

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 164
Judiciary I/Constitution Committee Substitute Adopted 2/21/95

Short Title: Foster Parent Records/AB.

(Public)

Sponsors:

Referred to: Finance

February 9, 1995

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 parent
10 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.

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

1 (11) 'Primarily Educational Institution' means any institution which operates
2 one or more scholastic or vocational and technical education programs
3 that can be offered in satisfaction of compulsory school attendance laws,
4 in which the primary purpose of the housing and care of children is to
5 meet their educational needs, provided such institution has complied
6 with Article 39 of Chapter 115C of the General Statutes.

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

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

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

16 **"§ 131D-10.3A. Mandatory criminal checks of foster parents.**

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

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

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

33 (d) All the information received by the Department through the checking of the
34 criminal history under this section is privileged information and for the exclusive use of
35 the Department and those persons authorized under this section to receive the
36 information. The Department may destroy the information after it is used for the
37 purposes authorized by this section after one calendar year.

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

42 (f) The Department of Justice shall charge the Division of Social Services,
43 Department of Human Resources, a reasonable fee for conducting the checks of the

1 criminal records authorized by this section. The Division of Social Services, Department
2 of Human Resources, shall bear the costs of implementing this section."

3 Sec. 3. Article 4 of Chapter 114 of the General Statutes is amended by adding
4 a new section to read:

5 "**§ 114-19.4. Criminal record checks of foster parents.**

6 The Department of Justice may provide to the Division of Social Services,
7 Department of Human Resources, the criminal history of any foster parent as defined in
8 G.S. 131D-10.2(9a) from the State and National Repositories of Criminal Histories. The
9 Division shall provide to the Department of Justice, along with the request, the
10 fingerprints of the individual to be checked, any additional information required by the
11 Department of Justice, and a form consenting to the check of the criminal record and to
12 the use of the fingerprints and other identifying information required by the repositories
13 signed by the individual to be checked. The Division shall keep all information pursuant
14 to this section privileged as provided in G.S. 131D-10.3A(d). The Department of Justice
15 shall charge a reasonable fee for conducting the checks of the criminal records authorized
16 by this section."

17 Sec. 4. The Department of Human Resources and the Social Services
18 Commission, upon consultation with the Division of Social Services of the Department of
19 Human Resources and the Division of Criminal Information of the Department of Justice,
20 shall adopt rules to implement this act.

21 Sec. 5. There is appropriated from the General Fund to the Department of
22 Human Resources the sum of two hundred seventy-one thousand one hundred fifty-three
23 dollars (\$271,153) for the 1995-96 fiscal year and the sum of three hundred thirty
24 thousand eight dollars (\$330,008) for the 1996-97 fiscal year to implement this act.

25 Sec. 6. Sections 1, 2, and 3 of this act become effective January 1, 1996, and
26 apply to foster parents providing care on or after that date, to applicants applying for
27 foster care licenses on or after that date, and to foster parents whose licenses are being
28 considered for renewal on or after that date. Section 5 of this act becomes effective July
29 1, 1995. The remainder of this act is effective upon ratification.