shall be limited to
24 the name, address, telephone number, Social Security number, birth date, and physical
25 description of the applicant for or recipient of program assistance. Except as otherwise
26 provided by this section, the county department of social services shall keep all information
27 obtained pursuant to this section confidential.

28 (c) Nothing in this section shall be construed to authorize the disclosure of any
29 information otherwise protected by State or federal law or regulation.

30 (d) This section applies to applicants for or recipients of program assistance under Part
31 2 or Part 5 of this Article only.

32 (e) The Social Services Commission shall adopt rules regarding (i) the sharing of
33 information between county departments of social services and local law enforcement agencies;
34 (ii) the accuracy of information shared pursuant to this section; and (iii) any other rules the
35 Commission deems necessary to implement this section. The Secretary of the Department of
36 Health and Human Services shall oversee implementation of these rules.

37 (f) Each county department of social services is authorized to enter into a
38 Memorandum of Agreement or Memorandum of Understanding with the head of any law
39 enforcement agency as defined in G.S. 90-95.2 in order to perform the functions described in
40 this section."

41 SECTION 2. Part 1 of Article 2 of Chapter 108A of the General Statutes is
42 amended by adding the following new section to read:

43 **"§ 108A-26.2. Individual subject to felony charge; eligibility for program assistance;**
44 **federal approval; review by department.**

45 (a) Subject to subsection (b), a department of social services shall not grant public
46 assistance under Part 2 or Part 5 of Article 2 of Chapter 108A of the General Statutes if the
47 department receives information described in G.S. 108A-26.1 that the applicant for or recipient
48 of program assistance is subject to arrest under an outstanding warrant arising from a charge of
49 violating conditions of parole or probation or from a felony charge against that applicant or
50 recipient in any jurisdiction. This section does not affect the eligibility for assistance of other
51 members of the applicant or recipient's household. An applicant or recipient described in this

1 section is eligible for program assistance, if all other eligibility criteria of the law are met, when
2 the applicant or recipient is no longer subject to arrest under an outstanding warrant as
3 described in this section.

4 (b) If federal approval is required in order to prevent the loss of federal reimbursement
5 as a result of the application of this section to an applicant for or recipient of program
6 assistance, the department of social services shall promptly take any action necessary to obtain
7 federal approval."

8 **SECTION 3.** Part 2 of Article 4 of Chapter 114 of the General Statutes is amended
9 by adding the following new section to read:

10 "**§ 114-19.33. Criminal record checks of applicants for or recipients of program**
11 **assistance.**

12 The Department of Justice may provide to a county department of social services from the
13 State and National Repositories of Criminal Histories the criminal history of any person who
14 applies for program assistance under Part 2 or Part 5 of Article 2 of Chapter 108A of the
15 General Statutes. The county department of social services shall provide to the Department of
16 Justice, along with the request, a form signed by the applicant or recipient acknowledging
17 receipt of the notification required by G.S. 108A-26.1(a), and any identifying information
18 required by the State and National Repositories, and any additional information required by the
19 Department of Justice. Except as provided under G.S. 108A-26.1, the county department of
20 social services shall keep all information obtained pursuant to this section confidential."

21 **SECTION 4.** This act is effective when it becomes law.