## GENERAL ASSEMBLY OF NORTH CAROLINA

## **SESSION 1993**

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## SENATE BILL 1539

Short Title: Required Record Checks/Sch. Emp'ees. (Pub	lic)
Sponsors: Senator Winner of Mecklenburg.	
Referred to: Judiciary II.	
May 25, 1994	
A BILL TO BE ENTITLED	
AN ACT TO REQUIRE CRIMINAL HISTORY CHECKS OF PUBLIC SCHOOL	L
PERSONNEL. The General Assembly of North Carolina enacts:	
Section 1. Article 22 of Chapter 115C of the General Statutes is amended by	w
adding a new Part to read:	79
"PART 6. CRIMINAL HISTORY CHECKS.	
§ 115C-332. Mandatory school personnel criminal history checks.	
(a) As used in this section:	
(1) 'Criminal history' means a county, State, or federal criminal history	
conviction of a crime, whether a misdemeanor or a felony, the	
indicates the employee (i) poses a threat to the physical safety	
students or personnel, or (ii) has demonstrated that he or she does n	
have the integrity or honesty to fulfill his or her duties as public scho personnel. Such a crime includes the following North Carolina crime	
defined in Chapter 14 of the General Statutes: Article 52	

Endangering Executive and Legislative Officers; Article 6, Homicide;

Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article

10, Kidnapping and Abduction; Article 13, Malicious Injury or

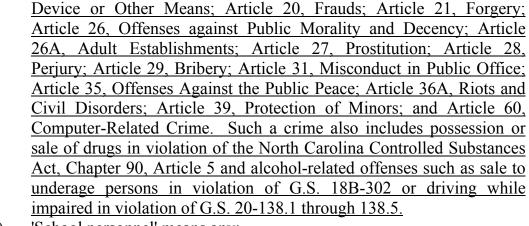
Damage by Use of Explosive or Incendiary Device or Material; Article

14. Burglary and Other Housebreakings; Article 15. Arson and Other

Burnings; Article 16, Larceny; Article 17, Robbery; Article 18,

Embezzlement; Article 19, False Pretense and Cheats; Article 19A,

Obtaining Property or Services by False or Fraudulent Use of Credit



- (2) 'School personnel' means any:
  - <u>a.</u> Employee of a local board of education whether full-time or part-time, or
  - b. Independent contractor or employee of an independent contractor of a local board of education, if the independent contractor carries out duties customarily performed by school personnel,

whether paid with federal, State, local, or other funds, who has significant access to students. School personnel includes substitute teachers, driver training teachers, bus drivers, clerical staff, and custodians.

- (b) A local board of education shall require each applicant for a school personnel position to be checked for a criminal history. A local board of education 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.
- (c) The Department of Justice 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. The local board of education shall require the person to be checked by the Department of Justice to (i) be fingerprinted by the local sheriff or the municipal police, whichever is more convenient for the person, (ii) provide to the local sheriff or the municipal police any additional information required by the Department of Justice, and (iii) 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 making employment decisions and decisions with regard to independent contractors.
- (d) The local board of education shall investigate the criminal history it receives on a person and shall consider and make written findings with regard to the information when making employment decisions and decisions with regard to independent contractors.
- (e) The local board of education shall provide to the State Board of Education the criminal history it receives on a person who is certificated, certified, or licensed by the

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- State Board of Education. The State Board of Education shall investigate the criminal history and determine whether the person's certificate or license should be revoked.
- (f) All the information received by the local board of education through the checking of the criminal history or by the State Board of Education in accordance with subsection (d) of this section is privileged information and for the exclusive use of the local board of education or the State Board of Education. The local board of education or the State Board of Education may destroy the information after it is used for the purposes authorized by this section after one calendar year.
- (g) No action for civil or criminal liability shall be brought against a local board of education or the State Board of Education as a result of actions taken to carry out its duties under this section if the local board of education or the State Board of Education was acting in good faith and in accordance with this section and the rules established pursuant to it."
  - Sec. 2. G.S. 114-19.2(a) reads as rewritten:
- "(a) The Department of Justice may provide a criminal record check to the local board of education of a person who is employed in a public school in that local school district or of a person who has applied for employment in a public school in that local school district, if the employee or applicant consents to the record check. The Department may also provide a criminal record check to the local board of education from National Repositories of Criminal histories, in accordance with G.S. 115C-295.1. The information shall be kept confidential by the local board of education as provided in Article 21A of Chapter 115C."
- Sec. 3. The State Board of Education, in consultation with the Division of Criminal Information of the Department of Justice, shall adopt rules to implement this act.
- Sec. 4. There is appropriated from the General Fund to the State Board of Education the sum of five hundred seventy thousand dollars (\$570,000) for the 1994-95 fiscal year to pay for criminal record checks required by Section 1 of this act and the sum of seventy-five thousand dollars (\$75,000) for the 1994-95 fiscal year to pay local law enforcement agencies five dollars (\$5.00) each for taking fingerprints as required by Section 1 of this act.
- Sec. 5. This act becomes effective July 1, 1994.