

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 698
Senate Judiciary II Committee Substitute Adopted 6/10/14
Third Edition Engrossed 6/12/14

Short Title: Background Checks for Firefighters.

(Public)

Sponsors:

Referred to:

April 11, 2013

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CRIMINAL HISTORY CHECKS FOR CURRENT VOLUNTEERS OR PAID FIRE DEPARTMENT PERSONNEL AND EMERGENCY MEDICAL SERVICES PERSONNEL AND TO ESTABLISH THE URBAN SEARCH AND RESCUE PROGRAM AND THE URBAN SEARCH AND RESCUE TEAM ADVISORY COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 114-19.12 reads as rewritten:

"§ 114-19.12. **Criminal history record checks of applicants to and current members of fire departments and emergency medical services.**

(a) Definitions. – The following definitions apply in this section:

...

(3) Current member. – A person who serves in a paid or volunteer position with a fire department or an emergency medical service.

(b) When requested by a designated local Homeland Security ~~director~~ director, a local fire ~~chief~~ chief of a rated fire department, a county fire marshal, ~~or~~ an emergency services ~~director~~ director ~~or~~ director, ~~or when if~~ there is no designated local Homeland Security director, local fire ~~chief~~ chief of a rated fire department, county fire marshal, or emergency services director, when requested by a local law enforcement agency, the North Carolina Department of Justice may provide to the requesting director, chief, marshal, director, or agency an applicant's or current member's criminal history from the State and National Repositories of Criminal Histories. The local Homeland Security director, local fire chief, marshal, director, or local law enforcement agency shall provide to the North Carolina Department of Justice the fingerprints of the applicant to be checked, any additional information required by the Department of Justice, and a form signed by the applicant to be checked consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The local Homeland Security director, local fire chief, county fire marshal, emergency services director, or local law enforcement agency shall keep all information pursuant to this section confidential. The Department of Justice shall charge a reasonable fee for conducting the checks of the criminal history records authorized by this section.

...



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1 (d) If the applicant's or current member's verified criminal history record check reveals
 2 one or more convictions covered under subdivision (a)(2) of this section, then the conviction
 3 shall constitute just cause for not selecting the applicant for the position or for dismissing the
 4 ~~person-current member~~ from a current position with the local fire department or emergency
 5 medical services. The conviction shall not automatically prohibit volunteering or employment;
 6 however, the following factors shall be considered by the local Homeland Security director,
 7 local fire chief, county fire marshal, emergency services director, or local law enforcement
 8 agency in determining whether the position shall be ~~denied;denied~~ or the current member
 9 dismissed from a current position:

- 10 (1) The level and seriousness of the crime;
- 11 (2) The date of the crime;
- 12 (3) The age of the person at the time of the conviction;
- 13 (4) The circumstances surrounding the commission of the crime, if known;
- 14 (5) The nexus between the criminal conduct of the person and the duties of the
 15 person;
- 16 (6) The prison, jail, probation, parole, rehabilitation, and employment records of
 17 the person since the date the crime was committed; and
- 18 (7) The subsequent commission by the person of a crime listed in subsection (a)
 19 of this section.

20 (e) The local fire department or emergency medical services may deny the applicant or
 21 current member the position or dismiss an applicant or current member who refuses to consent
 22 to a criminal history record check or use of fingerprints or other identifying information
 23 required by the State or National Repositories of Criminal Histories. This refusal constitutes
 24 just cause for the denial of the position or the dismissal from ~~the a~~ current position.

25 ...

26 (g) For purposes of this section, "local fire chief" shall include ~~only fire chiefs who are~~
 27 ~~paid employees of a city; the fire chief of any bona fide fire department certified to the~~
 28 Commissioner of Insurance with at least a Class 9S rating for insurance grading purposes;
 29 "county fire marshal" shall include only fire marshals who are paid employees of a county; and
 30 "emergency services director" shall include only emergency services directors who are paid
 31 employees of a city or county."

32 **SECTION 2.** The Joint Legislative Oversight Committee on Justice and Public
 33 Safety shall study the feasibility of having the Department of Insurance, under the direction of
 34 the North Carolina Fire and Rescue Commission, to provide the request for the criminal check
 35 and any required identifying information to the Department of Justice. The Committee shall
 36 report its findings to the 2015 General Assembly upon its convening.

37 **SECTION 3.** G.S. 166A-19.12 reads as rewritten:

38 "**§ 166A-19.12. Powers of the Division of Emergency Management.**

39 The Division of Emergency Management shall have the following powers and duties as
 40 delegated by the Governor and Secretary of Public Safety:

41 ...

42 (21) Maintenance of an effective statewide urban search and rescue program."

43 **SECTION 4.** Chapter 166A of the General Statutes is amended by adding a new
 44 Article to read:

45 "Article 6.

46 "Urban Search and Rescue.

47 "**§ 166A-65. Definitions.**

48 The following definitions apply in this Article:

- 49 (1) Urban search and rescue team. – A specialized team or group of teams,
 50 organized with capabilities equivalent to urban search and rescue teams
 51 established under the Federal Emergency Management Agency in order to

1 assist in the removal of trapped victims during emergencies, including, but
2 not limited to, collapsed structures, trench excavations, elevated locations,
3 and in other technical rescue situations.

4 (2) Specialty rescue team. – A specialized response team, organized to provide
5 technical rescue assistance to first responders. The term includes, but is not
6 limited to, a canine search and rescue or disaster response team, a cave
7 search and rescue team, a collapse search and rescue team, a mine and tunnel
8 search and rescue team, and a swift water or flood search and rescue team. A
9 specialty rescue team shall be aligned with one or more of the search and
10 rescue categories within the Federal Emergency Management Agency's
11 national resource typing system.

12 (3) Incident support team. – A team of trained emergency response personnel,
13 organized to provide coordination between governmental agencies and
14 nongovernmental organizations as well as technical and logistical support to
15 urban search and rescue teams and specialty rescue teams.

16 (4) Contract response team. – An urban search and rescue team, specialty rescue
17 team, or incident support team.

18 (5) Secretary. – The Secretary of the Department of Public Safety.

19 **§ 166A-66. Urban Search and Rescue Program.**

20 (a) The Secretary shall adopt rules establishing a program for urban search and rescue
21 that relies on contracts with contract response teams. The program shall be administered by the
22 Division of Emergency Management. To the extent possible, the program shall be coordinated
23 with other emergency planning activities of the State. The program shall include contract
24 response teams located strategically across the State that are available to provide 24-hour
25 dispatch from the Division of Emergency Management Operations Center. The rules for the
26 program shall include:

27 (1) Standards, including training, equipment, and personnel standards required
28 to operate a contract response team.

29 (2) Guidelines for the dispatch of a contract response team to an urban search
30 and rescue team or specialty rescue team mission.

31 (3) Guidelines for the on-site operations of a contract response team.

32 (4) Standards for administration of a contract response team, including
33 procedures for reimbursement of response costs.

34 (5) Refresher and specialist training for members of contract response teams.

35 (6) Procedures for recovering the costs of an urban search and rescue team or
36 specialty rescue team mission.

37 (7) Procedures for bidding and contracting for urban search and rescue team and
38 specialty rescue team missions.

39 (8) Criteria for evaluating bids for urban search and rescue team and specialty
40 rescue team missions.

41 (9) Delineation of the roles of the contract response team, local public safety
42 personnel, the Division of Emergency Management's area coordinator, and
43 other State agency personnel participating in an urban search and rescue
44 team or specialty rescue team mission.

45 (10) Procedures for the Division of Emergency Management to audit the contract
46 response teams to ensure compliance with State and federal guidelines.

47 (b) Within available appropriations, the Division of Emergency Management shall
48 spend the necessary funds for training, equipment, and other items necessary to support the
49 operations of contract response teams. The Division of Emergency Management may also
50 administer any grants of other funds made available for contract response teams, in accordance
51 with applicable rules and regulations approved by the Director of the State Budget.

1 (c) In developing the Urban Search and Rescue Program and adopting the rules
2 required by this section, the Secretary shall consult with the Urban Search and Rescue Team
3 Advisory Committee established pursuant to G.S. 166A-69.

4 **"§ 166A-67. Contracts; equipment loans.**

5 (a) The Secretary may contract with any unit or units of local government for the
6 provision of a contract response team to implement the Urban Search and Rescue Program.
7 Contracts are to be let consistent with the bidding and contract standards and procedures
8 adopted pursuant to G.S. 166A-66(a)(7) and G.S. 166A-66(a)(8). In entering into contracts with
9 units of local government, the Secretary may agree to provide any of the following:

10 (1) A loan of equipment.

11 (2) Reimbursement of personnel costs, including the cost of callback personnel,
12 when a contract response team is authorized by the Department to respond to
13 urban search and rescue team and specialty rescue team missions.

14 (3) Reimbursement for use of equipment and vehicles owned by the contract
15 response team.

16 (4) Replacement of disposable materials and damaged equipment.

17 (5) Training expenses.

18 (6) Anything else agreed to by the Secretary and the contract response team.

19 (b) The Secretary shall not agree to provide reimbursement for standby time.

20 (c) Any contract entered into between the Secretary and a unit of local government for
21 the provision of a contract response team shall specify that the members of the contract
22 response team, when performing under the contract, shall not be employees of the State and
23 shall not be entitled to benefits under the Teachers' and State Employees' Retirement System or
24 for the payment by the State of federal Social Security, employment insurance, or workers'
25 compensation.

26 (d) Contract response teams that have the use of a State vehicle may use the vehicle for
27 local purposes. Where a State vehicle is used for purposes other than authorized contract
28 response to an urban search and rescue team and specialty rescue team mission, the contract
29 response team shall be liable for repairs or replacements directly attributable to that use.

30 **"§ 166A-68. Immunity of contract response team personnel.**

31 Members of a contract response team shall be protected from liability under the provisions
32 of G.S. 166A-19.60(a) while on an urban search and rescue team or specialty rescue team
33 mission pursuant to authorization from the Division of Emergency Management.

34 **"§ 166A-69. Urban Search and Rescue Team Advisory Committee.**

35 (a) The Urban Search and Rescue Team Advisory Committee is created. The Secretary
36 shall appoint the members of the Committee and shall designate the Director or Deputy
37 Director of the North Carolina Division of Emergency Management as the chair. In making
38 appointments, the Secretary shall take into consideration the expertise of the appointees in the
39 management of urban search and rescue or specialty response team missions. The Secretary
40 shall appoint one representative from each of the following:

41 (1) The Division of North Carolina Emergency Management, who shall be the
42 Director or Deputy Director of the North Carolina Division of Emergency
43 Management and who shall serve as the chair.

44 (2) Each state USAR regional contract response team's Chief or Deputy Chief.

45 (3) The North Carolina Office of State Fire Marshal.

46 (4) The North Carolina Highway Patrol.

47 (5) The North Carolina National Guard.

48 (6) The North Carolina Association of Rescue and E.M.S., Inc.

49 (7) The North Carolina Association of Fire Chiefs.

50 (8) The North Carolina State Firemen's Association.

51 (9) The North Carolina Emergency Management Association.

1 **(b)** The Advisory Committee shall meet on the call of the chair, or at the request of the
2 Secretary, provided that the Committee shall meet no less than once every year. The
3 Department of Public Safety shall provide space for the Advisory Committee to meet. The
4 Department shall also provide the Advisory Committee with necessary support staff and
5 supplies to enable the Committee to carry out its duties in an effective manner.

6 **(c)** Members of the Advisory Committee shall serve without pay, but shall receive
7 travel allowance, lodging, subsistence, and per diem as provided by G.S. 138-5.

8 **(d)** The Contract Response Team Advisory Committee shall advise the Secretary on the
9 establishment of the Urban Search and Rescue Program. The Committee shall also evaluate and
10 advise the Secretary of the need for additional contract response teams to serve the State."

11 **SECTION 5.** Prior to implementation of the Urban Search and Rescue Program
12 established by Section 4 of this act, the Department of Public Safety shall study the costs of
13 implementing the program, including the apportionment of costs between State and local
14 government entities. The Department shall report the results of its study to the Joint Legislative
15 Justice and Public Safety Oversight Committee and the Fiscal Research Division on or before
16 January 15, 2015.

17 **SECTION 6.** Section 1 of this act becomes effective January 1, 2015. Section 4 of
18 this act becomes effective July 1, 2014. The remainder of this act is effective when it becomes
19 law.