

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 425

Short Title: Public Emp. Applicants/Criminal Histories. (Public)

Sponsors: Representatives Pierce, L. Hall, and Brandon (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Rules, Calendar, and Operations of the House.

March 27, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE FAIR ASSESSMENTS OF PERSONS WITH CRIMINAL
3 HISTORIES APPLYING FOR PUBLIC EMPLOYMENT.

4 Whereas, reducing barriers to employment for people with criminal histories, and
5 decreasing unemployment in communities with concentrated numbers of people who have
6 previously offended, is a matter of statewide concern.

7 Whereas, increasing employment opportunities for people with criminal histories
8 will reduce recidivism and improve economic stability in our communities; Now, therefore,
9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** Chapter 126 of the General Statutes is amended by adding a new
11 Article to read:

12 "Article 17.

13 "Fair Assessment of Persons with Criminal Histories.

14 "**§ 126-100. Definitions.**

15 The following definitions apply in this Article:

- 16 (1) Criminal history. – A state or federal history of conviction of a crime,
17 whether a misdemeanor or felony, that bears upon an applicant's fitness for
18 public employment. The term does not include a record of arrest not
19 resulting in conviction.
- 20 (2) Hiring authority. – The agent responsible by law for the hiring of persons for
21 public employment.
- 22 (3) Public Employment. – Any job, work for pay or employment, including
23 temporary or seasonal work, where the employer is the State of North
24 Carolina or any local political subdivision of the State.

25 "**§ 126-101. Consideration of applicant criminal history.**

26 A hiring authority may not inquire into or consider the criminal history of an applicant for
27 public employment, or include any such inquiry on any initial employment application form,
28 until the hiring authority has made a conditional offer of employment to the applicant. This
29 Article is not applicable to positions for which a hiring authority is otherwise required by law to
30 consider the criminal record; however, nothing in this article shall be construed to preclude any
31 hiring authority in its discretion from adopting the provisions of this Article.

32 "**§ 126-102. Criteria for disqualification.**

33 (a) Except as otherwise required by law, no person shall be disqualified from public
34 employment solely or in part because of a prior conviction, unless the conviction is determined



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1 to be substantially related to the qualifications, functions, or duties of the position after
2 consideration of all of the following factors:

- 3 (1) The level and seriousness of the crime.
- 4 (2) The date of the crime.
- 5 (3) The age of the person at the time of the conviction.
- 6 (4) The circumstances surrounding the commission of the crime, if known.
- 7 (5) The nexus between the criminal conduct and the duties of the position.
- 8 (6) The prison, jail, probation, parole, rehabilitation, and employment records of
9 the person since the date the crime was committed.
- 10 (7) The subsequent commission of a crime by the person.

11 (b) A record of arrest not resulting in conviction may not be the basis for
12 disqualification from public employment.

13 **"§ 126-103. Data collection.**

14 The Office of State Personnel shall do the following:

- 15 (1) Record and log the positions that are statutorily required to conduct
16 background checks prior to a conditional offer of employment.
- 17 (2) Conduct quarterly reviews to determine compliance with this Article and
18 make a report on all such reviews to the General Assembly annually.
- 19 (3) Collect, and make available to the public, data on:
 - 20 a. The number of applicants for public employment with criminal
21 histories given conditional offers of employment.
 - 22 b. The number of applicants for public employment with criminal
23 histories who are subsequently employed.
 - 24 c. The retention rate of public employees with criminal histories.

25 **"§ 126-104. Applicability.**

26 The provisions of this Article apply to all applicants for public employment."

27 **SECTION 2.** G.S. 126-5 is amended by adding a new subdivision to read:

28 "(c12) Notwithstanding any other provision of law, the provisions of Article 17 of this
29 Chapter apply as to applicants for employment with the State of North Carolina or any local
30 political subdivision of the State."

31 **SECTION 3.** This act is effective when it becomes law and applies to applications
32 for employment made on or after that date.