

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 402*

Short Title: Foster Parent Records/AB.

(Public)

Sponsors: Representatives Shubert; Buchanan and Clary.

Referred to: Welfare Reform & Human Resources, if favorable, Appropriations.

March 9, 1995

A BILL TO BE ENTITLED

1 AN ACT TO MANDATE CRIMINAL HISTORY CHECKS OF ALL FOSTER
2 PARENTS IN LICENSED FAMILY FOSTER HOMES AND TO APPROPRIATE
3 FUNDS.
4

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.
- 19 (5) 'Children's Camp' means a residential child-care facility which provides
20 foster care at either a permanent camp site or in a wilderness setting.

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

1 in which the primary purpose of the housing and care of children is to
2 meet their educational needs, provided such institution has complied
3 with Article 39 of Chapter 115C of the General Statutes.

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

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

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

13 **"§ 131D-10.3A. Mandatory criminal checks of foster parents.**

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

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

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

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

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

39 (f) The Department of Justice shall charge the Division of Social Services,
40 Department of Human Resources, a reasonable fee for conducting the checks of the
41 criminal records authorized by this section. The Division of Social Services, Department
42 of Human Resources, shall bear the costs of implementing this section."

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

3 **"§ 114-19.4. Criminal record checks of foster parents.**

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

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

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

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