

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1192*

Short Title: Crim. Record Checks/Long-Term Care.

(Public)

Sponsors: Senators Rand; Forrester, Hagan, Lucas, Metcalf, Phillips, and Purcell.

Referred to: Judiciary I.

May 10, 2000

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE CRIMINAL BACKGROUND CHECKS FROM STATE AND
2 NATIONAL REPOSITORIES OF CRIMINAL HISTORY FOR CERTAIN
3 APPLICANTS FOR EMPLOYMENT IN ADULT CARE HOMES, NURSING
4 HOMES, AND HOME CARE AGENCIES, AND TO IMPOSE A CRIMINAL
5 PENALTY FOR FALSIFYING INFORMATION ON EMPLOYMENT
6 APPLICATIONS.
7

8 The General Assembly of North Carolina enacts:

9 Section 1. Article 4 of Chapter 114 of the General Statutes is amended by
10 adding the following new section to read:

11 "**§ 114-19.10. Criminal record checks for adult care homes, nursing homes, and**
12 **home care agencies.**

13 The Department of Justice may provide to the following entities the criminal history
14 from the State and National Repositories of Criminal Histories:

- 15 (1) Nursing homes or combination homes licensed under Chapter 131E of
16 the General Statutes.
17 (2) Adult care homes licensed under Chapter 131D of the General Statutes.
18 (3) Home care agencies licensed under Chapter 131E of the General
19 Statutes.

1 The criminal history shall be provided to nursing homes and home care agencies in
2 accordance with G.S. 131E-265 and to adult care homes in accordance with G.S. 131D-
3 40. The requesting entity shall provide to the Department of Justice, along with the
4 request, the fingerprints of the individual to be checked, any additional information
5 required by the Department of Justice, and a form signed by the individual to be checked
6 consenting to the check of the criminal record and to the use of fingerprints and other
7 identifying information required by the State or National Repositories of Criminal
8 Histories. The fingerprints of the individual shall be forwarded to the State Bureau of
9 Investigation for a search of the State's criminal history record file, and the State Bureau
10 of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation
11 for a national criminal history record check. All information received by the entity shall
12 be kept confidential in accordance with G.S. 131E-265 and G.S. 131D-40, as applicable.
13 The Department of Justice shall charge a reasonable fee for conducting the checks
14 authorized by this section. The fee for the State check may not exceed fourteen dollars
15 (\$14.00)."

16 Section 2.(a) Subsections (a) and (a1) of G.S. 131D-40 read as rewritten:

17 "(a) Requirement; Adult Care Home. – An offer of employment by an adult care
18 home licensed under this Chapter to an applicant to fill a position that does not require
19 the applicant to have an occupational license is conditioned on consent to a criminal
20 history record check of the applicant. An adult care home shall not employ an applicant
21 who refuses to consent to a criminal history record check required by this section. An
22 adult care home shall submit a request to the Department of Justice under ~~G.S. 114-19.3~~
23 G.S. 114-19.10 to conduct a criminal history record check within five business days of
24 making the conditional offer of employment. All criminal history information received
25 by the home is confidential and may not be disclosed, except to the applicant as provided
26 in subsection (b) of this section.

27 (a1) Requirement; Contract Agency of Adult Care Home. – An offer of
28 employment by a contract agency of an adult care home licensed under this Chapter to an
29 applicant to fill a position that does not require the applicant to have an occupational
30 license is conditioned upon consent to a criminal history record check of the applicant. A
31 contract agency of an adult care home shall not employ an applicant who refuses to
32 consent to a criminal history record check required by this section. A contract agency of
33 an adult care home shall submit a request to the Department of Justice under ~~G.S. 114-~~
34 ~~19.3-114-19.10~~ to conduct a criminal history record check within five business days of
35 making the conditional offer of employment. All criminal history information received
36 by the contract agency is confidential and may not be disclosed, except to the applicant as
37 provided by subsection (b) of this section."

38 Section 2.(b) G.S. 131D-40 is amended by adding the following new
39 subsection to read:

40 ...

41 "(e) Penalty for Furnishing False Information. – Any applicant for employment
42 who willfully furnishes, supplies, or otherwise gives false information on an employment

1 application that is the basis for a criminal history record check under this section shall be
2 guilty of a Class A1 misdemeanor."

3 Section 2.(c) Subsections (a) and (a1) of G.S. 131E-265 read as rewritten:

4 "(a) Requirement; Nursing Home or Home Care Agency. – An offer of
5 employment by a nursing home licensed under this Chapter to an applicant to fill a
6 position that does not require the applicant to have an occupational license is conditioned
7 on consent to a criminal history record check of the applicant. An offer of employment by
8 a home care agency licensed under this Chapter to an applicant to fill a position that
9 requires entering the patient's home is conditioned on consent to a criminal history record
10 check of the applicant. In addition, employment status change of a current employee of a
11 home care agency licensed under this Chapter from a position that does not require
12 entering the patient's home to a position that requires entering the patient's home shall be
13 conditioned on consent to a criminal history record check of that current employee. A
14 nursing home or a home care agency shall not employ an applicant who refuses to
15 consent to a criminal history record check required by this section. In addition, a home
16 care agency shall not change a current employee's employment status from a position that
17 does not require entering the patient's home to a position that requires entering the
18 patient's home who refuses to consent to a criminal history record check required by this
19 section. A nursing home or home care agency shall submit a request to the Department of
20 Justice under G.S. ~~44-19.3~~114.19.10 to conduct a criminal history record check within
21 five business days of making the conditional offer of employment. All criminal history
22 information received by the home or agency is confidential and may not be disclosed,
23 except to the applicant as provided in subsection (b) of this section.

24 (a1) Requirement; Contract Agency of Nursing Home or Home Care Agency. – An
25 offer of employment by a contract agency of a nursing home or home care agency
26 licensed under this Chapter to an applicant to fill a position that does not require the
27 applicant to have an occupational license is conditioned upon consent to a criminal
28 history record check of the applicant. A contract agency of a nursing home or home care
29 agency shall not employ an applicant who refuses to consent to a criminal history record
30 check required by this section. A contract agency of a nursing home or home care agency
31 shall submit a request to the Department of Justice under G.S. ~~44-19.3~~114-19.10 to
32 conduct a criminal history record check within five business days of making the
33 conditional offer of employment. All criminal history information received by the
34 contract agency is confidential and may not be disclosed, except to the applicant as
35 provided by subsection (b) of this section."

36 Section 2.(d) G.S. 131E-265 is amended by adding the following new
37 subsection to read:

38 ...

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

43 Section 3. G.S. 114-19.3(a) reads as rewritten:

1 "(a) Authority. – The Department of Justice may provide to any of the following
2 entities a criminal record check of an individual who is employed by that entity, has
3 applied for employment with that entity, or has volunteered to provide direct care on
4 behalf of that entity:

5 (1) Hospitals licensed under Chapter 131E of the General Statutes.

6 ~~(2) Nursing homes or combination homes licensed under Chapter 131E of~~
7 ~~the General Statutes.~~

8 ~~(3) Adult care homes licensed under Chapter 131D of the General Statutes.~~

9 ~~(4) Home care agencies or hospices licensed under Chapter 131E of the~~
10 ~~General Statutes.~~

11 (5) Child placing agencies licensed under Chapter 131D of the General
12 Statutes.

13 (6) Residential child care facilities licensed under Chapter 131D of the
14 General Statutes.

15 (7) Hospitals licensed under Chapter 122C of the General Statutes.

16 (8) Area mental health, developmental disabilities, and substance abuse
17 authorities licensed under Chapter 122C of the General Statutes,
18 including a contract agency of an area authority that is subject to the
19 provisions of Article 4 of that Chapter.

20 (9) Licensed child care facilities and nonlicensed child care homes
21 regulated by the State.

22 (10) Any other organization or corporation, whether for profit or nonprofit,
23 that provides direct care or services to children, the sick, the disabled, or
24 the elderly."

25 Section 4. This act becomes effective December 1, 2000. Sections 2(b) and
26 2(d) of this act apply to offenses committed on and after that date.