

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H.B. 612
Apr 9, 2015
HOUSE PRINCIPAL CLERK

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HOUSE DRH40317-LR-82 (03/10)

Short Title: "Ban the Box".

(Public)

Sponsors: Representative Pierce.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE FAIR ASSESSMENTS OF PERSONS WITH CRIMINAL
3 HISTORIES APPLYING FOR PUBLIC EMPLOYMENT.

4 Whereas, reducing barriers to employment for people with criminal histories, and
5 decreasing unemployment in communities with concentrated numbers of people who have
6 previously offended, is a matter of statewide concern; and

7 Whereas, increasing employment opportunities for people with criminal histories
8 will reduce recidivism and improve economic stability in our communities; Now, therefore,
9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** Chapter 126 of the General Statutes is amended by adding a new
11 Article to read:

12 "Article 17.

13 "Fair Assessment of Persons with Criminal Histories.

14 **"§ 126-100. Definitions.**

15 The following definitions apply in this Article:

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

25 **"§ 126-101. Consideration of applicant criminal history.**

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

32 **"§ 126-102. Criteria for disqualification.**

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



- 1 (1) The level and seriousness of the crime.
- 2 (2) The date of the crime.
- 3 (3) The age of the person at the time of the conviction.
- 4 (4) The circumstances surrounding the commission of the crime, if known.
- 5 (5) The nexus between the criminal conduct and the duties of the position.
- 6 (6) The prison, jail, probation, parole, rehabilitation, and employment records of
7 the person since the date the crime was committed.
- 8 (7) The subsequent commission of a crime by the person.

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

11 **"§ 126-103. Opportunity to provide evidence of inaccuracy.**

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

16 **"§ 126-104. Data collection.**

17 The Office of State Personnel shall do the following:

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

28 **"§ 126-105 Applicability.**

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

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

31 "(c13) Notwithstanding any other provision of law, the provisions of Article 17 of this
32 Chapter apply as to applicants for employment with the State of North Carolina or any local
33 political subdivision of the State."

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