

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1512\*  
Committee Substitute Favorable 6/13/94

Short Title: Day Care Provider Records.

(Public)

Sponsors:

Referred to:

May 25, 1994

1 A BILL TO BE ENTITLED  
2 AN ACT TO MANDATE CRIMINAL HISTORY AND CENTRAL REGISTRY  
3 HISTORY CHECKS OF CHILD DAY CARE PROVIDERS AND TO  
4 APPROPRIATE FUNDS.

5 The General Assembly of North Carolina enacts:

6 Section 1. Article 7 of Chapter 110 of the General Statutes is amended by  
7 adding a new section to read:

8 "**§ 110-90.2. Mandatory day care providers' criminal history and Central**  
9 **Registry checks.**

10 (a) For purposes of this section:

11 (1) 'Central Registry history' means a history in the Central Registry on  
12 Child Abuse and Neglect of a substantiated claim of child abuse or  
13 child neglect as defined by G.S. 7A-517.

14 (2) 'Child day care', notwithstanding the definition in G.S. 110-86, means  
15 any child day care provided in child day care facilities and child day  
16 care homes, including child day care facilities and child day care  
17 homes required to be licensed or registered under this Article,  
18 religious-sponsored child day care facilities and child day care homes  
19 regulated under G.S. 110-106 and G.S. 110-106.1, and nonregistered  
20 child day care homes approved to receive or receiving State or federal  
21 funds for providing child day care.

22 (3) 'Child day care provider' means a person who:

- 1           a.     Is employed by or seeks to be employed by a child day care  
2                 facility or child day care home providing child day care as  
3                 defined in subdivision (2) of this subsection and by G.S. 110-  
4                 86; or  
5           b.     Owns or operates or seeks to own or operate a child day care  
6                 facility or child day care home providing child day care as  
7                 defined in subdivision (2) of this subsection and by G.S. 110-  
8                 86.

9           (4)   'Criminal history' means a county or State criminal history of  
10                conviction of a crime, whether a misdemeanor or a felony, that bears  
11                upon an individual's fitness to have responsibility for the safety and  
12                well-being of children, including homicide, rape and other sex  
13                offenses, assaults, kidnapping and abduction, malicious injury or  
14                damage by the use of incendiary device or material, offenses against  
15                public morality and decency, prostitution, a crime against children, and  
16                a crime against the family, as prescribed respectively in Articles 6, 7A,  
17                8, 10, 13, 26, 27, 39, and 40 of Chapter 14 of the General Statutes, a  
18                violation of the North Carolina Controlled Substances Act, as  
19                prescribed in Article 5 of Chapter 90 of the General Statutes, a  
20                violation of the law prohibiting driving while impaired, as prescribed  
21                in G.S. 20-138.1 through G.S. 20-138.5, a violation of the law  
22                forbidding sales of alcohol to, or purchases of alcohol by, minors, as  
23                prescribed in G.S. 18B-302(c), and a violation of the law prohibiting  
24                public intoxication, as prescribed in G.S. 14-444.

25           (b)   Effective April 2, 1995, the Department shall ensure that child day care  
26                providers are checked for both any criminal history and any Central Registry history  
27                and may prohibit a child day care provider from providing child day care if that child  
28                day care provider:

- 29                (1)   Has a criminal history; or  
30                (2)   Has a Central Registry history if the Department determines that the  
31                substantiated claim bears upon an individual's fitness to have  
32                responsibility for the safety and well-being of children.

33           (c)   The Department of Justice may provide to the Division of Child  
34                Development, Department of Human Resources, the criminal history of any child day  
35                care provider from the State Repository of criminal histories. The Division shall  
36                provide to the Department of Justice along with the request the fingerprints of the  
37                provider to be checked, any additional information required by the Department of  
38                Justice, and a form consenting to the check of the criminal record and to the use of  
39                fingerprints and other identifying information required by the State Repository signed  
40                by the child day care provider to be checked. Refusal to consent is grounds for the  
41                Department to prohibit the child day care provider from providing child day care.

42           (d)   The Division of Social Services may provide to the Division of Child  
43                Development, Department of Human Resources, the Central Registry history of a child  
44                day care provider if this child day care provider signs a form consenting to this record

1 check. Refusal to consent is grounds for the Department to prohibit the child day care  
2 provider from providing child day care.

3 (e) The Department shall notify in writing the child day care provider and that  
4 child day care provider's employer, if any, of any disqualifying information resulting  
5 from the check of the criminal history or of the Central Registry history, and of the  
6 Department's action under subsection (b) of this section.

7 A child day care provider who disagrees with the Department's decision may file a  
8 civil action in the district court of the county of residence of the child day care provider.

9 (f) All the information that the Department receives through the checking of the  
10 criminal history and of the Central Registry history is privileged information and for the  
11 exclusive use of the Department and those persons authorized under this section to  
12 receive the information. The Department may destroy the information after it is used  
13 for the purposes authorized by this section after one calendar year.

14 (g) No action for civil or criminal liability shall be brought against an employer  
15 of a child day care provider, a child day care, or a State or local agency as a result of the  
16 check of the criminal or Central Registry history, if the employer, child day care  
17 provider, or State or local agency was acting in good faith and in accordance with this  
18 section and the rules established under this section.

19 (h) The child day care provider who seeks to be employed in child day care and  
20 the child day care provider who seeks to own or operate child day care shall pay the cost  
21 of the fingerprinting and the local check at the time the child day care provider seeks to  
22 provide child day care. The Department of Justice shall perform the State check, using  
23 funds appropriated to it for that purpose, if the Department considers that the additional  
24 check is necessary."

25 Sec. 2. G.S. 114-19 reads as rewritten:

26 **"§ 114-19. Criminal statistics.**

27 (a) It shall be the duty of the State Bureau of Investigation to receive and collect  
28 police information, to assist in locating, identifying, and keeping records of criminals in  
29 this State, and from other states, and to compare, classify, compile, publish, make  
30 available and disseminate any and all such information to the sheriffs, constables, police  
31 authorities, courts or any other officials of the State requiring such criminal  
32 identification, crime statistics and other information respecting crimes local and  
33 national, and to conduct surveys and studies for the purpose of determining so far as is  
34 possible the source of any criminal conspiracy, crime wave, movement or cooperative  
35 action on the part of the criminals, reporting such conditions, and to cooperate with all  
36 officials in detecting and preventing.

37 ♦(b) The State Bureau of Investigation shall, on a daily basis, notify the  
38 Department of Revenue of all reports it receives pursuant to G.S. 114-18.1 of arrests  
39 and seizures involving non-tax-paid controlled substances and counterfeit controlled  
40 substances. The Bureau shall also, as soon as practicable, provide the Department with  
41 any additional information it receives regarding such arrests and seizures.

42 (c) The Department of Justice may provide to the Division of Child  
43 Development, Department of Human Resources, the criminal history from the State  
44 Repository of criminal histories of any child day care provider. The Division shall

1 provide to the Department of Justice along with the request the fingerprints of the  
2 provider to be checked, any additional information required by the Department of  
3 Justice, and a form consenting to the check of the criminal record and to the use of  
4 fingerprints and other identifying information required by the State Repository signed  
5 by the child day care provider to be checked. Refusal to consent is grounds for the  
6 Department to prohibit the child day care provider from providing child day care.

7 (d) The child day care provider who seeks to be employed in child day care and  
8 the child day care provider who seeks to own or operate child day care shall pay the cost  
9 of the fingerprinting and the local check at the time the child day care provider seeks to  
10 provide child day care. The Department of Justice shall perform the State check, using  
11 funds appropriated to it for that purpose, if the Department considers that the additional  
12 check is necessary."

13 Sec. 3. G.S. 7A-552 reads as rewritten:

14 **"§ 7A-552. Central registry.**

15 The Department of Human Resources shall maintain a central registry of abuse,  
16 neglect, and dependency cases and child fatalities that are the result of alleged  
17 maltreatment ~~that are reported under this Article~~ in order to compile data for appropriate  
18 study of the extent of abuse and neglect within the State and to identify repeated abuses  
19 of the same juvenile or of other juveniles in the same family. The Department of  
20 Human Resources shall also maintain a perpetrator list for substantiated incidents of  
21 abuse and neglect in order to exchange information with authorized requesters. This  
22 data shall be furnished by county directors of social services to the Department of  
23 Human Resources and shall be confidential, subject to policies adopted by the Social Services  
24 Commission providing for its use for study and research and for other appropriate disclosure.  
25 ~~Data~~ shall not be used at any hearing or court proceeding unless based upon a final  
26 judgment of a court of law ~~law~~, except as necessary in an administrative proceeding  
27 contesting a substantiated report of abuse or neglect. The Social Services Commission  
28 shall adopt reasonable and necessary rules pertaining to the operation of the central  
29 registry, including the following:

- 30 (1) Filing of reports;
- 31 (2) Procedures for notice to the alleged perpetrator of a substantiated  
32 report;
- 33 (3) Procedures for correction and expungement of information;
- 34 (4) Release of information from the central registry for purposes  
35 connected to the program;
- 36 (5) Release of information from the perpetrator list to authorized  
37 requesters;
- 38 (6) Statistical information; and
- 39 (7) Provisions for keeping and maintaining information placed in the  
40 central registry."

41 Sec. 4. (a) The North Carolina Child Day Care Commission shall adopt rules  
42 to implement this act, in consultation with the Divisions of Child Development and  
43 Social Services of the Department of Human Resources, and the Division of Criminal  
44 Information of the Department of Justice.

1 (b) The Social Services Commission shall adopt rules regarding access to the  
2 Central Registry on Child Abuse and Neglect needed to implement this act.

3 Sec. 5. There is appropriated from the General Fund to the Department of  
4 Human Resources the sum of eighty thousand dollars (\$80,000) for the 1994-95 fiscal  
5 year to implement this act.

6 Sec. 6. There is appropriated from the General Fund to the Department of  
7 Justice the sum of two hundred thousand dollars (\$200,000) for the 1994-95 fiscal year  
8 to perform the criminal history checks required in this act.

9 Sec. 7. The Legislative Research Commission may study issues relating to  
10 criminal history and Central Registry checks of child day care providers, including how  
11 often these checks should be done.

12 Sec. 8. Section 7 of this act is effective upon ratification. The remainder of  
13 this act becomes effective April 2, 1995, and it applies to child day care providers newly  
14 hired in child day care employment and to child day care providers newly owning or  
15 operating child day care on or after that date.