

GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Fiscal Note

BILL NUMBER: House Bill 1659 (Third Edition)

SHORT TITLE: Criminal History Checks/DPI Employees.

SPONSOR(S): Representative Fisher

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>
REVENUES:					
Department of Justice	Up to \$3,800 annually (fees collected from DPI; see pages 2-3).				
EXPENDITURES:					
Department of Public Instruction	Up to \$5,300 annually (fees charged by CCBI and DOJ; see pages 2-3).				
Department of Justice	Up to \$3,654 annually (approx. costs incurred; see pages 2-3).				
POSITIONS (cumulative):	None.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: N.C. Department of Public Instruction; Department of Justice.					
EFFECTIVE DATE: October 1, 2007.					

BILL SUMMARY: H.B. 1659 enacts G.S. 114-19.20 to authorize the Department of Public Instruction (DPI) to obtain criminal history record checks through the Department of Justice (DOJ) for the following covered persons:

- a. Applicants for employment and current DPI employees who have direct or indirect ability to access DPI records, documents, or electronic data.
- b. Persons in supervisory positions who have access to the above records and documents;
- c. Applicants and current employees of DPI; and,
- d. Independent contractors or their employees that have contracted to provide services to DPI.

Authorizes the North Carolina Department of Justice to provide, upon DPI's request, a covered person's criminal history from the State Repository of Criminal Histories and from the National Repository *if the covered person has not resided in North Carolina during the past five years*, after

certain procedural requirements are met. Requires DPI to keep all information confidential, and requires that all releases of criminal history information to DPI be subject to, and in compliance with, rules adopted by the Division of Criminal Information. Authorizes the Department of Justice to charge a reasonable fee for conducting the criminal record checks. Authorizes, but does not require, DPI to deny employment or dismiss a current employee if the covered person's verified criminal history record check reveals one or more specified convictions. Lists several criteria that DPI must consider before denying employment or dismissing a current employee. Authorizes DPI to deny employment or dismiss a covered person who refuses to consent to the criminal history record check. Authorizes DPI to extend a conditional offer of employment pending the results of a criminal history record check. Effective October 1, 2007.

Second edition (House committee substitute) makes a correction to proposed G.S. 114-19.20, directing that fingerprints of an individual undergoing a national criminal history check are to be forwarded to the Federal Bureau of Investigation (was, State Bureau of Investigation). Also condenses the definition of a covered person.

Third edition (Senate committee substitute) renumbers the proposed new statute, from G.S. 114-19.20 to G.S. 114-19.21.

Source: Bill Digest H.B. 1659 (04/18/0200).

ASSUMPTIONS AND METHODOLOGY:

Department of Public Instruction

Though H.B. 1659 authorizes the Department of Public Instruction to obtain criminal history record checks for all applicants, current employees, and independent contractors (including their employees), the Department indicates that checks will be conducted primarily on those individuals with access to personal, identifying information (e.g. student data, social security numbers, licensure payments, etc.). DPI estimates that approximately 100 checks will be conducted annually, the majority of which will be State history checks (national checks authorized for covered applicants who have not resided in North Carolina during the five years prior to application); however, a more detailed estimate of national and federal checks is unavailable at this time.

To initiate a criminal record check, DPI must forward the covered person's fingerprints and consent form to the State Bureau of Investigation (SBI), and request that person's criminal record.¹ According to DPI, fingerprinting will be performed by the City/County Bureau of Identification (CCBI) via live-scan, and then forwarded electronically to the SBI – *CCBI charges a fee of \$15 per scan to offset costs incurred* (database entries, video-photography, and documentation). *In addition*, the State Bureau of Investigation (SBI) charges the following fees to non-criminal justice agencies for state and national fingerprint checks:

N.C. Fingerprint Check: \$14 (\$14 retained by DOJ)
National Fingerprint Check: \$38 (\$16 retained by DOJ, \$22 remitted to the FBI)

¹ The Criminal Information and Identification Section within the Special Operations Division of the State Bureau of Investigation (SBI) conduct the criminal record check.

Thus, assuming up to 100 state and/or national fingerprint checks each year, DPI's annual expenditures could range from \$2,900 to \$5,300. Although the Department of Public Instruction may experience some additional personnel workload (e.g. fingerprinting, record-keeping, etc.), it is assumed that any increase will be accommodated by current resources.

Department of Justice

DOJ's unit cost for conducting national and criminal record checks via live-scan is \$14.54 (cost includes overhead and equipment). Each staff member in the fingerprint identification section can perform, on average, 8,000 - 10,000 checks per year. As indicated below, the costs incurred for criminal record checks are offset by fee collections; therefore, existing personnel will absorb the additional workload for the estimated 100 record checks.

Record Check	Agency Fee	DOJ Total Cost*
Live-Scan Fingerprint Check <i>(NC data only)</i>	\$14.00	\$14.54
Live-Scan Fingerprint Check <i>(NC and FBI data)</i>	\$38.00	\$36.54
<i>*2005 unit costs are derived from OSBM "Study of the Cost of Providing Criminal Record Checks;" costs include an equipment allowance and 12.5% overhead rate Cost for state and federal record checks includes \$22 remittance per check to the Federal Bureau of Investigation</i>		

Assuming up to 100 state and/or national criminal record checks annually, DOJ expenditures could range from \$1,454 (state only) to \$3,654 (state and federal); total receipts could range from \$1,400 to \$3,800, respectively.

SOURCES OF DATA: Department of Public Instruction; Department of Justice.

TECHNICAL CONSIDERATIONS: None

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