

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

**H.B. 117**  
**Feb 15, 2017**  
**HOUSE PRINCIPAL CLERK**

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**HOUSE BILL DRH30058-MKf-45 (01/18)**

Short Title: Protect Students in Schools. (Public)

Sponsors: Representatives Warren, Boswell, Faircloth, and Horn (Primary Sponsors).

Referred to:

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:

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



- 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 1.(b)** 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, the following terms are defined:

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

50 (b) The State Board of Education shall require applicants to be checked for a criminal  
51 history before the applicant is issued an unconditional license. The State Board of Education may

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

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

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

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

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

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

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

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

48 **"§ 143B-931.1. Criminal background checks for applications for teacher licenses and**  
49 **members of boards of directors of nonprofits seeking initial approval of charters.**

50 Upon request by the State Board of Education, the Department of Public Safety shall provide  
51 to the State Board of Education from the State and National Repositories of Criminal Histories the

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

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

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

21 "(b) Criminal History Checks. –

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

34 (1a) The charter board of directors shall uniformly require applicants to be checked  
35 for a criminal history either by a consumer reporting agency, the Department of  
36 Public Safety, or both. If the charter board of directors requires a criminal  
37 history check by the Department of Public Safety, the charter school board of  
38 directors shall require the person to be checked (i) to be fingerprinted and to  
39 provide any additional information required by the Department of Public Safety  
40 to a person designated by the board of directors or to the local sheriff or the  
41 municipal police, whichever is more convenient for the person, and (ii) to sign a  
42 form consenting to the check of the criminal record and to the use of  
43 fingerprints and other identifying information required by the repositories. The  
44 board of directors shall not employ or contract with individuals who refuse to  
45 consent to a criminal history check. The fingerprints of the individual shall be  
46 forwarded to the State Bureau of Investigation for a search of the State criminal  
47 history record file, and the State Bureau of Investigation shall forward a set of  
48 fingerprints to the Federal Bureau of Investigation for a national criminal  
49 history record check. The Department of Public Safety shall provide to the  
50 charter school board of directors the criminal history from the State and

National Repositories of Criminal Histories of the school personnel for which the charter school board of directors requires a criminal history record check.

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

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

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

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

(a) As used in this section:

- ...
- (1a) Consumer reporting agency. – An entity which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers, including criminal history checks, for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports, and which is regulated as provided in 15 U.S.C. § 1681, et. seq. A criminal history check by a consumer reporting agency provided for purposes of this section must include all of the following:
- a. A search of the state criminal registry or repository in which the applicant resides.
  - b. A multistate/multijurisdiction database search which includes a follow-up search at the originating source for any information returned by the database search and which confirms final disposition information of the same.
  - c. A search of records obtained from county, state, and federal criminal repositories where the individual resides and has previously resided.
  - d. A search of the National Sex Offender Registry established as provided in 42 U.S.C. § 16919.
- ...

(b) ~~The board of directors shall adopt a policy on whether and under what circumstances school personnel shall be required to be that requires an applicant for a school personnel position to be checked for a criminal history.~~ history as provided in subsection (c) of this section. The board of directors shall apply its policy uniformly in requiring applicants for school personnel positions to be checked for a criminal history. The board of directors may grant conditional approval of an application while the board of directors is checking a person's criminal history and

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

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

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

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

25 ...

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

30 ...."

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

32 **"§ 115C-332. School personnel criminal history checks.**

33 (a) As used in this section:

34 ...

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

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

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

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

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

3                   ...

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

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

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

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

32           ...

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

37           ...."

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

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

48           **(b2)** Upon request by the board of trustees of a University of North Carolina laboratory  
49 school, the Department of Public Safety may provide a criminal history record check to the board  
50 of trustees of a person who is employed at a laboratory school or of a person who has applied for  
51 employment at a laboratory school if the request includes documentation of the employee's or

1 applicant's consent to the criminal history record check. The Department may also provide a  
2 criminal history record check of school personnel as defined in G.S. 116-239.12 by fingerprint  
3 card to the board of trustees of the laboratory school from the National Repositories of Criminal  
4 Histories, in accordance with G.S. 116-239.12. The information shall be kept confidential by the  
5 board of trustees of the laboratory school as provided in G.S. 116-239.12."

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

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

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

16 **"§ 115C-218.115. Charter board of director criminal history checks.**

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

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

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

49 (b) The State Board of Education shall require all members of the board of directors of the  
50 nonprofit to be checked for a criminal history before granting final approval of a charter  
51 application. The State Board of Education shall require a member to pay for the criminal history



1 check authorized under this subsection, but the nonprofit may pay for the criminal history check  
2 on behalf of the member.

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

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

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

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

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

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