

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1327
Committee Substitute Favorable 5/25/05
Committee Substitute #2 Favorable 7/7/05
Senate Finance Committee Substitute Adopted 7/11/06

Short Title: Crim. Record Checks/Psychology Practice Act.

(Public)

Sponsors:

Referred to:

April 20, 2005

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE DEPARTMENT OF JUSTICE TO CONDUCT
CRIMINAL HISTORY RECORD CHECKS FROM STATE AND NATIONAL
REPOSITORIES OF CRIMINAL HISTORY OF APPLICANTS FOR
LICENSURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-270.4(e) reads as rewritten:

"(e) Nothing in this Article shall be construed to prevent qualified members of other professional groups licensed or certified under the laws of this State from rendering services consistent with their professional training and code of ethics, within the scope of practice, as defined in the statutes regulating those professional practices, provided they do not hold themselves out to the public by any title or description stating or implying that they are psychologists or are licensed, certified, or registered to practice psychology."

SECTION 2. Article 18A of Chapter 90 of the General Statutes is amended by adding the following new section to read:

§ 90-270.22. Criminal history record checks of applicants for licensure and licensees.

(a) The Board may request that an applicant for licensure or reinstatement of a license or that a licensed psychologist or psychological associate currently under investigation by the Board for allegedly violating this Article consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure or reinstatement of a license to an applicant or take disciplinary action against a licensee, including revocation of a license. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant or licensee to be checked, a form signed by the applicant or licensee consenting to the criminal record check and the use of fingerprints

1 and other identifying information required by the State or National Repositories, and
2 any additional information required by the Department of Justice. The Board shall keep
3 all information obtained pursuant to this section confidential.

4 The Board shall collect any fees required by the Department of Justice and shall
5 remit the fees to the Department of Justice for the cost of conducting the criminal
6 history record check.

7 (b) Limited Immunity. – The Board, its officers and employees, acting
8 reasonably and in compliance with this section, shall be immune from civil liability for
9 denying licensure or reinstatement of a license to an applicant or the revocation of a
10 license or other discipline of a licensee based on information provided in the applicant's
11 or licensee's criminal history record check."

12 **SECTION 3.** Article 4 of Chapter 114 of the General Statutes is amended by
13 adding the following new section to read:

14 **"§ 114-19.16. Criminal record checks of applicants for licensure and licensees.**

15 The Department of Justice may provide to the North Carolina Psychology Board
16 from the State and National Repositories of Criminal Histories the criminal history of
17 any applicant for licensure or reinstatement of a license to practice psychology or a
18 licensed psychologist or psychological associate under Article 18A of Chapter 90 of the
19 General Statutes. Along with the request, the Board shall provide to the Department of
20 Justice the fingerprints of the applicant or licensee, a form signed by the applicant or
21 licensee consenting to the criminal record check and use of fingerprints and other
22 identifying information required by the State and National Repositories, and any
23 additional information required by the Department of Justice. The applicant's or
24 licensee's fingerprints shall be forwarded to the State Bureau of Investigation for a
25 search of the State's criminal history record file, and the State Bureau of Investigation
26 shall forward a set of fingerprints to the Federal Bureau of Investigation for a national
27 criminal history record check. The Board shall keep all information obtained pursuant to
28 this section confidential. The Department of Justice may charge each applicant or
29 licensee a fee to offset the cost incurred by it to conduct a criminal record check under
30 this section. The fee shall not exceed the actual cost of locating, editing, researching,
31 and retrieving the information."

32 **SECTION 4.** This act is effective when it becomes law.