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SENATE BILL DRS55006-TCfqq-48A (05/05)

Short Title: Protect Students in Schools.

(Public)

Sponsors: Senators Barefoot, Wade, and Newton (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REQUIRE CRIMINAL BACKGROUND CHECKS FOR TEACHER
LICENSURE.

The General Assembly of North Carolina enacts:

SECTION 1. 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 who have not been previously licensed 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:

(1) Application for demographic or administrative changes to a license.



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

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

11 **SECTION 2.** Article 20 of Chapter 115C of the General Statutes is amended by
12 adding a new section to read:

13 **"§ 115C-297.1. School personnel criminal history checks.**

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

36 (b) The State Board of Education shall require applicants who have not been previously
37 licensed in the State to be checked for a criminal history before the applicant is issued a license.
38 The State Board of Education shall require an applicant to pay for the criminal history check
39 authorized under this subsection, but a local board of education may pay for the criminal history
40 check on behalf of the applicant.

41 (c) The Department of Public Safety shall provide to the State Board of Education the
42 criminal history from the State and National Repositories of Criminal Histories of any applicant
43 for initial licensure. The State Board of Education shall require the person to be checked by the
44 Department of Public Safety to (i) be fingerprinted and to provide any additional information
45 required by the Department of Public Safety to a person designated by the State Board of
46 Education and (ii) sign a form consenting to the check of the criminal record and to the use of
47 fingerprints and other identifying information required by the repositories. The State Board of
48 Education shall not issue a license to an individual who refuses to consent to a criminal history
49 check.

50 (d) The State Board of Education shall review the criminal history it receives on a person.
51 The State Board of Education shall determine whether the results of the review indicate that the

1 applicant (i) poses a threat to the physical safety of students or personnel or (ii) has demonstrated
2 that he or she does not have the integrity or honesty to fulfill his or her duties as public school
3 personnel and shall use the information when making licensure decisions. The State Board of
4 Education shall make written findings with regard to how it used the information when making
5 licensure decisions.

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

11 (f) There shall be no liability for negligence on the part of the State Board of Education, or
12 its employees, arising from any act taken or omission by any of them in carrying out the
13 provisions of this section. The immunity established by this subsection shall not extend to gross
14 negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The
15 immunity established by this subsection shall be deemed to have been waived to the extent of
16 indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the
17 General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set
18 forth in Chapter 31 of Chapter 143 of the General Statutes.

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

22 **SECTION 3.** Article 13 of Chapter 143B of the General Statutes is amended by
23 adding a new section to read:

24 **"§ 143B-931.1. Criminal background checks for applications for teacher licenses.**

25 The Department of Public Safety may provide to the State Board of Education from the State
26 and National Repositories of Criminal Histories the criminal history of any applicant for licensure
27 for a teaching position under Article 20 of Chapter 115C of the General Statutes. Along with the
28 request, the Board shall provide to the Department of Public Safety the fingerprints of the
29 applicant, a form signed by the applicant consenting to the criminal record check and use of
30 fingerprints and other identifying information required by the State and National Repositories of
31 Criminal Histories, and any additional information required by the Department of Public Safety.
32 The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of
33 the State's criminal history record file, and the State Bureau of Investigation shall forward a set of
34 fingerprints to the Federal Bureau of Investigation for a national criminal history record check.
35 The State Board of Education shall keep all information obtained pursuant to this section
36 confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to
37 conduct a criminal record check under this section. The fee shall not exceed the actual cost of
38 locating, editing, researching, and retrieving the information."

39 **SECTION 4.** The State Board of Education shall require all applicants for licensure
40 renewal who have not previously been checked for a criminal history submitted to the State Board
41 of Education to be checked for a criminal history by the State Board of Education at the applicant's
42 next license renewal.

43 **SECTION 5.** This act becomes effective July 1, 2016, and applies to applications for
44 licensure received on or after that date.