

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

FILED SENATE  
Apr 2, 2019  
S.B. 502  
PRINCIPAL CLERK

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SENATE BILL DRS15224-LR-108

Short Title: "Ban the Box".

(Public)

Sponsors: Senators Mohammed and McKissick (Primary Sponsors).

Referred to:

1  
2 A BILL TO BE ENTITLED  
3 AN ACT REQUIRING THE FAIR ASSESSMENT OF PERSONS WITH CRIMINAL  
4 HISTORIES BY "BANNING THE BOX."

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Chapter 126 of the General Statutes is amended by adding a new  
7 Article to read:

8 "Article 17.

9 "Fair Assessment of Persons with Criminal Histories.

10 "**§ 126-100. Definitions.**

11 The following definitions apply in this Article:

- 12 (1) Criminal history. – A State or federal history of conviction of a crime, whether  
13 a misdemeanor or felony, that bears upon an applicant's fitness for public  
14 employment. The term does not include a record of arrest not resulting in  
15 conviction.
- 16 (2) Hiring authority. – The agent responsible by law for the hiring of persons for  
17 public employment.
- 18 (3) Public employment. – Any job, work for pay, or employment, including  
19 temporary or seasonal work, where the employer is the State of North Carolina  
20 or any local political subdivision of the State.

21 "**§ 126-101. Consideration of applicant criminal history.**

22 A hiring authority may not inquire into or consider the criminal history of an applicant for  
23 public employment, or include any such inquiry on any initial employment application form,  
24 until the hiring authority has made a conditional offer of employment to the applicant. This  
25 Article is not applicable to positions for which a hiring authority is otherwise required by law to  
26 consider the criminal record; however, nothing in this Article shall be construed to preclude any  
27 hiring authority in its discretion from adopting the provisions of this Article.

28 "**§ 126-102. Criteria for disqualification.**

29 (a) Except as otherwise required by law, no person shall be disqualified from public  
30 employment solely or in part because of a prior conviction, unless the conviction is determined  
31 to be substantially related to the qualifications, functions, or duties of the position after  
32 consideration of all of the following factors:

- 33 (1) The level and seriousness of the crime.  
34 (2) The date of the crime.  
35 (3) The age of the person at the time of the conviction.  
36 (4) The circumstances surrounding the commission of the crime, if known.



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- 1           (5)    The nexus between the criminal conduct and the duties of the position.
- 2           (6)    The prison, jail, probation, parole, rehabilitation, and employment records of
- 3                the person since the date the crime was committed.
- 4           (7)    The subsequent commission of a crime by the person.

5       (b)    A record of arrest not resulting in conviction may not be the basis for disqualification  
6 from public employment.

7 **"§ 126-103. Opportunity to provide evidence of inaccuracy.**

8       The hiring authority must inform the individual of the potential adverse employment decision  
9 based on the background check report prior to a final decision and must provide an opportunity  
10 to demonstrate that he or she was not correctly identified in the background check report or that  
11 the report is otherwise inaccurate.

12 **"§ 126-104. Data collection.**

13       The Office of State Personnel shall do the following:

- 14           (1)    Record and log the positions that are statutorily required to conduct
- 15                background checks prior to a conditional offer of employment.
- 16           (2)    Conduct quarterly reviews to determine compliance with this Article and
- 17                make a report on all such reviews to the General Assembly annually.
- 18           (3)    Collect, and make available to the public, data on:
  - 19                a.    The number of applicants for public employment with criminal
  - 20                    histories given conditional offers of employment.
  - 21                b.    The number of applicants for public employment with criminal
  - 22                    histories who are subsequently employed.
  - 23                c.    The retention rate of public employees with criminal histories.

24 **"§ 126-105. Applicability.**

25       The provisions of this Article apply to all applicants for public employment."

26       **SECTION 2.** G.S. 126-5 is amended by adding a new subsection to read:

27       "(c15) Notwithstanding any other provision of law, the provisions of Article 17 of this  
28 Chapter apply as to applicants for employment with the State of North Carolina or any local  
29 political subdivision of the State."

30       **SECTION 3.** This act is effective when it becomes law and applies to applications  
31 for employment made on or after that date.