

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

H.B. 775
Apr 3, 2025
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40433-NH-155

Short Title: Criminal History Checks for School Positions. (Public)

Sponsors: Representative Biggs.

Referred to:

A BILL TO BE ENTITLED
AN ACT TO REQUIRE CRIMINAL HISTORY CHECKS FOR THE INITIAL MEMBERS OF
A CHARTER SCHOOL BOARD OF DIRECTORS, APPLICANTS FOR EDUCATOR
LICENSURE, AND APPLICANTS FOR EMPLOYMENT WITH A PUBLIC SCHOOL
UNIT AND TO CONSOLIDATE THE STATUTES REGULATING CRIMINAL
HISTORY CHECKS FOR SCHOOL PERSONNEL.

The General Assembly of North Carolina enacts:

**PART I. REQUIRE CRIMINAL HISTORY CHECKS FOR THE INITIAL MEMBERS
OF A CHARTER SCHOOL BOARD OF DIRECTORS**

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

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

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

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

(a) The following definitions apply in this section:

(1) Criminal history. – As defined in G.S. 115C-77(a).

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

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

(c) The State Bureau of Investigation shall provide to the Review Board the criminal history from the State and National Repositories of Criminal Histories of any member. The Review Board shall require the member to (i) be fingerprinted and to provide any additional information required by the State Bureau of Investigation to a person designated by the Review Board 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 Review Board



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shall not issue a charter to a nonprofit with a member who refuses to consent to a criminal history check.

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

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

(f) There shall be no liability for negligence on the part of the Review Board, or its employees, arising from any act taken or omission by any of them in carrying out the provisions of this section. 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 this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

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

SECTION 1.(c) This section applies to applications for initial charters that are received on or after October 1, 2025.

PART II. CRIMINAL HISTORY CHECKS FOR APPLICANTS FOR LICENSURE

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

"§ 115C-270.1. Definitions.

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

(1) **Administrator.** – An administrator or supervisor who serves in general and program administrator roles, as classified by the State Board. Administrators shall include superintendents, assistant or associate superintendents, principals, assistant principals, or curriculum-instructional specialists.

(1a) **Applicant.** – An individual who submits an application for licensure, including initial applications, renewal applications, and applications for licensure reinstatement.

~~(1a)~~(1b) **Approved administrator preparation program or approved APP.** – An administrator preparation program, as defined in G.S. 115C-284.1, that has been approved by the State Board as meeting the requirements established by rule.

(1c) **Criminal history.** – As defined in G.S. 115C-77(a).

...."

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

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

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

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

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

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

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

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

(a) The State Board of Education shall require an applicant that is applying for a license under this Article that has never previously applied for any license under this Article in this State to be checked for a criminal history before the applicant is issued a license.

(b) An applicant for licensure may be employed on a temporary basis while the State Board is checking the applicant's criminal history and making a decision based on the results of the check.

(c) An applicant is responsible for paying any fees associated with conducting the criminal history check authorized under this section, but a governing body of a public school unit may pay for the criminal history check on behalf of the applicant.

(d) The State Bureau of Investigation shall provide to the State Board of Education the criminal history from the State and National Repositories of Criminal Histories of any applicant for licensure. The State Board shall require the applicant to (i) be fingerprinted and to provide any additional information required by the State Bureau of Investigation to a person designated by the State Board 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 State Board shall not issue a license to an applicant who refuses to consent to a criminal history check.

(e) The State Board of Education shall review the criminal history it receives on an applicant. The State Board shall determine whether the results of the review indicate that the applicant (i) poses a threat to the physical safety of students or personnel, (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as a professional educator, or (iii) otherwise fails to meet the standards and criteria adopted by the State Board governing the ethics and moral character required for professional educators and shall use the information when making licensure decisions. If the State Board denies an applicant based on its review of the criminal history it receives, the State Board shall make written findings with regard to how it used the information when making licensure decisions.

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

(g) All of the information received by the State Board of Education through the checking of the criminal history in accordance with this section is privileged information and is not a public record but is for the exclusive and confidential use of the State Board and the governing board

of a public school unit considering employment of an individual granted licensure. The State Board may destroy the information used for the purposes authorized by this section after the licensure of the individual has ended or has been renewed. The governing body of a public school unit may destroy the information after it is used for the purposes authorized by this section after one calendar year.

(h) There shall be no liability for negligence on the part of the State Board of Education, or its employees, arising from any act taken or omission by any of them in carrying out the provisions of this section. 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 this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

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

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

SECTION 2.(f) This section applies to applications for licensure that are received on or after October 1, 2025.

PART III. CRIMINAL HISTORY CHECKS FOR PUBLIC SCHOOL UNIT PERSONNEL

SECTION 3.(a) There is established in Article 7B of Chapter 115C of the General Statutes a new Part to read "Part 7. Public School Unit Personnel."

SECTION 3.(b) G.S. 115C-332 is recodified into Part 7 of Article 7B of Chapter 115C of the General Statutes, as established by this act, as G.S. 115C-77 and reads as rewritten: "**§ 115C-77. School personnel criminal history checks.**

(a) ~~As used~~ The following definitions apply in this section:

- (1) ~~"Criminal history" means a~~ Criminal history. – A county, state, or federal criminal history of conviction of a crime, whether a misdemeanor or a felony, that indicates the employee (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as public school personnel. Such crimes include the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 5A, Endangering ~~Executive and Legislative~~ Executive, Legislative, and Court Officers; Article 6, Homicide; Article 7B, Rape and ~~Kindred~~ Other Sex 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 Device or Other Means; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article 39, Protection of Minors; and Article 60,

Computer-Related Crime. Such crimes also include possession or sale of 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.

(2) 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.

(3) Governing body. – The governing body of a public school unit.

~~(2)(4)~~ "School personnel" means any: School personnel. – Any of the following:

- a. Employee of a local board of education public school unit whether full-time or part-time, or part-time.
- b. Independent contractor or employee of an independent contractor of a local board of education, public school unit, 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) Criminal History Checks Required. – Each local board of education governing body 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 governing body 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 governing body may employ an applicant conditionally while the board governing body is checking the person's criminal history and making a decision based on the results of the check. The criminal history check policy of a governing body shall uniformly require applicants for school personnel employment to be checked for a criminal history either by a consumer reporting agency, the State Bureau of Investigation, or both.

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

(b1) Criminal History Checks for Licensure Valid for Three Years. – If an applicant for a school personnel position has received a criminal history check as part of an application for licensure pursuant to G.S. 115C-270.12 within the previous three years, the governing body of the public school unit shall accept the criminal history check conducted for licensure as the criminal history check required for employment. The governing body may request a copy of the criminal history check completed for licensure purposes from the State Board of Education as provided in G.S. 115C-270.12.

(c) State Bureau of Investigation (SBI) Duties. – The State Bureau of Investigation shall provide to the ~~local board of education~~ governing body 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 public school unit for which a local board of education that~~ requires a criminal history check. ~~The local board of education~~ If the governing body requires a criminal history check by the State Bureau of Investigation, the governing body shall require the ~~person to be checked by the State Bureau of Investigation~~ applicant to (i) be fingerprinted and to provide any additional information required by the State Bureau of Investigation to a person designated by the ~~local board, governing body,~~ 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 making employment decisions and decisions with regard to independent contractors.~~ governing body shall not employ or contract with an applicant who refuses to consent to a criminal history check.

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

(d) The ~~local board of education~~ Standard of Criminal History Check. – A governing body shall review the criminal history it receives on a person. The ~~local board~~ governing body shall determine whether the results of the review indicate that the applicant or employee (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as public school personnel and shall use the information when making employment decisions and decisions with regard to independent contractors. The ~~local board~~ governing body shall make written findings with regard to how it used the information when making employment decisions and decisions with regard to independent contractors. The ~~local board~~ governing body may delegate any of the duties in this subsection to the ~~superintendent~~ superintendent or equivalent authority.

(e) State Board of Education to Receive Copy. – The ~~local board of education,~~ governing body, or the superintendent or equivalent authority, if designated by 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 State Board of Education. The State Board of Education shall review the criminal history and determine whether the person's certificate or license should be revoked in accordance with State laws and rules regarding revocation.

(f) Criminal History Check Documents Not Public Record. – All the information received by the ~~local board of education through the checking of the criminal history or by a~~ governing body or the State Board of Education in accordance with this section is privileged information and is not a public record but is for the exclusive use of the ~~local board of education~~ governing body or the State Board of Education. The ~~local board of education~~ governing body 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) Liability. – There shall be no liability for negligence on the part of a ~~local board of education,~~ governing body, or its employees, or the State Board of Education, the Superintendent of Public Instruction, or any of their members or employees, individually or collectively, arising from any act taken or omission by any of them in carrying out the provisions of this section. 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 this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Chapter 31 of Chapter 143 of the General Statutes.

(h) Penalty for False Information. – Any applicant for employment who willfully furnishes, supplies, or otherwise gives false information on an employment application that is the basis for a criminal history record check under this section shall be guilty of a Class A1 misdemeanor.

(i) ~~The local board of education~~ Additional Criminal History Checks. – ~~The governing body of a public school unit may adopt a policy providing for periodic checks of criminal history of employees. Local boards of education~~ Governing bodies shall not require employees to pay for the criminal history check authorized under this subsection. A ~~local board of education~~ governing body shall indicate, upon inquiry by any other ~~local board of education, charter school, or regional school governing body~~ 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."

SECTION 3.(c) This section applies to applications for employment that are received on or after January 1, 2026.

PART IV. CONFORMING CHANGES TO CONSOLIDATE BACKGROUND CHECK STATUTES

SECTION 4.(a) G.S. 115C-157.1(b)(2) reads as rewritten:

"(2) An adjunct instructor shall be subject to a criminal history check, to ensure that the person has not been convicted of any crime listed in ~~G.S. 115C-332~~ G.S. 115C-77."

SECTION 4.(b) G.S. 115C-218.90(b) is repealed.

SECTION 4.(c) G.S. 115C-238.73 is repealed.

SECTION 4.(d) G.S. 115C-298.5(b)(2) reads as rewritten:

"(2) An adjunct instructor shall be subject to a criminal history check, to ensure that the person has not been convicted of any crime listed in ~~G.S. 115C-332~~ G.S. 115C-77."

SECTION 4.(e) G.S. 115C-332.1(a) reads as rewritten:

"(a) For purposes of this section, the term "contractual personnel" includes any individual or entity under contract with the local board of education whose contractual job involves direct interaction with students as part of the job. For purposes of this section, the term "contractual personnel" does not include any person covered under ~~G.S. 115C-332~~ G.S. 115C-77."

SECTION 4.(f) G.S. 115C-562.5(d) reads as rewritten:

"(d) If the Authority determines that a nonpublic school is not in compliance with the requirements of this section, the nonpublic school shall be ineligible to receive future scholarship funds. The nonpublic school shall notify the parent or guardian of any enrolled student receiving a scholarship grant that the nonpublic school is no longer eligible to receive future scholarship grants. The Authority shall establish by rule a process for a nonpublic school to appeal for reconsideration of eligibility after one year. To ensure compliance, the Board of Directors of the Authority shall review the criminal history provided under subdivision (2) of subsection (a) of this section to ensure that the person has not been convicted of any crime listed in ~~G.S. 115C-332~~ G.S. 115C-77. The Board shall determine through this review whether the nonpublic school is noncompliant with this section. The Board shall make written findings with regard to how the criminal history information was used when making the compliance determination. The Board of Directors may delegate any of the duties in this subsection to the Executive Director of the

Authority. As part of its review, the Board shall determine whether the results indicate that the staff member has any of the following disqualifying characteristics:

...."

SECTION 4.(g) G.S. 116-239.12 is repealed.

SECTION 4.(h) G.S. 14-202.4(d)(3) reads as rewritten:

"(3) School personnel. – Any person included in the definition contained in G.S. 115C-332(a)(2), G.S. 115C-77(a)(4), including those employed by a nonpublic, charter, or regional school, and any person who volunteers at a school or a school-sponsored activity."

SECTION 4.(i) Section 7.72(c) of S.L. 2021-180 reads as rewritten:

"SECTION 7.72.(c) Flexibility for Teachers. – Notwithstanding any other provision of law, in addition to the authority provided to a local board of education to employ adjunct instructors in career and technical education career clusters pursuant to G.S. 115C-157.1, the local school administrative unit shall have the flexibility to contract with individuals who have education and training related to the specific skills and career pathways that are the focus of a signature career academy. Any individual who has direct contact with students pursuant to the authority provided by this subsection shall be subject to a criminal history check to ensure that the person has not been convicted of any crime listed in G.S. 115C-332.G.S. 115C-77."

PART V. SBI AUTHORITY FOR CRIMINAL HISTORY CHECKS

SECTION 5. G.S. 143B-1209.11 reads as rewritten:

"§ 143B-1209.11. Criminal record checks of school personnel.

(a) ~~The State Bureau of Investigation may provide a criminal record check to the local board of education governing body of a public school unit of a person who is employed in a public school in that local school district that public school unit or of a person who has applied for employment in a public school in that local school district, that public school unit, if the employee or applicant consents to the record check. The Bureau may also provide a criminal record check of school personnel as defined in G.S. 115C-332 G.S. 115C-77 by fingerprint card to the local board of education governing body of the public school unit from National Repositories of Criminal Histories, in accordance with G.S. 115C-332. G.S. 115C-77. The information shall be kept confidential by the local board of education governing body of the public school unit as provided in G.S. 115C-77 and Article 21A of Chapter 115C of the General Statutes.~~

(a1) The State Bureau of Investigation may provide a criminal record check to the State Board of Education of an applicant for licensure under Article 17E of Chapter 115C of the General Statutes, if the applicant consents to the record check. The Bureau may also provide a criminal record check of an applicant, as defined in G.S. 115C-270.1(1a) by fingerprint card to the State Board of Education from the National Repositories of Criminal Histories, in accordance with G.S. 115C-270.12. The information shall be kept confidential by the State Board of Education as provided in G.S. 115C-270.12(e).

(a2) The State Bureau of Investigation may provide a criminal record check to the Charter Schools Review Board of a member of a board of directors of a nonprofit seeking initial approval to establish a charter school under Article 14A of Chapter 115C of the General Statutes, if the member consents to the record check. The Bureau may also provide a criminal record check of a member, as defined in G.S. 115C-218.4(a)(2), by fingerprint card to the Charter Schools Review Board from the National Repositories of Criminal Histories, in accordance with G.S. 115C-218.4. The information shall be kept confidential by the Charter Schools Review Board as provided in G.S. 115C-218.4(e).

(a3) The State Bureau of Investigation may charge a fee to offset the cost incurred by it to conduct a criminal record check under subsections (a1) and (a2) of this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

...."

PART VI. EFFECTIVE DATE

SECTION 6. Except as otherwise provided, this act is effective when it becomes law.