

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

H

D

**HOUSE BILL 392
PROPOSED COMMITTEE SUBSTITUTE H392-PCS30281-TJ-11**

Short Title: Share Arrest Warrant Status/Pub. Assistance.

(Public)

Sponsors:

Referred to:

March 21, 2013

A BILL TO BE ENTITLED

1 AN ACT REQUIRING A COUNTY DEPARTMENT OF SOCIAL SERVICES (DSS) TO
2 CONDUCT A CRIMINAL CHECK ON APPLICANTS FOR OR RECIPIENTS OF
3 TEMPORARY ASSISTANCE TO NEEDY FAMILY (TANF) BENEFITS OR FOOD
4 AND NUTRITION SERVICES (FNS) BENEFITS, TO REQUIRE DSS TO SHARE
5 INFORMATION WITH A LOCAL LAW ENFORCEMENT AGENCY REGARDING AN
6 APPLICANT FOR OR RECIPIENT OF TANF OR FNS BENEFITS WHO HAS AN
7 OUTSTANDING ARREST WARRANT, AND TO DENY TANF OR FNS BENEFITS
8 TO AN APPLICANT OR RECIPIENT SUBJECT TO AN OUTSTANDING WARRANT
9 FOR A FELONY OR FOR A PROBATION OR PAROLE VIOLATION.
10

11 Whereas, federal law, specifically, 42 U.S.C. § 601, et seq., requires that states
12 receiving funds under certain federal grant programs shall not use any part of the grant to
13 provide assistance to any individual who is (i) fleeing to avoid prosecution, custody, or
14 confinement after conviction, under the laws of the place from which the individual flees, for a
15 crime, or an attempt to commit a crime, which is a felony under the laws of the place from
16 which the individual flees or (ii) violating a condition of probation or parole imposed under
17 federal or State law; and

18 Whereas, states receiving these federal grant funds are authorized under federal law
19 to establish safeguards against the use or disclosure of information about applicants or
20 recipients for assistance under the state program funded under federal law; and

21 Whereas, federal law expressly authorizes the State agency administering the
22 program to furnish a federal, State, or local law enforcement officer, upon the request of the
23 officer, with the current address of any recipient if the officer furnishes the agency with the
24 name of the applicant or recipient under specified circumstances; and

25 Whereas, conducting a criminal background check on applicants for or recipients of
26 public assistance benefits is necessary in order to ensure compliance with federal laws
27 prohibiting a fleeing felon or probation or parole violator from receiving public assistance
28 benefits; and

29 Whereas, the apprehension of individuals by law enforcement may be necessary to
30 protect and safeguard the public; and

31 Whereas, State agencies administering the program may have or receive information
32 that is necessary for a law enforcement agency to conduct the official duties of the agency, and
33 the location or apprehension of the applicant or recipient is within a law enforcement agency's
34 official duties; Now, therefore,

35 The General Assembly of North Carolina enacts:



* H 3 9 2 - P C S 3 0 2 8 1 - T J - 1 1 *

1 SECTION 1. Part 1 of Article 2 of Chapter 108A of the General Statutes is
2 amended by adding the following new section to read:

3 **"§ 108A-26.1. Information sharing of outstanding arrest warrant of applicant for or**
4 **recipient of program assistance.**

5 (a) A county department of social services shall notify an applicant for program
6 assistance under Part 2 or Part 5 of this Article that release of confidential information from the
7 applicant's records may not be protected if a warrant for arrest is issued against the applicant. A
8 county department of social services shall notify all recipients under a program of public
9 assistance under Part 2 or Part 5 of this Article at the time of renewal of the recipient's
10 application for such program assistance that release of confidential information from the
11 recipient's records may not be protected if a felony or misdemeanor arrest warrant is issued
12 against the recipient.

13 (b) Notwithstanding G.S. 108A-80, and to the extent otherwise allowed by federal and
14 State law, a county department of social services shall conduct a criminal history record check
15 of an applicant for or recipient of program assistance under Part 2 or Part 5 of this Article. The
16 county department of social services shall ensure that the State and national criminal history of
17 an applicant, or of a recipient at the time of benefits renewal, is checked. If an applicant or
18 recipient's criminal history record check reveals that a warrant has been issued for the arrest of
19 the applicant or recipient for the commission of a felony or a misdemeanor, or for a probation
20 or parole violation, the county department of social services shall, as soon as practicable, but
21 within 72 hours after receiving information of the existence of the warrant for arrest, notify a
22 local law enforcement agency in the county where the applicant or recipient is seeking benefits
23 of the existence of the warrant for arrest. Information that may be released pursuant to this
24 section shall be limited to the name, address, telephone number, Social Security number, birth
25 date, and physical description of the applicant for or recipient of program assistance. Except as
26 otherwise provided by this section, the county department of social services shall keep all
27 information obtained pursuant to this section confidential.

28 (c) Nothing in this section shall be construed to authorize the disclosure of any
29 information otherwise protected by State or federal law or regulation.

30 (d) This section applies to applicants for or recipients of program assistance under Part
31 2 or Part 5 of this Article only.

32 (e) The Social Services Commission shall adopt rules regarding (i) the sharing of
33 information between county departments of social services and local law enforcement agencies,
34 (ii) the accuracy of information shared pursuant to this section, and (iii) any other rules the
35 Commission deems necessary to implement this section. The Secretary of the Department of
36 Health and Human Services shall oversee implementation of these rules.

37 (f) Each county department of social services is authorized to enter into a
38 Memorandum of Agreement or Memorandum of Understanding with the head of any law
39 enforcement agency as defined in G.S. 90-95.2 in order to perform the functions described in
40 this section.

41 (g) Annually, on April 1, each county department of social services shall report to the
42 Department of Health and Human Services on the number of individuals who are denied
43 benefits under this section and the number of referrals made to law enforcement agencies under
44 this section during the preceding calendar year.

45 (h) Annually, on May 1, the Department of Health and Human Services shall report to
46 the Joint Legislative Oversight Committee on Health and Human Services of the General
47 Assembly on the number of individuals who are denied assistance under this section and the
48 number of referrals made by county departments of social services to law enforcement agencies
49 under this section. The report shall include a breakdown by county."

50 SECTION 2. Part 1 of Article 2 of Chapter 108A of the General Statutes is
51 amended by adding the following new section to read:

1 **"§ 108A-26.2. Individual subject to felony charge; eligibility for program assistance;**
2 **federal approval; review by department.**

3 (a) Subject to subsection (b) of this section, a department of social services shall not
4 grant public assistance under Part 2 or Part 5 of Article 2 of Chapter 108A of the General
5 Statutes if the department receives information described in G.S. 108A-26.1 that the applicant
6 for or recipient of program assistance is subject to arrest under an outstanding warrant arising
7 from a charge of violating conditions of parole or probation or from a felony charge against that
8 applicant or recipient in any jurisdiction. This section does not affect the eligibility for
9 assistance of other members of the applicant's or recipient's household. An applicant or
10 recipient described in this section is eligible for program assistance, if all other eligibility
11 criteria of the law are met, when the applicant or recipient is no longer subject to arrest under
12 an outstanding warrant as described in this section.

13 (b) If federal approval is required in order to prevent the loss of federal reimbursement
14 as a result of the application of this section to an applicant for or recipient of program
15 assistance, the department of social services shall promptly take any action necessary to obtain
16 federal approval."

17 **SECTION 3.** Part 2 of Article 4 of Chapter 114 of the General Statutes is amended
18 by adding the following new section to read:

19 **"§ 114-19.33. Criminal record checks of applicants for or recipients of program**
20 **assistance.**

21 The Department of Justice may provide to a county department of social services from the
22 State and National Repositories of Criminal Histories the criminal history of any person who
23 applies for program assistance under Part 2 or Part 5 of Article 2 of Chapter 108A of the
24 General Statutes. The county department of social services shall provide to the Department of
25 Justice, along with the request, a form signed by the applicant or recipient acknowledging
26 receipt of the notification required by G.S. 108A-26.1(a) and any identifying information
27 required by the State and National Repositories and any additional information required by the
28 Department of Justice. Except as provided under G.S. 108A-26.1, the county department of
29 social services shall keep all information obtained pursuant to this section confidential."

30 **SECTION 4.** This act is effective when it becomes law.