

**NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE**

BILL NUMBER: HB 1638 (2nd Edition)

SHORT TITLE: Private Protect. Services Crim. Hist. Check

SPONSOR(S): Representative Haire

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2002-03</u>	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>
REVENUES (DOJ)	<i>Exact amount cannot be determined.</i>				
EXPENDITURES (DOJ)	<i>The Department of Justice will be reimbursed for costs.</i>				
POSITIONS:	0	0	0	0	0
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Justice: State Bureau of Investigation; Private Protective Services Board; Alarm Systems Licensing Board; Dept. of Crime Control & Public Safety: Alcohol Law Enforcement Division; ABC Commission; Board of Law Examiners; NC Medical Board; Board of Dental Examiners; Board of Pharmacy; Board of Mortuary Science; Real Estate Commission; Commissioner of Labor; Department of Agriculture and Consumer Services: Structural Pest Control Division					
EFFECTIVE DATE: This act is effective when it becomes law.					

BILL SUMMARY: Allows the Department of Justice to provide criminal background histories to several state boards and local agencies on applicants for a variety of licenses and permits:

- Alcohol Law Enforcement Division, Dept. of Crime Control & Public Safety (ABC permits)
- Local law enforcement (precious metal dealers)
- Private Protective Services Board
- Alarm Systems Licensing Board
- Board of Law Examiners
- Medical Board
- Board of Dental Examiners (dentists, dental hygienists)
- Board of Pharmacy
- Board of Mortuary Science (funeral directors)
- Real Estate Commission
- Commissioner of Labor (private personnel services)
- Structural Pest Control Committee, Department of Agriculture and Consumer Services
- Local ordinances (taxis)

Provides that, if a criminal history check is requested, the Department of Justice shall conduct a state check and forward the applicant's fingerprints to the FBI for a national check. The DOJ may charge each applicant a fee for conducting the background checks. Finally, the legislation requires that applicants for ABC permits and precious metal dealer licenses submit fingerprints with their applications.

ASSUMPTIONS AND METHODOLOGY:

No estimate is available for the total number of new background checks that would be requested as a result of this legislation. If all of the above groups request background checks on all new applicants, there is the potential for more than 13,000 new background checks. However, Fiscal Research is unable to determine whether all groups would request background checks and whether checks would be requested on all applicants.

The March 2002 Office of State Budget and Management Report on DCI Fee Study indicated the Department of Justice's average cost to process a national background check is \$12.18. The current fee charged by the Department of Justice to conduct a national background check is \$38, of which \$22 is remitted to the Federal Bureau of Investigation. The report also indicated that the Department of Justice, as currently staffed, is able to accommodate an increase in background checks within its existing staffing level. Conversations with DOJ staff indicate that the DOJ can accommodate the additional workload generated by this bill with existing staff. The DOJ will also be able to charge fees to cover its expenses.

ALE – ABC permits. ALE currently conducts name checks of ABC permit applicants from its criminal information terminals. Under the proposed legislation, the ABC Commission may choose to request fingerprint background checks for some types of permit applications. In these cases, the ABC Commission would obtain the applicant's fingerprints and submit the fingerprint card along with the application to ALE. ALE would forward the fingerprint card to the DOJ, which would conduct a state background check and forward the fingerprints to the FBI for a national check. The ABC Commission has not yet determined the types or number of permit applications that it would like to submit for fingerprint checks.

Local law enforcement – precious metal dealers. Precious metal dealers are licensed through local law enforcement agencies, who are currently authorized to request background checks from DOJ for these licenses. There is no estimate available on the number of background checks currently conducted on these applicants or the projected number under this legislation.

Private Protective Service and Alarm Systems Licensing Boards. The Boards estimate that 575 applicants annually will submit fingerprints for a national criminal history background check.

NC Board of Law Examiners. The DOJ currently provides background checks on prospective lawyers. In 1999, 1,024 fingerprint checks were conducted for the Board. The state portion of the fee for these background checks is waived; this legislation authorizes the DOJ to charge applicants a fee for conducting the background checks (both state and national).

NC Medical Board. The Medical Board licenses doctors, physician's assistants, nurse practitioners, and clinical pharmacists. The Medical Board is authorized to request background checks through the DOJ. However, according to staff at the Medical Board, background checks

are currently conducted through a private vendor. Due to the costs involved, these checks are not performed on the majority of applicants. The Board's administrative rules do not permit it to pass the costs of the background checks on to the applicants. This legislation would allow the DOJ to charge each applicant a fee for conducting the background checks. The Board distributed approximately 2,000 new licenses last year (most completed applications are approved for licensure). Under this proposal, the DOJ could receive approximately 2,000 new requests for background checks each year from the NC Medical Board.

NC Board of Dental Examiners – dentists, dental hygienists. The number of applicants for these licenses varies by month and year. In FY 2001, the Board received a total of 584 dentist and dental hygienist applications. The Board recently began conducting background checks on all applicants through a private vendor. Under the proposed legislation, the DOJ could receive requests for checks on all dental and hygienist applicants.

Board of Pharmacy. The Board does not currently request or conduct criminal history checks on pharmacist applicants, but it has considered conducting background checks through a private vendor. Under the proposed legislation, the Board may request checks through the DOJ. In FY 2000-01, 422 new pharmacists were licensed; in FY 1999-2000 there were 524 new pharmacists licensed. The total number of applicants is unavailable. Background checks could be requested for each applicant.

Board of Mortuary Sciences. In 2001, approximately 76 applicants were newly licensed as funeral directors, embalmers, and funeral service practitioners. The DOJ does not currently perform background checks for the Board, but would be able to do so under this legislation.

Real Estate Commission. Approximately 8,000 individuals applied for real estate licenses last year. The Commission currently conducts background checks only on applicants who pass the licensing exam and mention a criminal history, pending charges, or licensing violation in the character section of their application. These checks are conducted by a private vendor and paid for by the Commission. However, the Commission is currently working on a new policy, which it plans to put into effect January 1, 2003. Under the new policy, all applicants would be required to submit criminal records with their applications. These records must cover the past seven years and include a statewide criminal history check and a countywide check for any county outside of North Carolina in which the applicant resided during those years. Applicants would obtain and pay for the criminal record checks through private vendors; the Commission estimates that applicants will pay from \$8 (state only) to \$15 (state and county outside NC) for the background checks.

Under the proposed legislation, the Real Estate Commission would be able to request state and national background checks from the DOJ for each applicant, and DOJ would charge the applicants for the cost of the checks. At this time, Fiscal Research is unable to determine whether the Commission would request checks from the DOJ.

Commissioner of Labor – private personnel services. The Wage and Hour Bureau processes an average of three new license applications each year. If the Bureau chooses to request background checks, the DOJ can absorb the workload.

Dept. of Agriculture - Structural Pest Control Committee. In FY 2000-01, the Committee approved applications for 240 Certified Applicators, 1,566 Registered Technicians, and 38 Structural Pest Control licenses. The Department of Agriculture is authorized to request background checks from the DOJ, but has not made significant use of this service in the past. In FY 2001, the Department requested only one name check, and no fingerprint checks. The impact of this legislation on Structural Pest Control application policies cannot be determined.

Taxi Operators. In 2000, there were 2,170 licensed taxi cab drivers and chauffeurs in North Carolina. In 1999, there were 2,300. It is not known how many new drivers are licensed each year. Current law permits localities to request taxi driver background checks from the DOJ. Some cities, such as Charlotte, already require background checks for taxi drivers, so the DOJ workload from those cities would not increase as a result of this legislation. Other cities, however, may begin or increase their use of DOJ background check services.

SOURCES OF DATA: Estimates of the annual number of applicants who will submit fingerprints for background checks and the annual number of new licenses were provided by the boards responsible for licensing. The source of the cost data for the Department of Justice is the *Final Report on the Study of the Cost of Providing Criminal Record Checks* issued by the Office of State Budget and Management in March 2002. Data on licensed cab drivers was obtained from the U.S. Department of Labor, Bureau of Labor Statistics Web site (www.bls.gov).

TECHNICAL CONSIDERATIONS: Section 5 amends G.S. 84-24, allowing the DOJ to charge applicants to the Board of Law Examiners for the cost of the criminal background checks. Currently, state background check fees are waived for these applicants.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Chloe Gossage and Denise Thomas



APPROVED BY: James D. Johnson

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