

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 240
Committee Substitute Favorable 4/27/21

Short Title: Criminal Background Checks/Schools.

(Public)

Sponsors:

Referred to:

March 9, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE CRIMINAL BACKGROUND CHECKS FOR INITIAL CHARTER
3 BOARDS OF DIRECTORS AND SCHOOL PERSONNEL LICENSURE AND TO
4 REVISE THE PROCESS FOR CRIMINAL HISTORY CHECKS FOR PUBLIC SCHOOL
5 UNITS.

6 The General Assembly of North Carolina enacts:

7
8 **PART I. REQUIRE CRIMINAL BACKGROUND CHECKS FOR INITIAL CHARTER**
9 **BOARDS OF DIRECTORS**

10 **SECTION 1.(a)** G.S. 115C-218.1(b)(3) reads as rewritten:

11 "(3) The governance structure of the school including the names of the initial
12 members of the board of directors of the nonprofit, tax-exempt corporation
13 and the process to be followed by the school to ensure parental involvement.
14 The initial members of the board of directors shall consent to a criminal
15 history check as provided in G.S. 115C-218.4. A teacher employed by the
16 board of directors to teach in the charter school may serve as a nonvoting
17 member of the board of directors for the charter school."

18 **SECTION 1.(b)** Article 14A of Chapter 115C of the General Statutes is amended by
19 adding a new section to read:

20 "**§ 115C-218.4. Charter board of directors criminal history checks.**

21 (a) As used in this section, the following terms are defined:

22 (1) Criminal history. – A county, state, or federal criminal history of conviction
23 of, or a plea of nolo contendere to, a crime, whether a misdemeanor or a
24 felony, that indicates the applicant (i) poses a threat to the physical safety of
25 students or personnel or (ii) has demonstrated that he or she does not have the
26 integrity or honesty to fulfill his or her duties as a board member. Such crimes
27 include the following North Carolina crimes contained in any of the following
28 Articles of Chapter 14 of the General Statutes: Article 5A, Endangering
29 Executive, Legislative, and Court Officers; Article 6, Homicide; Article 7B,
30 Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and
31 Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or
32 Incendiary Device or Material; Article 14, Burglary and Other
33 Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny;
34 Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretense and
35 Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent
36 Use of Credit Device or Other Means; Article 20, Frauds; Article 21, Forgery;



1 Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult
2 Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29,
3 Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against
4 the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies;
5 Article 39, Protection of Minors; and Article 60, Computer-Related Crime.
6 Such crimes also include possession or sale of drugs in violation of the North
7 Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General
8 Statutes, and alcohol-related offenses such as sale to underage persons in
9 violation of G.S. 18B-302 or driving while impaired in violation of
10 G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes
11 listed in this subsection, such crimes also include similar crimes under federal
12 law or under the laws of other states.

13 (2) Member. – An individual who is a member of the board of directors of a
14 nonprofit seeking initial approval to establish a charter school.

15 (b) The State Board of Education shall require all members of the board of directors of
16 the nonprofit to be checked for a criminal history before granting final approval of a charter
17 application. The State Board of Education shall require a member to pay for the criminal history
18 check authorized under this subsection, but the nonprofit may pay for the criminal history check
19 on behalf of the member.

20 (c) The Department of Public Safety shall provide to the State Board of Education the
21 criminal history from the State and National Repositories of Criminal Histories of any member.
22 The State Board of Education shall require the member to (i) be fingerprinted and to provide any
23 additional information required by the Department of Public Safety to a person designated by the
24 State Board of Education and (ii) sign a form consenting to the check of the criminal record and
25 to the use of fingerprints and other identifying information required by the repositories. The State
26 Board of Education shall not issue a charter to a nonprofit with a member who refuses to consent
27 to a criminal history check.

28 (d) The State Board of Education shall review the criminal history it receives on a
29 member and shall determine whether the results of the review indicate that the member (i) poses
30 a threat to the physical safety of students or personnel or (ii) has demonstrated that he or she does
31 not have the integrity or honesty to fulfill his or her duties as a member of the board of directors
32 of a charter school. If the State Board of Education denies an application for a charter based on
33 its review of the criminal history it receives on a member, the State Board of Education shall
34 make written findings with regard to how it used the information when denying the application.

35 (e) All the information received by the State Board of Education through the checking of
36 the criminal history in accordance with this section is privileged information and is not a public
37 record but is for the exclusive and confidential use of the State Board of Education. The State
38 Board of Education may destroy the information after it is used for the purposes authorized by
39 this section after one calendar year.

40 (f) There shall be no liability for negligence on the part of the State Board of Education,
41 or its employees, arising from any act taken or omission by any of them in carrying out the
42 provisions of this section. The immunity established by this subsection shall not extend to gross
43 negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The
44 immunity established by this subsection shall be deemed to have been waived to the extent of
45 indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the
46 General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as
47 set forth in Article 31 of Chapter 143 of the General Statutes.

48 (g) Any member who willfully furnishes, supplies, or otherwise gives false information
49 for a criminal history record check under this section shall be guilty of a Class A1 misdemeanor."

50 **SECTION 1.(c)** This section applies to applications for initial charters that are
51 received on or after October 1, 2021.

1
2 **PART II. CRIMINAL BACKGROUND CHECKS FOR SCHOOL PERSONNEL**
3 **LICENSURE**

4 **SECTION 2.(a)** G.S. 115C-270.1 reads as rewritten:

5 **"§ 115C-270.1. Definitions.**

6 As used in this Article, the following definitions shall apply:

- 7 (1) Administrator. – An administrator or supervisor who serves in general and
8 program administrator roles, as classified by the State Board. Administrators
9 shall include superintendents, assistant or associate superintendents,
10 principals, assistant principals, or curriculum-instructional specialists.
- 11 (1a) Applicant. – An individual who submits an application for licensure, including
12 initial applications, renewal applications, and applications for licensure
13 reinstatement.
- 14 (1b) Criminal history. – A county, state, or federal criminal history of conviction
15 of, or a plea of nolo contendere to, a crime, whether a misdemeanor or a
16 felony, that indicates the applicant (i) poses a threat to the physical safety of
17 students or personnel, (ii) has demonstrated that he or she does not have the
18 integrity or honesty to fulfill his or her duties as public school personnel, or
19 (iii) otherwise fails to meet the standards and criteria adopted by the State
20 Board of Education governing ethics and moral character required for
21 professional educators. Such crimes include the following North Carolina
22 crimes contained in any of the following Articles of Chapter 14 of the General
23 Statutes: Article 5A, Endangering Executive, Legislative, and Court Officers;
24 Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8,
25 Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury
26 or Damage by Use of Explosive or Incendiary Device or Material; Article 14,
27 Burglary and Other Housebreakings; Article 15, Arson and Other Burnings;
28 Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article
29 19, False Pretense and Cheats; Article 19A, Obtaining Property or Services
30 by False or Fraudulent Use of Credit Device or Other Means; Article 20,
31 Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and
32 Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article
33 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office;
34 Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil
35 Disorders, and Emergencies; Article 39, Protection of Minors; and Article 60,
36 Computer-Related Crime. Such crimes also include possession or sale of
37 drugs in violation of the North Carolina Controlled Substances Act, Article 5
38 of Chapter 90 of the General Statutes, and alcohol-related offenses such as
39 sale to underage persons in violation of G.S. 18B-302 or driving while
40 impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to
41 the North Carolina crimes listed in this subsection, such crimes also include
42 similar crimes under federal law or under the laws of other states.
- 43 (2) Professional educator. – An administrator, teacher, or student services
44 personnel.
- 45 (3) Recognized educator preparation program or recognized EPP. – As defined in
46 G.S. 115C-269.1(15).
- 47 (4) Student services personnel. – An individual providing specialized assistance
48 to students, teachers, administrators, or the education program in general, as
49 classified by the State Board. Student services personnel shall include
50 individuals employed in school counseling, school social work, school
51 psychology, audiology, speech-language pathology, and media coordination.

1 (5) Teacher. – An individual whose major responsibility is to either teach or
2 directly supervise teaching, as classified by the State Board."

3 **SECTION 2.(b)** G.S. 115C-270.5(a) reads as rewritten:

4 "(a) Authority. – The State Board of Education shall have entire control of licensing all
5 applicants for professional educator positions in all public schools of North Carolina, subject to
6 the requirements of this Article. The State Board shall adopt rules for the issuance, renewal, and
7 extension of all licenses and shall determine and fix the salary for each grade and type of license
8 which it authorizes. The State Board of Education shall require all applicants for licensure in the
9 State to be checked for a criminal history, as provided in G.S. 115C-270.12."

10 **SECTION 2.(c)** G.S. 115C-270.10(a) reads as rewritten:

11 "(a) Fee Schedule. – The State Board of Education shall establish by rule a schedule of
12 fees for professional educator licensure and administrative changes. The fees established under
13 this section shall not exceed the actual cost of providing the service. The schedule may include
14 fees for any of the following services:

- 15 (1) Application for demographic or administrative changes to a license.
- 16 (2) Application for a duplicate license or for copies of documents in the licensure
17 files.
- 18 (3) Application for a renewal, extension, addition, upgrade, reinstatement, and
19 variation to a license.
- 20 (4) Initial application for a new graduate from any recognized educator
21 preparation program.
- 22 (5) Initial application for an out-of-state applicant.
- 23 (6) All other applications.
- 24 (7) Criminal history check.

25 An applicant must pay any nonrefundable or nontransferable service fees at the time an
26 application is submitted."

27 **SECTION 2.(d)** Article 17E of Chapter 115C of the General Statutes is amended by
28 adding a new section to read:

29 **"§ 115C-270.12. Licensure criminal history checks.**

30 (a) The State Board of Education shall require applicants to be checked for a criminal
31 history before the applicant is issued an unconditional license. The State Board of Education may
32 license an applicant conditionally while the Board is checking the applicant's criminal history
33 and making a decision based on the results of the check. The State Board of Education shall
34 require an applicant to pay for the criminal history check authorized under this subsection, but a
35 governing board of a public school unit may pay for the criminal history check on behalf of the
36 applicant.

37 (b) The Department of Public Safety shall provide to the State Board of Education the
38 criminal history from the State and National Repositories of Criminal Histories of any applicant
39 for licensure. The State Board of Education shall require the applicant to (i) be fingerprinted and
40 to provide any additional information required by the Department of Public Safety to a person
41 designated by the State Board of Education and (ii) sign a form consenting to the check of the
42 criminal record and to the use of fingerprints and other identifying information required by the
43 repositories. The State Board of Education shall not issue a license to an applicant who refuses
44 to consent to a criminal history check.

45 (c) The State Board of Education shall review the criminal history it receives on an
46 applicant. The State Board of Education shall determine whether the results of the review indicate
47 that the applicant (i) poses a threat to the physical safety of students or personnel, (ii) has
48 demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as a
49 professional educator, or (iii) otherwise fails to meet the standards and criteria adopted by the
50 State Board of Education governing ethics and moral character required for professional
51 educators and shall use the information when making licensure decisions. If the State Board of

1 Education denies an applicant based on its review of the criminal history it receives, the State
2 Board of Education shall make written findings with regard to how it used the information when
3 making licensure decisions.

4 (d) During the period of licensure, the State Board of Education may provide upon
5 request the criminal history it receives on an applicant to the governing board of a public school
6 unit considering employment of that individual.

7 (e) All the information received by the State Board of Education through the checking of
8 the criminal history in accordance with this section is privileged information and is not a public
9 record but is for the exclusive and confidential use of the State Board of Education and the
10 governing board of a public school unit considering employment of an individual granted
11 licensure. The State Board of Education may destroy the information used for the purposes
12 authorized by this section after the licensure of the individual has ended or has been renewed.
13 The governing board of a public school unit may destroy the information after it is used for the
14 purposes authorized by this section after one calendar year.

15 (f) There shall be no liability for negligence on the part of the State Board of Education,
16 or its employees, arising from any act taken or omission by any of them in carrying out the
17 provisions of this section. The immunity established by this subsection shall not extend to gross
18 negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The
19 immunity established by this subsection shall be deemed to have been waived to the extent of
20 indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the
21 General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as
22 set forth in Article 31 of Chapter 143 of the General Statutes.

23 (g) Any applicant for licensure who willfully furnishes, supplies, or otherwise gives false
24 information on a licensure application that is the basis for a criminal history record check under
25 this section shall be guilty of a Class A1 misdemeanor."

26 **SECTION 2.(e)** Article 13 of Chapter 143B of the General Statutes is amended by
27 adding a new section to read:

28 **"§ 143B-931.1. Criminal background checks for applications for teacher licenses and**
29 **members of boards of directors of nonprofits seeking initial approval of charters.**

30 The Department of Public Safety may provide to the State Board of Education from the State
31 and National Repositories of Criminal Histories the criminal history of (i) any applicant for
32 licensure under Article 17E of Chapter 115C of the General Statutes or (ii) the member of a board
33 of directors of a nonprofit seeking initial approval to establish a charter school under Article 14A
34 of Chapter 115C of the General Statutes. Along with the request, the Board shall provide to the
35 Department of Public Safety the fingerprints of the applicant or member, a form signed by the
36 applicant or member consenting to the criminal record check and use of fingerprints and other
37 identifying information required by the State and National Repositories of Criminal Histories,
38 and any additional information required by the Department of Public Safety. The applicant or
39 member's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the
40 State's criminal history record file, and the State Bureau of Investigation shall forward a set of
41 fingerprints to the Federal Bureau of Investigation for a national criminal history record check.
42 The State Board of Education shall keep all information obtained pursuant to this section
43 confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it
44 to conduct a criminal record check under this section. The fee shall not exceed the actual cost of
45 locating, editing, researching, and retrieving the information."

46 **SECTION 2.(f)** The State Board of Education is encouraged to work towards
47 programming the licensure system to align with the Multistate Educator Lookup System
48 established by the National Association of State Directors of Teacher Education and Certification
49 to enable electronic validation of out-of-state credentials and related information.

50 **SECTION 2.(g)** This section applies to applications for licensure that are received
51 on or after October 1, 2021.

PART III. CRIMINAL HISTORY CHECKS FOR PUBLIC SCHOOL UNITS**SECTION 3.(a)** G.S. 115C-218.90(b) reads as rewritten:

(b) Criminal History Checks. –

(1) ~~If the local board of education of the local school administrative unit in which a charter school is located has adopted a policy requiring criminal history checks under G.S. 115C-332, then the~~ The board of directors of each charter school located in that local school administrative unit shall adopt a policy mirroring the local board of education policy that requires ~~requiring~~ an applicant for employment to be checked for a criminal history, as ~~defined~~ provided in G.S. 115C-332. Each charter school board of directors shall apply its policy uniformly in requiring applicants for employment to be checked for a criminal history before the applicant is given an unconditional job offer. A charter school board of directors may employ an applicant conditionally while the board is checking the person's criminal history and making a decision based on the results of the check. If the local board of education adopts a policy providing for periodic checks of criminal history of employees, then the board of directors of each charter school located in that local school administrative unit shall adopt a policy mirroring that local board of education policy. A board of directors shall indicate, upon inquiry by any other local board of education, charter school, or regional school governing board of a public school unit in the State as to the reason for an employee's resignation or dismissal, if an employee's criminal history was relevant to the employee's resignation or dismissal.

(1a) The charter board of directors shall uniformly require applicants for employment to be checked for a criminal history either by a consumer reporting agency, as defined in G.S. 115C-332, the Department of Public Safety, or both. If the charter board of directors requires a criminal history check by the Department of Public Safety, the charter school board of directors shall require the applicant to (i) be fingerprinted and to provide any additional information required by the Department of Public Safety to a person designated by the board of directors or to the local sheriff or the municipal police, whichever is more convenient for the person, and (ii) sign a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the repositories. The board of directors shall not employ or contract with applicants who refuse to consent to a criminal history check. The fingerprints of the applicants shall be forwarded to the State Bureau of Investigation for a search of the State criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Public Safety shall provide to the charter school board of directors the criminal history from the State and National Repositories of Criminal Histories of the school personnel for which the charter school board of directors requires a criminal history record check.

(2) There shall be no liability for negligence on the part of the State Board of Education or the board of directors of the charter school, or their employees, arising from any act taken or omission by any of them in carrying out the provisions of this subsection. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by

1 this subsection shall be deemed to have been waived to the extent of
 2 indemnification by insurance, indemnification under Articles 31A and 31B of
 3 Chapter 143 of the General Statutes, and to the extent sovereign immunity is
 4 waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of
 5 the General Statutes.

6 (3) All the information received by the charter school board of directors through
 7 the checking of the criminal history or by the State Board of Education in
 8 accordance with this section is privileged information and is not a public
 9 record but is for the exclusive use of the charter school board of directors,
 10 appropriate officers of the charter school as permitted by federal law, or the
 11 State Board of Education. The charter school board of directors or the State
 12 Board of Education may destroy the information after it is used for the
 13 purposes authorized by this section after one calendar year."

14 **SECTION 3.(b)** G.S. 115C-238.73 reads as rewritten:

15 **"§ 115C-238.73. Criminal history record checks.**

16 (a) As used in this section:

17 ...

18 (1a) Consumer reporting agency. – An entity which, for monetary fees, dues, or on
 19 a cooperative nonprofit basis, regularly engages in whole or in part in the
 20 practice of assembling or evaluating consumer credit information or other
 21 information on consumers, including criminal history checks, for the purpose
 22 of furnishing consumer reports to third parties, and which uses any means or
 23 facility of interstate commerce for the purpose of preparing or furnishing
 24 consumer reports, and which is regulated as provided in 15 U.S.C. § 1681, et.
 25 seq. A criminal history check by a consumer reporting agency provided for
 26 purposes of this section must include all of the following:

- 27 a. A search of the state criminal registry or repository in which the
 28 applicant resides.
 29 b. A multistate/multijurisdiction database search which includes a
 30 follow-up search at the originating source for any information returned
 31 by the database search and which confirms final disposition
 32 information of the same.
 33 c. A search of records obtained from county, state, and federal criminal
 34 repositories where the individual resides and has previously resided.
 35 d. A search of the National Sex Offender Registry established as
 36 provided in 42 U.S.C. § 16919.

37 ...

38 (b) ~~The board of directors shall adopt a policy on whether and under what circumstances~~
 39 ~~school personnel shall be required to be~~ that requires an applicant for a school personnel position
 40 to be checked for a criminal history- history, as provided in subsection (c) of this section. The
 41 board of directors shall apply its policy uniformly in requiring applicants for school personnel
 42 positions to be checked for a criminal history. The board of directors may grant conditional
 43 approval of an application while the board of directors is checking a person's criminal history
 44 and making a decision based on the results of the check. The board of directors may request the
 45 criminal history check completed for licensure purposes from the State Board of Education as
 46 provided in G.S. 115C-270.12 for any applicant holding a license.

47 The board of directors ~~shall not may require school personnel an applicant~~ to pay for the
 48 criminal history record check authorized under this section.

49 (c) ~~The~~ The board of directors shall uniformly require applicants for school personnel
 50 employment to be checked for a criminal history either by a consumer reporting agency, the
 51 Department of Public Safety, or both. If the board of directors requires a criminal history check

1 by the Department of Public Safety, the board of directors shall require the ~~person applicant~~
2 ~~be checked by the Department of Public Safety~~ (i) ~~to~~ be fingerprinted and to provide any
3 additional information required by the Department of Public Safety to a person designated by the
4 board of directors or to the local sheriff or the municipal police, whichever is more convenient
5 for the person, and (ii) ~~to~~ sign a form consenting to the check of the criminal record and to the
6 use of fingerprints and other identifying information required by the repositories. The board of
7 directors shall ~~consider refusal to consent when making employment decisions and decisions~~
8 ~~with regard to independent contractors. not employ or contract with an applicant who refuses to~~
9 ~~consent to a criminal history check.~~ The fingerprints of the individual shall be forwarded to the
10 State Bureau of Investigation for a search of the State criminal history record file, and the State
11 Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation
12 for a national criminal history record check. The Department of Public Safety shall provide to
13 the board of directors the criminal history from the State and National Repositories of Criminal
14 Histories of any school personnel for which the board of directors requires a criminal history
15 record check.

16 The board of directors ~~shall not~~ may require ~~school personnel applicants~~ to pay for the
17 fingerprints authorized under this section.

18 ...

19 (i) The board of directors may adopt a policy providing for uniform periodic checks of
20 criminal history of employees. The board may conduct a criminal history check as provided in
21 subsection (c) of this section. Boards of directors shall not require employees to pay for the
22 criminal history check authorized under this subsection. A board of directors shall indicate, upon
23 inquiry by any other ~~local board of education, charter school, or regional school governing board~~
24 of a public school unit in the State as to the reason for an employee's resignation or dismissal. If
25 a teacher's criminal history is relevant to a teacher's resignation, the board of directors shall report
26 to the State Board of Education the reason for an employee's resignation."

27 **SECTION 3.(c)** G.S. 115C-332 reads as rewritten:

28 "**§ 115C-332. School personnel criminal history checks.**

29 (a) As used in this section:

30 (1) "Criminal history" means a county, state, or federal criminal history of
31 conviction of a crime, whether a misdemeanor or a felony, that indicates the
32 employee (i) poses a threat to the physical safety of students or personnel, or
33 (ii) has demonstrated that he or she does not have the integrity or honesty to
34 fulfill his or her duties as public school personnel. Such crimes include the
35 following North Carolina crimes contained in any of the following Articles of
36 Chapter 14 of the General Statutes: Article 5A, Endangering ~~Executive and~~
37 ~~Legislative-Executive, Legislative, and Court Officers~~; Article 6, Homicide;
38 Article 7B, Rape and ~~Kindred~~ Other Sex Offenses; Article 8, Assaults; Article
39 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by
40 Use of Explosive or Incendiary Device or Material; Article 14, Burglary and
41 Other Housebreakings; Article 15, Arson and Other Burnings; Article 16,
42 Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False
43 Pretense and Cheats; Article 19A, Obtaining Property or Services by False or
44 Fraudulent Use of Credit Device or Other Means; Article 20, Frauds; Article
45 21, Forgery; Article 26, Offenses Against Public Morality and Decency;
46 Article 26A, Adult Establishments; Article 27, Prostitution; Article 28,
47 Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article
48 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders,
49 and Emergencies; Article 39, Protection of Minors; and Article 60,
50 Computer-Related Crime. Such crimes also include possession or sale of
51 drugs in violation of the North Carolina Controlled Substances Act, Article 5

of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subparagraph, such crimes also include similar crimes under federal law or under the laws of other states.

(1a) Consumer reporting agency. – An entity which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers, including criminal history checks, for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports, and which is regulated as provided in 15 U.S.C. § 1681, et seq. A criminal history check by a consumer reporting agency provided for purposes of this section must include all of the following:

- a. A search of the state criminal registry or repository in which the applicant resides.
- b. A multistate/multijurisdiction database search which includes a follow-up search at the originating source for any information returned by the database search and which confirms final disposition information of the same.
- c. A search of records obtained from county, state, and federal criminal repositories where the individual resides and has previously resided.
- d. A search of the National Sex Offender Registry established as provided in 42 U.S.C. § 16919.

...

(b) ~~Each local board of education shall adopt a policy on whether and under what circumstances that requires an applicant for a school personnel position shall be required to be checked for a criminal history as provided in subsection (c) of this section before the applicant is offered an unconditional job. Each local board of education shall apply its policy uniformly in requiring applicants for school personnel positions to be checked for a criminal history. A local board of education that requires a criminal history check for an applicant may employ an applicant conditionally while the board is checking the person's criminal history and making a decision based on the results of the check. The local board of education may request the criminal history check completed for licensure purposes from the State Board of Education as provided in G.S. 115C-270.12 for any applicant holding a license.~~

A local board of education ~~shall not~~ may require an applicant to pay for the criminal history check authorized under this subsection.

(c) A local board of education by policy shall uniformly require applicants for school personnel employment to be checked for a criminal history either by a consumer reporting agency, the Department of Public Safety, or both. The Department of Public Safety shall provide to the local board of education the criminal history from the State and National Repositories of Criminal Histories of any applicant for a school personnel position in the local school administrative unit for which a local board of education requires a criminal history check. ~~The If the local board of education requires a criminal history check by the Department of Public Safety, the local board of education shall require the person to be checked by the Department of Public Safety applicant~~ to (i) be fingerprinted and to provide any additional information required by the Department of Public Safety to a person designated by the local board, or to the local sheriff or the municipal police, whichever is more convenient for the person, and (ii) sign a form consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the repositories. The local board of education shall ~~consider refusal to consent when~~

1 ~~making employment decisions and decisions with regard to independent contractors.~~not employ
2 or contract with an applicant who refuses to consent to a criminal history check.

3 The local board of education ~~shall not~~may require an applicant to pay for being fingerprinted.

4 ...

5 (i) The local board of education may adopt a policy providing for periodic checks of
6 criminal history of employees. The local board may conduct a criminal history check as provided
7 in subsection (c) of this section. Local boards of education shall not require employees to pay for
8 the criminal history check authorized under this subsection. A local board of education shall
9 indicate, upon inquiry by any other ~~local board of education, charter school, or regional school~~
10 governing board of a public school unit in the State as to the reason for an employee's resignation
11 or dismissal, if an employee's criminal history was relevant to the employee's resignation or
12 dismissal."

13 **SECTION 3.(d)** G.S. 116-239.12 reads as rewritten:

14 "**§ 116-239.12. Criminal history record checks.**

15 (a) As used in this section:

16 ...

17 (1a) Consumer reporting agency. – An entity which, for monetary fees, dues, or on
18 a cooperative nonprofit basis, regularly engages in whole or in part in the
19 practice of assembling or evaluating consumer credit information or other
20 information on consumers, including criminal history checks, for the purpose
21 of furnishing consumer reports to third parties, and which uses any means or
22 facility of interstate commerce for the purpose of preparing or furnishing
23 consumer reports, and which is regulated as provided in 15 U.S.C. § 1681, et
24 seq. A criminal history check by a consumer reporting agency provided for
25 purposes of this section must include all of the following:

- 26 a. A search of the state criminal registry or repository in which the
27 applicant resides.
28 b. A multistate/multijurisdiction database search which includes a
29 follow-up search at the originating source for any information returned
30 by the database search and which confirms final disposition
31 information of the same.
32 c. A search of records obtained from county, state, and federal criminal
33 repositories where the individual resides and has previously resided.
34 d. A search of the National Sex Offender Registry established as
35 provided in 42 U.S.C. § 16919.

36 ...

37 (b) The chancellor shall adopt a policy, with advice and input from the advisory board,
38 that requires an applicant for a school personnel position to be checked for a criminal history as
39 provided in subsection (c) of this ~~section.~~section before the applicant is offered an unconditional
40 job. The chancellor shall apply the policy uniformly in requiring applicants for school personnel
41 positions to be checked for a criminal history. The chancellor may grant conditional approval of
42 an application while the chancellor is checking a person's criminal history and making a decision
43 based on the results of the check. The chancellor may request the criminal history check
44 completed for licensure purposes from the State Board of Education as provided in
45 G.S. 115C-270.12 for any applicant licensed by that Board. An applicant for a school personnel
46 position not licensed by the State Board of Education shall not be required to be checked for a
47 criminal history if he or she has received a license within six months of employment that required
48 a criminal history check equivalent to the criminal history check required in subsection (c) of this
49 section.

50 The chancellor ~~shall not~~may require an applicant to pay for the criminal history record check
51 authorized under this section.

1 (c) ~~The~~ The chancellor by policy shall uniformly require applicants for employment to
2 be checked for a criminal history either by a consumer reporting agency, the Department of
3 Public Safety, or both. If the chancellor requires a criminal history check by the Department of
4 Public Safety, the chancellor shall require the person-applicant to be checked by the Department
5 of Public Safety (i) ~~to~~ be fingerprinted and to provide any additional information required by the
6 Department of Public Safety to a person designated by the chancellor or to the local sheriff, the
7 campus police department of the constituent institution, or the municipal police, whichever is
8 more convenient for the person and (ii) ~~to~~ sign a form consenting to the check of the criminal
9 record and to the use of fingerprints and other identifying information required by the
10 repositories. The chancellor shall ~~consider refusal to consent when making employment~~
11 ~~decisions and decisions with regard to independent contractors.~~ not employ or contract with an
12 applicant who refuses to consent to a criminal history check. The fingerprints of the individual
13 shall be forwarded to the State Bureau of Investigation for a search of the State criminal history
14 record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal
15 Bureau of Investigation for a national criminal history record check. The Department of Public
16 Safety shall provide to the chancellor the criminal history from the State and National
17 Repositories of Criminal Histories of any school personnel for which the chancellor requires a
18 criminal history record check.

19 The chancellor ~~shall not~~ may require school personnel to pay for fingerprints authorized
20 under this section.

21 ...

22 (i) The chancellor may adopt a policy for periodic checks of criminal history of
23 employees. The chancellor may conduct a criminal history check as provided in subsection (c)
24 of this section. The chancellor shall not require employees to pay for the criminal history check
25 authorized under this subsection. A chancellor shall indicate, upon inquiry by any other
26 governing board of a public school unit in the State as to the reason for an employee's resignation
27 or dismissal, if an employee's criminal history was relevant to the employee's resignation or
28 dismissal."

29 **SECTION 3.(e)** G.S. 143B-931 is amended by adding a new subsection to read:

30 "**(b2)** The Department of Public Safety may provide a criminal history record check to the
31 board of directors of a charter school of a person who is employed at a charter school or of a
32 person who has applied for employment at a charter school if the employee or applicant consents
33 to the record check. The Department may also provide a criminal history record check of school
34 personnel as defined in G.S. 115C-332 by fingerprint card to the board of directors of the charter
35 school from the National Repositories of Criminal Histories, in accordance with
36 G.S. 115C-218.90. The information shall be kept confidential by the board of directors of the
37 charter school as provided in G.S. 115C-218.90."

38 **SECTION 3.(f)** This section applies to applications for employment that are received
39 on or after January 1, 2022.

40 **PART IV. EFFECTIVE DATE**

41 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes
42 law.
43