



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 378: Firefighters Criminal History Record Checks.

2023-2024 General Assembly

Committee:	Senate Judiciary. If favorable, re-refer to Rules and Operations of the Senate	Date:	June 13, 2023
Introduced by:	Reps. Blackwell, Saine, Torbett, Riddell	Prepared by:	Robert Ryan*
Analysis of:	Fourth Edition		Committee Co-Counsel

OVERVIEW: *HB378 would allow an alternative statewide criminal history record check for applicants being offered a position with a fire department to be conducted through the North Carolina Department of Public Safety, a third-party vendor, or the clerk of court, if the applicant meets certain requirements. Applicants for junior membership and current junior members in a fire department under 18 years old would be exempt from the criminal history record check. The criminal record history check would only be required when a position is being offered.*

CURRENT LAW: G.S. 153A-233 requires that counties ensure that any city, county, or other units of local government, or incorporated volunteer fire department with which it contracts for fire-fighting or prevention services conducts a criminal record history check on all applicants as provided for in G.S. 143B-943. G.S. 153A-234 requires that all fire marshals and G.S. 160A-292 requires that all fire chiefs obtain a criminal history record check on all applicants as provided for in G.S. 143B-943.

G.S. 143B-943 provides for a statewide and national criminal history record check using an applicant's or current member's fingerprints and name to be conducted through the North Carolina Department of Public Safety.

The conviction of a crime that bears upon the applicant's or current member's fitness for holding a position with the fire department is just cause for not hiring or for dismissing the individual after consideration of certain factors. Conviction of arson or other felonies involving burning or setting fire under Chapter 14 of the General Statutes is a bar to hiring an applicant. A requesting entity must inquire about, and an applicant must disclose, any pending felony charges involving burning or setting fire under Chapter 14 of the General Statutes. If the requesting entity learns of felony charges pending against an applicant, the applicant may be offered a conditional offer of employment pending final disposition of the felony. An applicant must be denied employment and a current employee may be dismissed for refusing to consent to a criminal history record check, including refusing to provide fingerprints or other required information to conduct the check.

The North Carolina Department of Public Safety is authorized to charge a reasonable fee for conducting the criminal history record check and the requesting entity can require reimbursement from the applicant or the current member. All information received is confidential and privileged. Information received from the North Carolina Department of Public Safety is subject to the rules adopted by the Department governing dissemination of criminal history record checks.

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House Bill 378

Page 2

BILL ANALYSIS:

Section 1. Criminal history record checks of applicants to and current members of fire departments.

HB 378 would amend G.S. 143B-943 to allow a requesting entity the option to conduct an alternate criminal history record check for firefighter applicants or current members who meet the following requirements:

- The individual has resided in North Carolina for more than five years prior to the request for the criminal history record check.
- The applicant or current member discloses no criminal charges or convictions.

The alternate criminal history record check may be conducted as follows:

- The check could be limited to only the applicant's or current member's name.
- The check could be limited to only a statewide criminal history search.
- The check could be completed by any of the following:
 - Department of Public Safety.
 - Third-party vendors.
 - Clerk of court.

References to verification for the criminal history record check would be removed.

DPS would be required to waive fees for any statewide criminal history record check charged to volunteer fire departments.

Applicants for junior membership in or current junior members of a fire department under the age of 18 would be exempt from all criminal history record checks.

Sections 2-4. Criminal history record checks applicable only when position with a fire department is being offered.

HB 378 would amend G.S. 153A-233, 153A-234(b), and 160A-292(b) to clarify that criminal history record checks are required only when an individual is being offered a position with a fire department and clarify terminology for nonprofit volunteer fire departments.

EFFECTIVE DATE: The bill would become effective when it becomes law and apply to applications submitted and current members serving on or after that date.

**Debbie Griffiths, Staff Attorney, substantially contributed to this summary.*