



# HOUSE BILL 409: State Agencies/Adjust Hiring Practices.

2017-2018 General Assembly

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<b>Committee:</b>	House State Personnel. If favorable, re-refer to Judiciary III	<b>Date:</b>	April 4, 2017
<b>Introduced by:</b>	Reps. R. Turner, Hardister, Grange, Pierce	<b>Prepared by:</b>	Tawanda N. Foster
<b>Analysis of:</b>	First Edition		Committee Counsel

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**OVERVIEW:** *House Bill 409 directs state agencies to adjust employment practices to reduce barriers to employment for individuals with a criminal history.*

**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** adds a new section to Article 6 of Chapter 126 to require state agencies to adjust employment practices to reduce barriers to employment for individuals with a criminal history. The bill excludes the following agencies or positions: (1) a public employer that is required by State or federal law to conduct a criminal history inquiry as a preliminary qualification to be considered for public employment; (2) a position that includes law enforcement or public safety; (3) a position that involves direct interaction with minors or the elderly.

This bill requires an applicant not be asked to disclose information regarding their criminal record or history, including on any employment application, until the applicant (1) has signed the appropriate waiver authorizing release, (2) is being considered for a specific position, and (3) has received an interview.

If a background check has been lawfully completed and a criminal history exists the State agency must consider the following before offering or denying employment:

1. The nature and gravity of the offense.
2. The length of time that has elapsed since the offense occurred.
3. The age of the person at the time of the conviction.
4. Whether the offense is reasonably related to the duties and responsibilities of the employment sought by the applicant.

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# House Bill 409

Page 2

5. Any information pertaining to the degree of rehabilitation that may have taken place in the applicant.

Further, a record of arrest that did not result in a conviction cannot be the basis for disqualification from public employment. Grievances for violations of this section may be alleged under G.S. 126-34.01 and G.S. 126-34.02.

The Office of State Human Resources (OSHR) is required to collect data regarding positions statutorily required to perform background checks, conduct reviews to determine compliance, and submit reports to the General Assembly and make data available to the public as required by law.

**Section 2** provides a grievance related to an applicant or employee's criminal history arising out of this section may be heard as a contested case after the agency grievance procedure and the OSHR review.

**Section 3** provides this section will 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.