



HOUSE BILL 409: State Agencies/Adjust Hiring Practices.

2017-2018 General Assembly

Committee:	House Judiciary III	Date:	April 10, 2017
Introduced by:	Reps. R. Turner, Hardister, Grange, Pierce	Prepared by:	Billy R. Godwin Staff Attorney
Analysis of:	PCS to First Edition H409-CSBD-20		

OVERVIEW: *House Bill 409 (Proposed Committee Substitute – PCS) would direct State agencies to adjust employment practices to reduce barriers to public employment for individuals with a criminal history. The act would be effective when it becomes law and would apply to applications for State employment on or after that date.*

The PCS corrects an error to a statutory citation.

CURRENT LAW: Chapter 126 codifies the North Carolina Human Resources Act. In particular, Article 6 of Chapter 126 provides equal employment and compensation opportunity provisions and provisions related to obtaining State employment. The bill also amends G.S. 126-34.02 and G.S. 126-5. G.S. 126-34.02 sets forth the grounds for grievances and the grievance appeal process. G.S. 126-5 defines the employees for whom this Chapter is applicable, as well as any exemptions from the provisions in this Chapter.

BILL ANALYSIS:

Section 1 would add a new section to Article 6 of Chapter 126 requiring State agencies to adjust employment practices to reduce barriers to State employment for individuals with a criminal history.

Scope of Application. All State agencies and positions in State government employment would be subject to the bill except:

- A public employer required by State or federal law to conduct a criminal history inquiry as a preliminary qualification to be considered for public employment.
- Law enforcement or public safety positions.
- Positions involving direct interaction with minors or the elderly.

Disclosure of Criminal History. The bill would prohibit asking an applicant to disclose his or her criminal record or history until all of the following:

- The applicant has signed the appropriate waiver authorizing release.
- Is being considered for a specific position.
- Has received an interview.

Applicants with Criminal History. If a background check has been lawfully completed and a criminal history exists, the State would have to consider all of the following before offering or denying employment:

- The nature and gravity of the offense.

Karen Cochrane-Brown
Director



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- The length of time that has elapsed since the offense occurred.
- The age of the person at the time of the conviction.
- Whether the offense is reasonably related to the duties and responsibilities of the employment sought by the applicant.
- Any information pertaining to the degree of rehabilitation that may have taken place in the applicant.

Before making a final employment decision on an applicant with a criminal history, the State would be required to inform the applicant of the potential for an adverse employment decision and provide the applicant an opportunity to show the criminal history is inaccurate. Arrests not resulting in conviction could not be the basis for disqualification of public employment.

Grievance Procedure. Any applicant aggrieved by a violation of the Article would be entitled to follow the grievance procedure of the State Human Resources Commission.

Data Collection, Compliance, Reporting. The Office of State Human Resources would be required to collect data identifying positions where background checks are statutorily required, to conduct compliance reviews, and to submit an annual report to the General Assembly. Certain data would be made available to the public.

Section 2 would authorize a contested case petition in the Office of Administrative Hearings for an applicant or employee grievance related to their criminal history.

Section 3 would provide that Section 1 would apply to all State employees and applicants for State employment, except as specifically excluded in Section 1.

EFFECTIVE DATE: This bill would become effective when it becomes law and apply to positions posted for State employment after that date.

Staff Attorney Tawanda N. Foster substantially contributed to this bill summary.