

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 2035*
Committee Substitute Favorable 6/30/94

Short Title: Foster Parent Records.

(Public)

Sponsors:

Referred to:

June 6, 1994

1 A BILL TO BE ENTITLED
2 AN ACT TO MANDATE CRIMINAL HISTORY CHECKS OF ALL FOSTER
3 PARENTS IN LICENSED FAMILY FOSTER HOMES AND TO APPROPRIATE
4 FUNDS.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 131D-10.2 reads as rewritten:

7 "§ 131D-10.2. Definitions.

8 For purposes of this Article, unless the context clearly implies otherwise:

- 9 (1) 'Adoption' means the act of creating a legal relationship between
10 parent and child where it did not exist genetically.
- 11 (2) 'Adoptive Home' means a family home approved by a child placing
12 agency to accept a child for adoption.
- 13 (3) 'Child' means an individual less than 18 years of age, who has not been
14 emancipated under the provisions of Article 56 of Chapter 7A of the
15 General Statutes.
- 16 (4) 'Child Placing Agency' means a person authorized by statute or license
17 under this Article to receive children for purposes of placement in
18 residential group care, family foster homes or adoptive homes.
- 19 (5) 'Children's Camp' means a residential child-care facility which
20 provides foster care at either a permanent camp site or in a wilderness
21 setting.
- 22 (6) 'Commission' means the Commission for Social Services.

- 1 (6a) 'Criminal History' means a county, State, or federal criminal history of
2 conviction of a crime, whether a misdemeanor or a felony, that bears
3 upon an individual's fitness to have responsibility for the safety and
4 well-being of children, including homicide, rape and other sex
5 offenses, assaults, kidnapping and abduction, malicious injury or
6 damage by the use of incendiary device or material, offenses against
7 public morality and decency, prostitution, a crime against children, and
8 a crime against the family, as prescribed respectively in Articles 6, 7A,
9 8, 10, 13, 26, 27, 39, and 40 of Chapter 14 of the General Statutes, a
10 violation of the North Carolina Controlled Substances Act, as
11 prescribed in Article 5 of Chapter 90 of the General Statutes, a
12 violation of the law prohibiting driving while impaired, as prescribed
13 in G.S. 20-138.1 through G.S. 20-138.5, a violation of the law
14 forbidding sales of alcohol to, or purchases of alcohol by, minors, as
15 prescribed in G.S. 18B-302(c), and a violation of the law prohibiting
16 public intoxication, as prescribed in G.S. 14-444(b), or similar federal
17 crimes.
- 18 (7) 'Department' means the Department of Human Resources.
- 19 (8) 'Family Foster Home' means the private residence of one or more
20 individuals who permanently reside as members of the household and
21 who provide continuing full-time foster care for a child or children
22 who are placed there by a child placing agency or who provide
23 continuing full-time foster care for two or more children who are
24 unrelated to the adult members of the household by blood, marriage,
25 guardianship or adoption.
- 26 (9) 'Foster Care' means the continuing provision of the essentials of daily
27 living on a 24-hour basis for dependent, neglected, abused, abandoned,
28 destitute, orphaned, undisciplined or delinquent children or other
29 children who, due to similar problems of behavior or family
30 conditions, are living apart from their parents, relatives, or guardians in
31 a family foster home or residential child-care facility. The essentials of
32 daily living include but are not limited to shelter, meals, clothing,
33 education, recreation, and individual attention and supervision.
- 34 (9a) 'Foster Parent' means any individual providing foster care in any
35 family foster home licensed by the State.
- 36 (10) 'Person' means an individual, partnership, joint-stock company, trust,
37 voluntary association, corporation, agency, or other organization or
38 enterprise doing business in this State, whether or not for profit.
- 39 (11) 'Primarily Educational Institution' means any institution which
40 operates one or more scholastic or vocational and technical education
41 programs that can be offered in satisfaction of compulsory school
42 attendance laws, in which the primary purpose of the housing and care
43 of children is to meet their educational needs, provided such institution
44 has complied with Article 39 of Chapter 115C of the General Statutes.

1 (12) 'Provisional License' means a type of license granted by the
2 Department to a person who is temporarily unable to comply with a
3 rule or rules adopted under this Article.

4 (13) 'Residential Child-Care Facility' means a staffed premise with paid or
5 volunteer staff where children receive continuing full-time foster care.
6 Residential child-care facility includes child-caring institutions, group
7 homes, and children's camps which provide foster care."

8 Sec. 2. Article 1A of Chapter 131D of the General Statutes is amended by
9 adding a new section to read:

10 "**§ 131D-10.3A. Mandatory criminal checks of foster parents.**

11 (a) The Department shall ensure that all foster parents are checked for any
12 criminal history. The Department may prohibit a foster parent from providing foster
13 care by denying or revoking the license to provide foster care based upon a
14 determination that the foster parent has a criminal history.

15 (b) The Department of Justice may provide to the Department of Human
16 Resources the criminal history of any foster parent from the State and National
17 Repositories of Criminal Histories. The Department shall provide to the Department of
18 Justice, along with the request, the fingerprints of the individual to be checked, any
19 additional information required by the Department of Justice, and a form consenting to
20 the check of the criminal record and to the use of the fingerprints and other identifying
21 information required by the repositories signed by the individual to be checked. Refusal
22 to consent is grounds for the Department to prohibit the individual from providing foster
23 care.

24 (c) The Department shall notify in writing the foster parent and that individual's
25 supervising agency of any disqualifying information resulting from the criminal history
26 check together with the Department's action under subsection (a) of this section.

27 (d) All the information received by the Department through the checking of the
28 criminal history under this section is privileged information and for the exclusive use of
29 the Department and those persons authorized under this section to receive the
30 information. The Department may destroy the information after it is used for the
31 purposes authorized by this section after one calendar year.

32 (e) No action for civil or criminal liability shall be brought against a supervising
33 agency of a foster parent or a State or local agency as a result of the check of the
34 criminal history if the employer, provider, or State or local agency was acting in good
35 faith and in accordance with this section and the rules established under it.

36 (f) The Department of Justice shall charge a reasonable fee for conducting the
37 checks of the criminal records authorized by this section.

38 (g) The Department of Human Resources, Division of Social Services, shall bear
39 the costs of implementing this section."

40 Sec. 3. G.S. 114-19 reads as rewritten:

41 "**§ 114-19. Criminal statistics.**

42 (a) It shall be the duty of the State Bureau of Investigation to receive and collect
43 police information, to assist in locating, identifying, and keeping records of criminals in
44 this State, and from other states, and to compare, classify, compile, publish, make

1 available and disseminate any and all such information to the sheriffs, constables, police
2 authorities, courts or any other officials of the State requiring such criminal
3 identification, crime statistics and other information respecting crimes local and
4 national, and to conduct surveys and studies for the purpose of determining so far as is
5 possible the source of any criminal conspiracy, crime wave, movement or cooperative
6 action on the part of the criminals, reporting such conditions, and to cooperate with all
7 officials in detecting and preventing.

8 (b) The State Bureau of Investigation shall, on a daily basis, notify the
9 Department of Revenue of all reports it receives pursuant to G.S. 114-18.1 of arrests
10 and seizures involving non-tax-paid controlled substances and counterfeit controlled
11 substances. The Bureau shall also, as soon as practicable, provide the Department with
12 any additional information it receives regarding such arrests and seizures.

13 (c) The Department of Justice may provide to the Division of Social Services,
14 Department of Human Resources, the criminal history of any foster parent as defined in
15 G.S. 131D-10.2(9a) from the State and National Repositories of Criminal Histories.
16 The Division shall provide to the Department of Justice, along with the request, the
17 fingerprints of the individual to be checked, any additional information required by the
18 Department of Justice, and a form consenting to the check of the criminal record and to
19 the use of the fingerprints and other identifying information required by the repositories
20 signed by the individual to be checked. Refusal to consent is grounds for the
21 Department of Human Resources to prohibit the individual from providing foster care.

22 (d) The Department of Justice shall charge a reasonable fee for conducting the
23 checks of the criminal records authorized by this section."

24 Sec. 4. The Department of Human Resources and the Social Services
25 Commission, upon consultation with the Division of Social Services of the Department
26 of Human Resources and the Division of Criminal Information of the Department of
27 Justice, shall adopt rules to implement this act.

28 Sec. 5. There is appropriated from the General Fund to the Department of
29 Human Resources the sum of five hundred thirty-six thousand three hundred seventy
30 dollars (\$536,370) for the 1994-95 fiscal year to implement this act.

31 Sec. 6. This act becomes effective January 1, 1995, and applies to foster
32 parents providing foster care on or after that date.