

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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HOUSE BILL 117

Short Title: Protect Students in Schools. (Public)

Sponsors: Representatives Warren, Boswell, Faircloth, and Horn (Primary Sponsors).  
*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Health, if favorable, Education - K-12, if favorable, Finance

February 16, 2017

A BILL TO BE ENTITLED

AN ACT TO REQUIRE CRIMINAL BACKGROUND CHECKS FOR TEACHER LICENSURE  
AND SCHOOL PERSONNEL EMPLOYMENT AND FOR BOARD MEMBERS OF  
NONPROFITS SEEKING INITIAL APPROVAL TO ESTABLISH A CHARTER SCHOOL.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** G.S. 115C-296 reads as rewritten:

"§ 115C-296. **Board sets licensure requirements; reports; lateral entry and mentor programs.**

(a) The State Board of Education shall have entire control of licensing all applicants for teaching positions in all public schools of North Carolina; and it shall prescribe the rules and regulations for the renewal and extension of all licenses and shall determine and fix the salary for each grade and type of license which it authorizes.

The State Board of Education shall require an applicant for an initial bachelors degree license or graduate degree license to demonstrate the applicant's academic and professional preparation by achieving a prescribed minimum score on a standard examination appropriate and adequate for that purpose. Elementary education (K-6) and special education general curriculum teachers shall also achieve a prescribed minimum score on subtests or standard examinations specific to teaching reading and mathematics. The State Board of Education shall permit an applicant to fulfill any such testing requirement before or during the applicant's second year of teaching provided the applicant took the examination at least once during the first year of teaching. The State Board of Education shall make any required standard initial licensure exam rigorous and raise the prescribed minimum score as necessary to ensure that each applicant has received high-quality academic and professional preparation to teach effectively.

The State Board of Education shall require all applicants for licensure in the State to be checked for a criminal history, as provided in G.S. 115C-297.1.

(a1) The State Board shall adopt policies that establish the minimum scores for any required standard examinations and other measures necessary to assess the qualifications of professional personnel as required under subsection (a) of this section. For purposes of this subsection, the State Board shall not be subject to Article 2A of Chapter 150B of the General Statutes. At least 30 days prior to changing any policy adopted under this subsection, the State Board shall provide written notice to all North Carolina schools of education and to all local boards of education. The written notice shall include the proposed revised policy.

(a2) The State Board of Education shall establish a schedule of fees for teacher licensure and administrative changes. The fees established under this subsection shall not exceed the actual cost of providing the service. The schedule may include fees for any of the following services:



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- 1 (1) Application for demographic or administrative changes to a license.
- 2 (2) Application for a duplicate license or for copies of documents in the licensure  
3 files.
- 4 (3) Application for a renewal, extension, addition, upgrade, reinstatement, and  
5 variation to a license.
- 6 (4) Initial application for a New, In-State Approved Program Graduate.
- 7 (5) Initial application for an Out-of-State license.
- 8 (6) All other applications.
- 9 (7) Criminal history check.

10 An applicant must pay any nonrefundable service fees at the time an application is submitted.  
11 ...."

12 **SECTION 1.(b)** Article 20 of Chapter 115C of the General Statutes is amended by  
13 adding a new section to read:

14 **"§ 115C-297.1. School personnel criminal history checks.**

15 (a) As used in this section, the following terms are defined:

- 16 (1) Applicant. – An individual who submits an application for licensure as  
17 provided in G.S. 115C-296, including initial applications, renewal applications,  
18 and applications for licensure reinstatement.
- 19 (2) Criminal history. – A county, state, or federal criminal history of conviction of,  
20 or a plea of nolo contendere to, a crime, whether a misdemeanor or a felony,  
21 that indicates the applicant (i) poses a threat to the physical safety of students or  
22 personnel, (ii) has demonstrated that he or she does not have the integrity or  
23 honesty to fulfill his or her duties as public school personnel, or (iii) otherwise  
24 fails to meet the standards and criteria adopted by the State Board of Education  
25 governing ethics and moral character required for professional educators. Such  
26 crimes include the following North Carolina crimes contained in any of the  
27 following Articles of Chapter 14 of the General Statutes: Article 5A,  
28 Endangering Executive and Legislative Officers; Article 6, Homicide; Article  
29 7B, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping  
30 and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or  
31 Incendiary Device or Material; Article 14, Burglary and Other Housebreakings;  
32 Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17,  
33 Robbery; Article 18, Embezzlement; Article 19, False Pretense and Cheats;  
34 Article 19A, Obtaining Property or Services by False or Fraudulent Use of  
35 Credit Device or Other Means; Article 20, Frauds; Article 21, Forgery; Article  
36 26, Offenses Against Public Morality and Decency; Article 26A, Adult  
37 Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29,  
38 Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against  
39 the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article  
40 39, Protection of Minors; and Article 60, Computer-Related Crime. Such  
41 crimes also include possession or sale of drugs in violation of the North  
42 Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General  
43 Statutes, and alcohol-related offenses such as sale to underage persons in  
44 violation of G.S. 18B-302 or driving while impaired in violation of  
45 G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes  
46 listed in this subdivision, such crimes also include similar crimes under federal  
47 law or under the laws of other states.
- 48 (3) Local board. – A local board of education, regional school board of directors,  
49 charter school board of directors, or University of North Carolina laboratory  
50 school board of trustees.

1       (b) The State Board of Education shall require applicants to be checked for a criminal  
2 history before the applicant is issued an unconditional license. The State Board of Education may  
3 license an applicant conditionally while the Board is checking the person's criminal history and  
4 making a decision based on the results of the check. The State Board of Education shall require an  
5 applicant to pay for the criminal history check authorized under this subsection, but a local board  
6 may pay for the criminal history check on behalf of the applicant.

7       (c) The Department of Public Safety shall provide to the State Board of Education the  
8 criminal history from the State and National Repositories of Criminal Histories of any applicant  
9 for licensure. The State Board of Education shall require the person to be checked by the  
10 Department of Public Safety to (i) be fingerprinted and to provide any additional information  
11 required by the Department of Public Safety to a person designated by the State Board of  
12 Education and (ii) sign a form consenting to the check of the criminal record and to the use of  
13 fingerprints and other identifying information required by the repositories. The State Board of  
14 Education shall not issue a license to an individual who refuses to consent to a criminal history  
15 check.

16       (d) The State Board of Education shall review the criminal history it receives on a person.  
17 The State Board of Education shall determine whether the results of the review indicate that the  
18 applicant (i) poses a threat to the physical safety of students or personnel, (ii) has demonstrated  
19 that he or she does not have the integrity or honesty to fulfill his or her duties as public school  
20 personnel, or (iii) otherwise fails to meet the standards and criteria adopted by the State Board of  
21 Education governing ethics and moral character required for professional educators and shall use  
22 the information when making licensure decisions. If the State Board of Education denies an  
23 applicant based on its review of the criminal history it receives, the State Board of Education shall  
24 make written findings with regard to how it used the information when making licensure  
25 decisions.

26       (e) During the period of licensure, the State Board of Education may provide upon request  
27 the criminal history it receives on a person to a local board considering employment of that  
28 individual.

29       (f) All the information received by the State Board of Education through the checking of  
30 the criminal history in accordance with this section is privileged information and is not a public  
31 record but is for the exclusive and confidential use of the State Board of Education and a local  
32 board considering employment of an individual granted licensure. The State Board of Education  
33 may destroy the information after it is used for the purposes authorized by this section after the  
34 licensure of the individual had ended or has been renewed. The local board may destroy the  
35 information after it is used for the purposes authorized by this section after one calendar year.

36       (g) There shall be no liability for negligence on the part of the State Board of Education,  
37 Superintendent of Public Instruction, or the Department of Public Instruction's employees arising  
38 from any act taken or omission by any of them in carrying out the provisions of this section. The  
39 immunity established by this subsection shall not extend to gross negligence, wanton conduct, or  
40 intentional wrongdoing that would otherwise be actionable. The immunity established by this  
41 subsection shall be deemed to have been waived to the extent of indemnification by insurance,  
42 indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and, to the  
43 extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of  
44 Chapter 143 of the General Statutes.

45       (h) Any applicant for licensure who willfully furnishes, supplies, or otherwise gives false  
46 information on a licensure application that is the basis for a criminal history record check under  
47 this section shall be guilty of a Class A1 misdemeanor."

48       **SECTION 1.(c)** Article 13 of Chapter 143B of the General Statutes is amended by  
49 adding a new section to read:

50 **"§ 143B-931.1. Criminal background checks for applications for teacher licenses and**  
51 **members of boards of directors of nonprofits seeking initial approval of charters.**

1        Upon request by the State Board of Education, the Department of Public Safety shall provide  
2 to the State Board of Education from the State and National Repositories of Criminal Histories the  
3 criminal history of (i) any applicant for licensure for a teaching position under Article 20 of  
4 Chapter 115C of the General Statutes or (ii) the member of a board of directors of a nonprofit  
5 seeking initial approval to establish a charter school under Article 14A of Chapter 115C of the  
6 General Statutes. Along with the request, the State Board shall provide to the Department of  
7 Public Safety the fingerprints of the applicant or member, a form signed by the applicant or  
8 member consenting to the criminal record check and use of fingerprints and other identifying  
9 information required by the State and National Repositories of Criminal Histories, and any  
10 additional information required by the Department of Public Safety. The applicant or member's  
11 fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's  
12 criminal history record file, and the State Bureau of Investigation shall forward a set of  
13 fingerprints to the Federal Bureau of Investigation for a national criminal history record check.  
14 The State Board of Education shall keep all information obtained pursuant to this section  
15 confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to  
16 conduct a criminal record check under this section. The fee shall not exceed the actual cost of  
17 locating, editing, researching, and retrieving the information."

18        **SECTION 1.(d)** The State Board of Education is encouraged to work toward  
19 programming of the licensure system to align with the Multistate Educator Lookup System  
20 established by the National Association of State Directors of Teacher Education and Certification  
21 to enable electronic validation of out-of-state credentials and related information.

22        **SECTION 2.(a)** G.S. 115C-218.90(b) reads as rewritten:

23        "(b) Criminal History Checks. –

24        (1) ~~If the local board of education of the local school administrative unit in which a~~  
25 ~~charter school is located has adopted a policy requiring criminal history checks~~  
26 ~~under G.S. 115C-332, then the~~ The board of directors of each charter school  
27 ~~located in that local school administrative unit shall adopt a policy mirroring~~  
28 ~~the local board of education policy that requires an applicant for employment to~~  
29 ~~be checked for a criminal history, as defined provided in G.S. 115C-332. Each~~  
30 ~~charter school board of directors shall apply its policy uniformly in requiring~~  
31 ~~applicants for employment to be checked for a criminal history before the~~  
32 ~~applicant is given an unconditional job offer. A charter school board of~~  
33 ~~directors may employ an applicant conditionally while the board is checking the~~  
34 ~~person's criminal history and making a decision based on the results of the~~  
35 ~~check.~~

36        (1a) The charter board of directors shall uniformly require applicants to be checked  
37 for a criminal history either by a consumer reporting agency, the Department of  
38 Public Safety, or both. If the charter board of directors requires a criminal  
39 history check by the Department of Public Safety, the charter school board of  
40 directors shall require the person to be checked (i) to be fingerprinted and to  
41 provide any additional information required by the Department of Public Safety  
42 to a person designated by the board of directors or to the local sheriff or the  
43 municipal police, whichever is more convenient for the person, and (ii) to sign a  
44 form consenting to the check of the criminal record and to the use of  
45 fingerprints and other identifying information required by the repositories. The  
46 board of directors shall not employ or contract with individuals who refuse to  
47 consent to a criminal history check. The fingerprints of the individual shall be  
48 forwarded to the State Bureau of Investigation for a search of the State criminal  
49 history record file, and the State Bureau of Investigation shall forward a set of  
50 fingerprints to the Federal Bureau of Investigation for a national criminal  
51 history record check. The Department of Public Safety shall provide to the

1 charter school board of directors the criminal history from the State and  
 2 National Repositories of Criminal Histories of the school personnel for which  
 3 the charter school board of directors requires a criminal history record check.

4 (2) There shall be no liability for negligence on the part of the State Board of  
 5 ~~Education~~ Education, Superintendent of Public Instruction, or the board of  
 6 directors of the charter school, or their employees, arising from any act taken or  
 7 omission by any of them in carrying out the provisions of this subsection. The  
 8 immunity established by this subsection shall not extend to gross negligence,  
 9 wanton conduct, or intentional wrongdoing that would otherwise be actionable.  
 10 The immunity established by this subsection shall be deemed to have been  
 11 waived to the extent of indemnification by insurance, indemnification under  
 12 Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent  
 13 sovereign immunity is waived under the Tort Claims Act, as set forth in Article  
 14 31 of Chapter 143 of the General Statutes.

15 (3) All the information received by the charter school board of directors through  
 16 the checking of the criminal history or by the State Board of Education in  
 17 accordance with this section is privileged information and is not a public record  
 18 but is for the exclusive use of the charter school board of directors, appropriate  
 19 officers of the charter school as permitted by federal law, or the State Board of  
 20 Education. The charter school board of directors or the State Board of  
 21 Education may destroy the information after it is used for the purposes  
 22 authorized by this section after one calendar year."

23 **SECTION 2.(b)** G.S. 115C-238.73 reads as rewritten:

24 **"§ 115C-238.73. Criminal history record checks.**

25 (a) As used in this section:

26 ...

27 (1a) Consumer reporting agency. – An entity which, for monetary fees, dues, or on a  
 28 cooperative nonprofit basis, regularly engages in whole or in part in the practice  
 29 of assembling or evaluating consumer credit information or other information  
 30 on consumers, including criminal history checks, for the purpose of furnishing  
 31 consumer reports to third parties, and which uses any means or facility of  
 32 interstate commerce for the purpose of preparing or furnishing consumer  
 33 reports, and which is regulated as provided in 15 U.S.C. § 1681, et. seq. A  
 34 criminal history check by a consumer reporting agency provided for purposes  
 35 of this section must include all of the following:

36 a. A search of the state criminal registry or repository in which the  
 37 applicant resides.

38 b. A multistate/multijurisdiction database search which includes a  
 39 follow-up search at the originating source for any information returned  
 40 by the database search and which confirms final disposition information  
 41 of the same.

42 c. A search of records obtained from county, state, and federal criminal  
 43 repositories where the individual resides and has previously resided.

44 d. A search of the National Sex Offender Registry established as provided  
 45 in 42 U.S.C. § 16919.

46 ...

47 (b) The board of directors shall adopt a policy ~~on whether and under what circumstances~~  
 48 ~~school personnel shall be required to be~~ that requires an applicant for a school personnel position  
 49 to be checked for a criminal history. ~~history as provided in subsection (c) of this section.~~ The  
 50 board of directors shall apply its policy uniformly in requiring applicants for school personnel  
 51 positions to be checked for a criminal history. The board of directors may grant conditional

1 approval of an application while the board of directors is checking a person's criminal history and  
 2 making a decision based on the results of the check. The board of directors may request the  
 3 criminal history check completed for licensure purposes from the State Board of Education as  
 4 provided in G.S. 115C-297.1(e) for any applicant holding a license.

5 The board of directors ~~shall not~~ may require ~~school personnel~~ an applicant to pay for the  
 6 criminal history record check authorized under this section.

7 (c) The board of directors shall uniformly require applicants to be checked for a criminal  
 8 history either by a consumer reporting agency, the Department of Public Safety, or both. ~~The~~If  
 9 board of directors requires a criminal history check by the Department of Public Safety, the  
 10 board of directors shall require the person to be checked by the Department of Public Safety (i) to be  
 11 fingerprinted and to provide any additional information required by the Department of Public  
 12 Safety to a person designated by the board of directors or to the local sheriff or the municipal  
 13 police, whichever is more convenient for the person, and (ii) to sign a form consenting to the  
 14 check of the criminal record and to the use of fingerprints and other identifying information  
 15 required by the repositories. The board of directors shall ~~consider refusal to consent when making~~  
 16 ~~employment decisions and decisions with regard to independent contractors.~~not employ or  
 17 contract with an individual who refuses to consent to a criminal history check. The fingerprints of  
 18 the individual shall be forwarded to the State Bureau of Investigation for a search of the State  
 19 criminal history record file, and the State Bureau of Investigation shall forward a set of  
 20 fingerprints to the Federal Bureau of Investigation for a national criminal history record check.  
 21 The Department of Public Safety shall provide to the board of directors the criminal history from  
 22 the State and National Repositories of Criminal Histories of any school personnel for which the  
 23 board of directors requires a criminal history record check.

24 The board of directors ~~shall not~~ may require ~~school personnel~~ applicants to pay for the  
 25 fingerprints authorized under this section.

26 ...

27 (i) The board of directors may adopt a policy providing for periodic checks of criminal  
 28 history of employees. The board may conduct a criminal history check as provided in subsection  
 29 (c) of this section. Boards of directors shall not require employees to pay for the criminal history  
 30 check authorized under this subsection.

31 ...."

32 **SECTION 2.(c)** G.S. 115C-332 reads as rewritten:

33 **"§ 115C-332. School personnel criminal history checks.**

34 (a) As used in this section:

35 ...

36 (1a) Consumer reporting agency. – An entity which, for monetary fees, dues, or on a  
 37 cooperative nonprofit basis, regularly engages in whole or in part in the practice  
 38 of assembling or evaluating consumer credit information or other information  
 39 on consumers, including criminal history checks, for the purpose of furnishing  
 40 consumer reports to third parties, and which uses any means or facility of  
 41 interstate commerce for the purpose of preparing or furnishing consumer  
 42 reports, and which is regulated as provided in 15 U.S.C. § 1681, et. seq. A  
 43 criminal history check by a consumer reporting agency provided for purposes  
 44 of this section must include all of the following:

45 a. A search of the state criminal registry or repository in which the  
 46 applicant resides.

47 b. A multistate/multijurisdiction database search which includes a  
 48 follow-up search at the originating source for any information returned  
 49 by the database search and which confirms final disposition information  
 50 of the same.

- 1                   c.     A search of records obtained from county, state, and federal criminal  
2                             repositories where the individual resides and has previously resided.  
3                   d.     A search of the National Sex Offender Registry established as provided  
4                             in 42 U.S.C. § 16919.

5                   ...

6           (b)     Each local board of education shall adopt a policy ~~on whether and under what~~  
7 ~~circumstances~~ an that requires an applicant for a school personnel position ~~shall be required~~ to be  
8 checked for a criminal history as provided in subsection (c) of this section before the applicant is  
9 offered an unconditional job. Each local board of education shall apply its policy uniformly in  
10 requiring applicants for school personnel positions to be checked for a criminal history. A local  
11 board of education ~~that requires a criminal history check for an applicant~~ may employ an  
12 applicant conditionally while the board is checking the person's criminal history and making a  
13 decision based on the results of the check. The local board of education may request the criminal  
14 history check completed for licensure purposes from the State Board of Education as provided in  
15 G.S. 115C-297.1(e) for any applicant holding a license.

16           A local board of education ~~shall not~~ may require an applicant to pay for the criminal history  
17 check authorized under this subsection.

18           (c)     A local board of education by policy shall uniformly require applicants to be checked  
19 for a criminal history either by a consumer reporting agency, the Department of Public Safety, or  
20 both. The Department of Public Safety shall provide to the local board of education the criminal  
21 history from the State and National Repositories of Criminal Histories of any applicant for a  
22 school personnel position in the local school administrative unit for which a local board of  
23 education requires a criminal history check. ~~The~~ If the local board of education requires a criminal  
24 history check by the Department of Public Safety, the local board of education shall require the  
25 person to be checked by the Department of Public Safety to (i) be fingerprinted and to provide any  
26 additional information required by the Department of Public Safety to a person designated by the  
27 local board, or to the local sheriff or the municipal police, whichever is more convenient for the  
28 person, and (ii) sign a form consenting to the check of the criminal record and to the use of  
29 fingerprints and other identifying information required by the repositories. The local board of  
30 education shall ~~consider refusal to consent when making employment decisions and decisions with~~  
31 ~~regard to independent contractors~~ not employ or contract with an individual who refuses to  
32 consent to a criminal history check.

33           The local board of education ~~shall not~~ may require an applicant to pay for being fingerprinted.

34           ...

35           (i)     The local board of education may adopt a policy providing for periodic checks of  
36 criminal history of employees. The local board may conduct a criminal history check as provided  
37 in subsection (c) of this section. Local boards of education shall not require employees to pay for  
38 the criminal history check authorized under this subsection.

39           ...."

40           **SECTION 2.(d)** G.S. 143B-931 is amended by adding new subsections to read:

41           "(b1) Upon the request of the board of directors of a charter school, the Department of Public  
42 Safety may provide a criminal history record check to the board of directors of a person who is  
43 employed at a charter school or of a person who has applied for employment at a charter school if  
44 the request includes documentation of the employee's or applicant's consent to the criminal history  
45 record check. The Department may also provide a criminal history record check of school  
46 personnel as defined in G.S. 115C-332 by fingerprint card to the board of directors of the charter  
47 school from the National Repositories of Criminal Histories, in accordance with  
48 G.S. 115C-218.90. The information shall be kept confidential by the board of directors of the  
49 charter school as provided in G.S. 115C-218.90.

50           (b2) Upon request by the board of trustees of a University of North Carolina laboratory  
51 school, the Department of Public Safety may provide a criminal history record check to the board

1 of trustees of a person who is employed at a laboratory school or of a person who has applied for  
2 employment at a laboratory school if the request includes documentation of the employee's or  
3 applicant's consent to the criminal history record check. The Department may also provide a  
4 criminal history record check of school personnel as defined in G.S. 116-239.12 by fingerprint  
5 card to the board of trustees of the laboratory school from the National Repositories of Criminal  
6 Histories, in accordance with G.S. 116-239.12. The information shall be kept confidential by the  
7 board of trustees of the laboratory school as provided in G.S. 116-239.12."

8 **SECTION 3.(a)** G.S. 115C-218.1(b)(3) reads as rewritten:

9 "(3) The governance structure of the school including the names of the initial  
10 members of the board of directors of the nonprofit, tax-exempt corporation and  
11 the process to be followed by the school to ensure parental involvement. The  
12 initial members of the board of directors shall consent to a criminal history  
13 check as provided in G.S. 115C-218.115. A teacher employed by the board of  
14 directors to teach in the charter school may serve as a nonvoting member of the  
15 board of directors for the charter school."

16 **SECTION 3.(b)** Article 14A of Chapter 115C of the General Statutes is amended by  
17 adding a new section to read:

18 **"§ 115C-218.115. Charter board of director criminal history checks.**

19 (a) As used in this section, the following terms are defined:

20 (1) Criminal history. – A county, state, or federal criminal history of conviction of,  
21 or a plea of nolo contendere to, a crime, whether a misdemeanor or a felony,  
22 that indicates the applicant (i) poses a threat to the physical safety of students or  
23 personnel, (ii) has demonstrated that he or she does not have the integrity or  
24 honesty to fulfill his or her duties as public school personnel, or (iii) otherwise  
25 fails to meet the standards and criteria adopted by the State Board of Education  
26 governing ethics and moral character required for professional educators. Such  
27 crimes include the following North Carolina crimes contained in any of the  
28 following Articles of Chapter 14 of the General Statutes: Article 5A,  
29 Endangering Executive and Legislative Officers; Article 6, Homicide; Article  
30 7B, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping  
31 and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or  
32 Incendiary Device or Material; Article 14, Burglary and Other Housebreakings;  
33 Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17,  
34 Robbery; Article 18, Embezzlement; Article 19, False Pretense and Cheats;  
35 Article 19A, Obtaining Property or Services by False or Fraudulent Use of  
36 Credit Device or Other Means; Article 20, Frauds; Article 21, Forgery; Article  
37 26, Offenses Against Public Morality and Decency; Article 26A, Adult  
38 Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29,  
39 Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against  
40 the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies; Article  
41 39, Protection of Minors; and Article 60, Computer-Related Crime. Such  
42 crimes also include possession or sale of drugs in violation of the North  
43 Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General  
44 Statutes, and alcohol-related offenses such as sale to underage persons in  
45 violation of G.S. 18B-302 or driving while impaired in violation of  
46 G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes  
47 listed in this subsection, such crimes also include similar crimes under federal  
48 law or under the laws of other states.

49 (2) Member. – An individual who is a member of the board of directors of a  
50 nonprofit seeking initial approval to establish a charter school.



1       **(b)**     The State Board of Education shall require all members of the board of directors of the  
2 nonprofit to be checked for a criminal history before granting final approval of a charter  
3 application. The State Board of Education shall require a member to pay for the criminal history  
4 check authorized under this subsection, but the nonprofit may pay for the criminal history check  
5 on behalf of the member.

6       **(c)**     The Department of Public Safety shall provide to the State Board of Education the  
7 criminal history from the State and National Repositories of Criminal Histories of any member.  
8 The State Board of Education shall require the person to be checked by the Department of Public  
9 Safety to (i) be fingerprinted and to provide any additional information required by the  
10 Department of Public Safety to a person designated by the State Board of Education and (ii) sign a  
11 form consenting to the check of the criminal record and to the use of fingerprints and other  
12 identifying information required by the repositories. The State Board of Education shall not issue a  
13 charter to a nonprofit with a member who refuses to consent to a criminal history check.

14       **(d)**     The State Board of Education shall review the criminal history it receives on a person  
15 and shall determine whether the results of the review indicate that the member (i) poses a threat to  
16 the physical safety of students or personnel or (ii) has demonstrated that he or she does not have  
17 the integrity or honesty to fulfill his or her duties as a member of the board of directors of a charter  
18 school. If the State Board of Education denies an application for a charter based on its review of  
19 the criminal history it receives on a member, the State Board of Education shall make written  
20 findings with regard to how it used the information when denying the application.

21       **(e)**     All the information received by the State Board of Education through the checking of  
22 the criminal history in accordance with this section is privileged information and is not a public  
23 record but is for the exclusive and confidential use of the State Board of Education. The State  
24 Board of Education may destroy the information after it is used for the purposes authorized by this  
25 section after one calendar year.

26       **(f)**     There shall be no liability for negligence on the part of the State Board of Education,  
27 the Superintendent of Public Instruction, or the Department of Public Instruction's employees,  
28 arising from any act taken or omission by any of them in carrying out the provisions of this  
29 section. The immunity established by this subsection shall not extend to gross negligence, wanton  
30 conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established  
31 by this subsection shall be deemed to have been waived to the extent of indemnification by  
32 insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes,  
33 and, to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article  
34 31 of Chapter 143 of the General Statutes.

35       **(g)**     Any member who willfully furnishes, supplies, or otherwise gives false information for  
36 a criminal history record check under this section shall be guilty of a Class A1 misdemeanor."

37       **SECTION 4.** This act is effective when it becomes law. Section 1 of this act applies to  
38 applications for licensure that are received on or after October 1, 2017. Section 2 of this act  
39 applies to applications for employment that are received on or after January 1, 2018. Section 3 of  
40 this act applies to applications for initial charters that are received on or after October 1, 2017.