

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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HOUSE BILL 240  
Committee Substitute Favorable 4/27/21

Short Title: Criminal Background Checks/Schools.

(Public)

Sponsors:

Referred to:

March 9, 2021

A BILL TO BE ENTITLED  
AN ACT TO REQUIRE CRIMINAL BACKGROUND CHECKS FOR INITIAL CHARTER  
BOARDS OF DIRECTORS AND SCHOOL PERSONNEL LICENSURE AND TO  
REVISE THE PROCESS FOR CRIMINAL HISTORY CHECKS FOR PUBLIC SCHOOL  
UNITS.

The General Assembly of North Carolina enacts:

**PART I. REQUIRE CRIMINAL BACKGROUND CHECKS FOR INITIAL CHARTER  
BOARDS OF DIRECTORS**

**SECTION 1.(a)** G.S. 115C-218.1(b)(3) 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) As used in this section, the following terms are defined:

(1) Criminal history. – A county, state, or federal criminal history of conviction of, or a plea of nolo contendere to, a crime, whether a misdemeanor or a felony, that indicates the applicant (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 board member. 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, Legislative, and Court Officers; Article 6, Homicide; Article 7B, Rape and 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;



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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 subsection, such crimes also include similar crimes under federal law or under the laws of other states.

(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 State Board of Education shall require all members of the board of directors of the nonprofit to be checked for a criminal history before granting final approval of a charter application. The State Board of Education 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 Department of Public Safety shall provide to the State Board of Education the criminal history from the State and National Repositories of Criminal Histories of any member. The State Board of Education shall require the member to (i) be fingerprinted and to provide any additional information required by the Department of Public Safety to a person designated by the State Board of Education 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 of Education shall not issue a charter to a nonprofit with a member who refuses to consent to a criminal history check.

(d) The State Board of Education 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 State Board of Education denies an application for a charter based on its review of the criminal history it receives on a member, the State Board of Education shall make written findings with regard to how it used the information when denying the application.

(e) All 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 of Education. The State Board of Education 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 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.

(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, 2021.

**PART II. CRIMINAL BACKGROUND CHECKS FOR SCHOOL PERSONNEL  
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.
- (1b) Criminal history. – A county, state, or federal criminal history of conviction of, or a plea of nolo contendere to, a crime, whether a misdemeanor or a felony, that indicates 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 public school personnel, or (iii) otherwise fails to meet the standards and criteria adopted by the State Board of Education governing ethics and moral character required for professional educators. 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, Legislative, and Court Officers; Article 6, Homicide; Article 7B, Rape and 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 subsection, such crimes also include similar crimes under federal law or under the laws of other states.
- (2) Professional educator. – An administrator, teacher, or student services personnel.
- (3) Recognized educator preparation program or recognized EPP. – As defined in G.S. 115C-269.1(15).
- (4) Student services personnel. – An individual providing specialized assistance to students, teachers, administrators, or the education program in general, as classified by the State Board. Student services personnel shall include individuals employed in school counseling, school social work, school psychology, audiology, speech-language pathology, and media coordination.

(5) Teacher. – An individual whose major responsibility is to either teach or directly supervise teaching, as classified by the State Board."

**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 of Education 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 applicants to be checked for a criminal history before the applicant is issued an unconditional license. The State Board of Education may license an applicant conditionally while the Board is checking the applicant's criminal history and making a decision based on the results of the check. The State Board of Education shall require an applicant to pay for the criminal history check authorized under this subsection, but a governing board of a public school unit may pay for the criminal history check on behalf of the applicant.

(b) The Department of Public Safety 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 of Education shall require the applicant to (i) be fingerprinted and to provide any additional information required by the Department of Public Safety to a person designated by the State Board of Education 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 of Education shall not issue a license to an applicant who refuses to consent to a criminal history check.

(c) The State Board of Education shall review the criminal history it receives on an applicant. The State Board of Education 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 of Education governing ethics and moral character required for professional educators and shall use the information when making licensure decisions. If the State Board of

Education denies an applicant based on its review of the criminal history it receives, the State Board of Education shall make written findings with regard to how it used the information when making licensure decisions.

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

(e) All 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 of Education and the governing board of a public school unit considering employment of an individual granted licensure. The State Board of Education 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 board of a public school unit 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 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.

(g) 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) Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

**"§ 143B-931.1. Criminal background checks for applications for teacher licenses and members of boards of directors of nonprofits seeking initial approval of charters.**

The Department of Public Safety may provide to the State Board of Education from the State and National Repositories of Criminal Histories the criminal history of (i) any applicant for licensure under Article 17E of Chapter 115C of the General Statutes or (ii) the 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. Along with the request, the Board shall provide to the Department of Public Safety the fingerprints of the applicant or member, a form signed by the applicant or member consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories of Criminal Histories, and any additional information required by the Department of Public Safety. The applicant or member's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's 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 State Board of Education shall keep all information obtained pursuant to this section confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

SECTION 2.(f) The State Board of Education is encouraged to work towards 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.(g) This section applies to applications for licensure that are received on or after October 1, 2021.

**PART III. CRIMINAL HISTORY CHECKS FOR PUBLIC SCHOOL UNITS****SECTION 3.(a)** G.S. 115C-218.90(b) reads as rewritten:

## (b) Criminal History Checks. –

(1) ~~If the local board of education of the local school administrative unit in which a charter school is located has adopted a policy requiring criminal history checks under G.S. 115C-332, then the~~ The board of directors of each charter school located in that local school administrative unit shall adopt a policy ~~mirroring the local board of education policy that requires~~ requiring an applicant for employment to be checked for a criminal history, as ~~defined provided in G.S. 115C-332.~~ Each charter school board of directors shall apply its policy uniformly in requiring applicants for employment to be checked for a criminal history before the applicant is given an unconditional job offer. A charter school board of directors may employ an applicant conditionally while the board is checking the person's criminal history and making a decision based on the results of the check. If the local board of education adopts a policy providing for periodic checks of criminal history of employees, then the board of directors of each charter school located in that local school administrative unit shall adopt a policy mirroring that local board of education policy. A board of directors shall indicate, upon inquiry by any other ~~local board of education, charter school, or regional school governing board of a public school unit~~ 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.

(1a) The charter board of directors shall uniformly require applicants for employment to be checked for a criminal history either by a consumer reporting agency, as defined in G.S. 115C-332, the Department of Public Safety, or both. If the charter board of directors requires a criminal history check by the Department of Public Safety, the charter school board of directors shall require the applicant to (i) be fingerprinted and to provide any additional information required by the Department of Public Safety to a person designated by the board of directors 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 board of directors shall not employ or contract with applicants who refuse to consent to a criminal history check. The fingerprints of the applicants 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 Department of Public Safety shall provide to the charter school board of directors the criminal history from the State and National Repositories of Criminal Histories of the school personnel for which the charter school board of directors requires a criminal history record check.

(2) There shall be no liability for negligence on the part of the State Board of Education or the board of directors of the charter school, or their employees, arising from any act taken or omission by any of them in carrying out the provisions of this subsection. 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

1 this subsection shall be deemed to have been waived to the extent of  
2 indemnification by insurance, indemnification under Articles 31A and 31B of  
3 Chapter 143 of the General Statutes, and to the extent sovereign immunity is  
4 waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of  
5 the General Statutes.

6 (3) All the information received by the charter school board of directors through  
7 the checking of the criminal history or by the State Board of Education in  
8 accordance with this section is privileged information and is not a public  
9 record but is for the exclusive use of the charter school board of directors,  
10 appropriate officers of the charter school as permitted by federal law, or the  
11 State Board of Education. The charter school board of directors or the State  
12 Board of Education may destroy the information after it is used for the  
13 purposes authorized by this section after one calendar year."

14 **SECTION 3.(b)** G.S. 115C-238.73 reads as rewritten:

15 **"§ 115C-238.73. Criminal history record checks.**

16 (a) As used in this section:

17 ...

18 (1a) Consumer reporting agency. – An entity which, for monetary fees, dues, or on  
19 a cooperative nonprofit basis, regularly engages in whole or in part in the  
20 practice of assembling or evaluating consumer credit information or other  
21 information on consumers, including criminal history checks, for the purpose  
22 of furnishing consumer reports to third parties, and which uses any means or  
23 facility of interstate commerce for the purpose of preparing or furnishing  
24 consumer reports, and which is regulated as provided in 15 U.S.C. § 1681, et.  
25 seq. A criminal history check by a consumer reporting agency provided for  
26 purposes of this section must include all of the following:

- 27 a. A search of the state criminal registry or repository in which the  
28 applicant resides.  
29 b. A multistate/multijurisdiction database search which includes a  
30 follow-up search at the originating source for any information returned  
31 by the database search and which confirms final disposition  
32 information of the same.  
33 c. A search of records obtained from county, state, and federal criminal  
34 repositories where the individual resides and has previously resided.  
35 d. A search of the National Sex Offender Registry established as  
36 provided in 42 U.S.C. § 16919.

37 ...

38 (b) ~~The board of directors shall adopt a policy on whether and under what circumstances~~  
39 ~~school personnel shall be required to be checked for a criminal history.~~ that requires an applicant for a school personnel position  
40 to be checked for a criminal history, as provided in subsection (c) of this section. The  
41 board of directors shall apply its policy uniformly in requiring applicants for school personnel  
42 positions to be checked for a criminal history. The board of directors may grant conditional  
43 approval of an application while the board of directors is checking a person's criminal history  
44 and making a decision based on the results of the check. The board of directors may request the  
45 criminal history check completed for licensure purposes from the State Board of Education as  
46 provided in G.S. 115C-270.12 for any applicant holding a license.

47 The board of directors ~~shall not may~~ require ~~school personnel~~ an applicant to pay for the  
48 criminal history record check authorized under this section.

49 (c) ~~The~~ The board of directors shall uniformly require applicants for school personnel  
50 employment to be checked for a criminal history either by a consumer reporting agency, the  
51 Department of Public Safety, or both. If the board of directors requires a criminal history check

by the Department of Public Safety, the board of directors shall require the ~~person~~ applicant to be checked by the Department of Public Safety (i) to be fingerprinted and to provide any additional information required by the Department of Public Safety to a person designated by the board of directors or to the local sheriff or the municipal police, whichever is more convenient for the person, and (ii) to 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 board of directors shall ~~consider refusal to consent when making employment decisions and decisions with regard to independent contractors, not employ or contract with an applicant who refuses to consent to a criminal history check.~~ 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 Department of Public Safety shall provide to the board of directors the criminal history from the State and National Repositories of Criminal Histories of any school personnel for which the board of directors requires a criminal history record check.

The board of directors ~~shall not~~ may require ~~school personnel~~ applicants to pay for the fingerprints authorized under this section.

...

(i) The board of directors may adopt a policy providing for uniform periodic checks of criminal history of employees. The board may conduct a criminal history check as provided in subsection (c) of this section. Boards of directors shall not require employees to pay for the criminal history check authorized under this subsection. A board of directors shall indicate, upon inquiry by any other ~~local board of education, charter school, or regional school governing board~~ of a public school unit in the State as to the reason for an employee's resignation or dismissal. If a teacher's criminal history is relevant to a teacher's resignation, the board of directors shall report to the State Board of Education the reason for an employee's resignation."

**SECTION 3.(c)** G.S. 115C-332 reads as rewritten:

**"§ 115C-332. School personnel criminal history checks.**

(a) As used in this section:

(1) "Criminal history" means 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.

(1a) 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.

...

(b) ~~Each local board of education 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 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~~ may employ an applicant conditionally while the board is checking the person's criminal history and making a decision based on the results of the check. The local board of education may request the criminal history check completed for licensure purposes from the State Board of Education as provided in G.S. 115C-270.12 for any applicant holding a license.

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

(c) A local board of education by policy shall uniformly require applicants for school personnel employment to be checked for a criminal history either by a consumer reporting agency, the Department of Public Safety, or both. The Department of Public Safety shall provide to the local board of education 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 unit for which a local board of education requires a criminal history check. ~~The If the local board of education requires a criminal history check by the Department of Public Safety, the local board of education shall require the person to be checked by the Department of Public Safety~~ applicant to (i) be fingerprinted and to provide any additional information required by the Department of Public Safety to a person designated by the local board, 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. not employ or contract with an applicant who refuses to consent to a criminal history check.~~

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

...

(i) The local board of education may adopt a policy providing for periodic checks of criminal history of employees. The local board may conduct a criminal history check as provided in subsection (c) of this section. Local boards of education shall not require employees to pay for the criminal history check authorized under this subsection. A local board of education shall indicate, upon inquiry by any other ~~local board of education, charter school, or regional school governing board~~ of a public school unit 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.(d)** G.S. 116-239.12 reads as rewritten:

**"§ 116-239.12. Criminal history record checks.**

(a) As used in this section:

...

(1a) 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.

...

(b) The chancellor shall adopt a policy, with advice and input from the advisory board, that requires an applicant for a school personnel position to be checked for a criminal history as provided in subsection (c) of this ~~section~~. section before the applicant is offered an unconditional job. The chancellor shall apply the policy uniformly in requiring applicants for school personnel positions to be checked for a criminal history. The chancellor may grant conditional approval of an application while the chancellor is checking a person's criminal history and making a decision based on the results of the check. The chancellor may request the criminal history check completed for licensure purposes from the State Board of Education as provided in G.S. 115C-270.12 for any applicant licensed by that Board. An applicant for a school personnel position not licensed by the State Board of Education shall not be required to be checked for a criminal history if he or she has received a license within six months of employment that required a criminal history check equivalent to the criminal history check required in subsection (c) of this section.

~~The chancellor shall not may require an applicant to pay for the criminal history record check authorized under this section.~~

(c) ~~The~~ The chancellor by policy shall uniformly require applicants for employment to be checked for a criminal history either by a consumer reporting agency, the Department of Public Safety, or both. If the chancellor requires a criminal history check by the Department of Public Safety, the chancellor shall require the ~~person applicant to be checked by the Department of Public Safety~~ (i) to be fingerprinted and to provide any additional information required by the Department of Public Safety to a person designated by the chancellor or to the local sheriff, the campus police department of the constituent institution, or the municipal police, whichever is more convenient for the person and (ii) to 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 chancellor shall ~~consider refusal to consent when making employment decisions and decisions with regard to independent contractors. not employ or contract with an applicant who refuses to consent to a criminal history check.~~ 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 Department of Public Safety shall provide to the chancellor the criminal history from the State and National Repositories of Criminal Histories of any school personnel for which the chancellor requires a criminal history record check.

The chancellor ~~shall not~~ may require school personnel to pay for fingerprints authorized under this section.

...

(i) The chancellor may adopt a policy for periodic checks of criminal history of employees. The chancellor may conduct a criminal history check as provided in subsection (c) of this section. The chancellor shall not require employees to pay for the criminal history check authorized under this subsection. A chancellor shall indicate, upon inquiry by any other governing board of a public school unit 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.(e)** G.S. 143B-931 is amended by adding a new subsection to read:

"(b2) The Department of Public Safety may provide a criminal history record check to the board of directors of a charter school of a person who is employed at a charter school or of a person who has applied for employment at a charter school if the employee or applicant consents to the record check. The Department may also provide a criminal history record check of school personnel as defined in G.S. 115C-332 by fingerprint card to the board of directors of the charter school from the National Repositories of Criminal Histories, in accordance with G.S. 115C-218.90. The information shall be kept confidential by the board of directors of the charter school as provided in G.S. 115C-218.90."

**SECTION 3.(f)** This section applies to applications for employment that are received on or after January 1, 2022.

#### **PART IV. EFFECTIVE DATE**

**SECTION 4.** Except as otherwise provided, this act is effective when it becomes law.