

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 315
Committee Substitute Favorable 4/21/21
PROPOSED COMMITTEE SUBSTITUTE H315-PCS10323-SAF-17

Short Title: Arson Law Revisions.

(Public)

Sponsors:

Referred to:

March 17, 2021

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE PUNISHMENT FOR CERTAIN ARSON OFFENSES; TO AMEND THE OFFENSE OF ARSON OR OTHER UNLAWFUL BURNINGS THAT RESULT IN INJURY TO A FIREFIGHTER, LAW ENFORCEMENT OFFICER, FIRE INVESTIGATOR, OR EMERGENCY MEDICAL TECHNICIAN; TO AUTHORIZE THE COMMISSIONER OF INSURANCE THROUGH THE OFFICE OF THE STATE FIRE MARSHAL TO INVESTIGATE FIRES; TO REQUIRE CRIMINAL HISTORY RECORD CHECKS OF APPLICANTS TO FIRE DEPARTMENTS; TO REQUIRE APPLICANTS TO DISCLOSE CERTAIN CRIMINAL CHARGES; AND TO PROHIBIT APPLICANTS CONVICTED OF CERTAIN CRIMES FROM SERVING AS VOLUNTEER OR PAID MEMBERS OF FIRE DEPARTMENTS.

The General Assembly of North Carolina enacts:

PART I. AMEND ARSON OFFENSES

SECTION 1.(a) G.S. 14-58 reads as rewritten:

"§ 14-58. Punishment for arson.

There shall be two degrees of arson as defined at the common law. If the dwelling burned was occupied at the time of the burning, the offense is arson in the first degree and is punishable as a Class D felony. If the dwelling burned was unoccupied at the time of the burning, the offense is arson in the second degree and is punishable as a ~~Class G felony~~. Class E felony."

SECTION 1.(b) Article 15 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-59.1. Burning of jails or prisons.

If any person shall wantonly and willfully set fire to or burn or cause to be burned, or aid, counsel or procure the burning of a penal institution as defined in G.S. 14-208.6 or its contents, the person shall be punished as a Class D felon."

SECTION 1.(c) G.S. 14-61 reads as rewritten:

"§ 14-61. Burning of certain bridges and buildings.

~~If~~ Unless the conduct is covered under some other provision of law providing greater punishment, if any person shall wantonly and willfully set fire to or burn or cause to be burned, or aid, counsel or procure the burning ~~of, of~~ any public bridge, or private toll bridge, or the bridge of any incorporated company, or any fire-engine house or rescue-squad building, or any house belonging to an incorporated company or unincorporated association and used in the business of such company or association, ~~he~~ the person shall be punished as a Class F felon."

SECTION 1.(d) G.S. 14-62 reads as rewritten:



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1 **"§ 14-62. Burning of certain buildings.**

2 ~~If-Unless the conduct is covered under some other provision of law providing greater~~
3 ~~punishment, if any person shall wantonly and willfully set fire to or burn or cause to be burned,~~
4 ~~or aid, counsel or procure the burning of, of any uninhabited house, or any stable, coach house,~~
5 ~~or outhouse, warehouse, office, shop, mill, barn or granary, or any building, structure or erection~~
6 ~~used or intended to be used in carrying on any trade or manufacture, or any branch thereof,~~
7 ~~whether the same or any of them respectively shall then be in the possession of the offender, or~~
8 ~~in the possession of any other person, he-the person shall be punished as a Class F felon."~~

9 **SECTION 1.(e)** G.S. 14-62.1 reads as rewritten:

10 **"§ 14-62.1. Burning of building or structure in process of construction.**

11 ~~If-Unless the conduct is covered under some other provision of law providing greater~~
12 ~~punishment, if any person shall wantonly and willfully set fire to or burn or cause to be burned,~~
13 ~~or aid, counsel or procure the burning of, of any building or structure in the process of~~
14 ~~construction for use or intended to be used as a dwelling house or in carrying on any trade or~~
15 ~~manufacture, or otherwise, whether the same or any of them respectively shall then be in the~~
16 ~~possession of the offender, or in the possession of any other person, he-the person shall be~~
17 ~~punished as a Class H felon."~~

18 **SECTION 1.(f)** G.S. 14-62.2 reads as rewritten:

19 **"§ 14-62.2. Burning of churches and certain other religious buildings.**

20 ~~If-Unless the conduct is covered under some other provision of law providing greater~~
21 ~~punishment, if any person shall wantonly and willfully set fire to or burn or cause to be burned,~~
22 ~~or aid, counsel or procure the burning of any church, chapel, or meetinghouse, synagogue,~~
23 ~~temple, longhouse, or mosque, or other building that is regularly used, and clearly identifiable,~~
24 ~~as a place for religious worship, the person shall be punished as a Class E felon."~~

25 **SECTION 1.(g)** G.S. 14-64 reads as rewritten:

26 **"§ 14-64. Burning of ginhouses and tobacco houses.**

27 (a) ~~If-Unless the conduct is covered under some other provision of law providing greater~~
28 ~~punishment, if any person shall wantonly and willfully set fire to or burn or cause to be burned,~~
29 ~~or aid, counsel or procure the burning of, of any ginhouse or tobacco house, or any part thereof,~~
30 ~~he-the person shall be punished as a Class H felon.~~

31 (b) The following definitions apply to this section:

32 (1) Ginhouse. – Any building or structure where cotton is ginned.

33 (2) Tobacco house. – Any barn, building, or other structure used for curing and
34 aging tobacco."

35 **SECTION 1.(h)** Article 15 of Chapter 14 of the General Statutes is amended by
36 adding a new section to read:

37 **"§ 14-62.3. Burning of commercial structure.**

38 (a) Definition. – For purposes of this section, the term "commercial structure" means any
39 building or structure that is designed principally for the manufacture, distribution, or exchange
40 of goods or services, or for any other business or trade purpose.

41 (b) Burning of Occupied Commercial Structure. – Unless the conduct is covered under
42 some other provision of law providing greater punishment, if any person shall wantonly and
43 willfully set fire to or burn or cause to be burned, or aid, counsel or procure the burning of any
44 commercial structure or its contents, and the structure is occupied at the time of the burning, the
45 person shall be punished as a Class D felon.

46 (c) Burning of Unoccupied Commercial Structure. – Unless the conduct is covered under
47 some other provision of law providing greater punishment, if any person shall wantonly and
48 willfully set fire to or burn or cause to be burned, or aid, counsel or procure the burning of any
49 commercial structure or its contents, and the structure is unoccupied at the time of the burning,
50 the person shall be punished as a Class E felon."

51 **SECTION 1.(i)** G.S. 14-66 reads as rewritten:

1 **"§ 14-66. Burning of personal property.**

2 If any person shall wantonly and willfully set fire to or burn, or cause to be burned, or aid,
3 counsel or procure the burning ~~of~~ of any goods, wares, merchandise or other chattels or personal
4 property of any kind, in any place other than a commercial structure as defined in G.S. 14-62.3,
5 whether or not the same shall at the time be insured by any person or corporation against loss or
6 damage by fire, with intent to injure or prejudice the insurer, the creditor or the person owning
7 the property, or any other person, whether the property is that of such person or another, he shall
8 be punished as a Class H felon."
9

10 **PART II. ARSON OR OTHER UNLAWFUL BURNING THAT RESULTS IN INJURY**
11 **TO A FIREFIGHTER, LAW ENFORCEMENT OFFICER, FIRE INVESTIGATOR, OR**
12 **EMERGENCY MEDICAL TECHNICIAN**

13 **SECTION 2.** G.S. 14-69.3 reads as rewritten:

14 **"§ 14-69.3. Arson or other unlawful burning that results in serious ~~bodily~~ injury or serious**
15 **physical injury to a firefighter, law enforcement officer, fire investigator, or**
16 **emergency medical technician.**

17 (a) Definitions. – The following definitions apply in this section:

- 18 (1) Emergency medical technician. – The term includes an emergency medical
19 technician, an ~~emergency medical technician intermediate,~~ advanced
20 emergency medical technician, and an emergency medical
21 technician-paramedic, as those terms are defined in G.S. 131E-155.
22 (2) Fire investigator. – The term includes any person who, individually or as part
23 of an investigative team, has the responsibility and authority to determine the
24 origin, cause, or development of a fire or explosion.

25 (b) Offense Involving Serious Injury. – A person is guilty of a Class E felony if the person
26 commits a felony under Article 15 of Chapter 14 of the General Statutes and a firefighter, law
27 enforcement officer, fire investigator, or emergency medical technician suffers serious ~~bodily~~
28 injury while discharging or attempting to discharge official duties on the property, or proximate
29 to the property, that is the subject of the firefighter's, law enforcement officer's, fire investigator's,
30 or emergency medical technician's discharge or attempt to discharge his or her respective duties.

31 (c) Offense Involving Serious Physical Injury. – A person is guilty of a Class F felony if
32 the person commits a felony under Article 15 of Chapter 14 of the General Statutes and a
33 firefighter, law enforcement officer, fire investigator, or emergency medical technician suffers
34 serious physical injury while discharging or attempting to discharge official duties on the
35 property, or proximate to the property, that is the subject of the firefighter's, law enforcement
36 officer's, fire investigator's, or emergency medical technician's discharge or attempt to discharge
37 his or her respective duties. For purposes of this subsection, "serious physical injury" means
38 physical injury that causes great pain and suffering, including serious mental injury."
39

40 **PART III. COMMISSIONER OF INSURANCE THROUGH THE OFFICE OF THE**
41 **STATE FIRE MARSHAL TO INVESTIGATE FIRES**

42 **SECTION 3.(a)** G.S. 58-79-1 reads as rewritten:

43 **"§ 58-79-1. Fires investigated; reports; records.**

44 ~~The Director of the State Bureau of Investigation, through the State Bureau of Investigation,~~
45 ~~The Commissioner of Insurance, through the Office of the State Fire Marshal, Marshal, the State~~
46 ~~Bureau of Investigation,~~ and the chief of the fire department, or chief of police where there is no
47 chief of the fire department, in municipalities and towns, and the county fire marshal and the
48 sheriff of the county and the chief of the rural fire department where such fire occurs outside of
49 a municipality, are hereby authorized to investigate the cause, origin, and circumstances of every
50 fire occurring in such municipalities or counties in which property has been destroyed or
51 damaged, and shall specially make investigation whether the fire was the result of carelessness

1 or design. A preliminary investigation shall be made by the chief of fire department or chief of
2 police, where there is no chief of fire department in municipalities, and by the county fire marshal
3 and the sheriff of the county or the chief of the rural fire department where such fire occurs
4 outside of a municipality, and must be begun within three days, exclusive of Sunday, of the
5 occurrence of the fire, and either the Director of the State Bureau of Investigation, through the
6 State Bureau of Investigation, or the Commissioner of Insurance, through the Office of the State
7 Fire Marshal, shall have the right to supervise and direct the investigation when ~~he~~ the Director
8 or the Commissioner deems it expedient or necessary. In a case involving death or serious bodily
9 injury, the Director of the State Bureau of Investigation shall have the exclusive right to supervise
10 and direct the investigation.

11 The officer making the investigation of fires shall forthwith notify the Director of the State
12 Bureau of ~~Investigation~~, Investigation and the Commissioner of Insurance, and must within one
13 week of the occurrence of the fire furnish to the Director of the State Bureau of Investigation and
14 the Commissioner of Insurance a written statement of all facts relating to the cause and origin of
15 the fire, the kind, value and ownership of the property destroyed, and such other information as
16 is called for by the forms provided by the Director of the State Bureau of ~~Investigation~~.
17 Investigation and the Commissioner of Insurance. Departments capable of submitting the
18 required information by the utilization of computers and related equipment, by means of an
19 approved format of standard punch cards, magnetic tapes or an approved telecommunications
20 system, may do so in lieu of the submission of the written statement as provided for in this
21 section. The Director of the State Bureau of Investigation and the Commissioner of Insurance
22 shall keep ~~in his office~~ a record of all reports submitted pursuant to this section. These reports
23 shall at all times be open to public inspection."

24 **SECTION 3.(b)** G.S. 58-79-5 reads as rewritten:

25 "**§ 58-79-5. Commissioner of Insurance and Director of the State Bureau of Investigation**
26 **to make examination; arrests and prosecution.**

27 It is the duty of the Commissioner of Insurance, through the Office of the State Fire Marshal,
28 and the Director of the State Bureau of Investigation to examine, or cause examination to be
29 made, into the cause, circumstances, and origin of all fires occurring within the State to which
30 ~~his~~ their attention has been called in accordance with the provisions of G.S. 58-79-1, or by
31 interested parties, by which property is accidentally or unlawfully burned, destroyed, or
32 damaged, whenever in ~~his~~ their judgment the evidence is sufficient, and to specially examine and
33 decide whether the fire was the result of carelessness or the act of an incendiary. The
34 Commissioner of Insurance, through the Office of the State Fire Marshal, and the Director of the
35 State Bureau of Investigation shall, in person, by deputy or otherwise, fully investigate all
36 circumstances surrounding such fire, and, when in ~~his~~ their opinion such proceedings are
37 necessary, take or cause to be taken the testimony on oath of all persons supposed to be cognizant
38 of any facts or to have means of knowledge in relation to the matters as to which an examination
39 is herein required to be made, and shall cause the same to be reduced in writing. If the
40 Commissioner of Insurance, through the Office of the State Fire Marshal, and the Director of the
41 State Bureau of Investigation or any deputy appointed to conduct such investigations, ~~is~~ are of
42 the opinion that there is evidence to charge any person or persons with the crime of arson, or
43 other willful burning, or fraud in connection with the crime of arson or other willful burning, ~~he~~
44 the Director may arrest with a warrant or cause such person or persons to be arrested, charged
45 with such offense, and prosecuted, and shall furnish to the district attorney of the district all such
46 evidence, together with the names of witnesses and all other information ~~obtained by him,~~
47 obtained, including a copy of all pertinent and material testimony taken in the case."

48 **SECTION 3.(c)** G.S. 58-79-10 reads as rewritten:

49 "**§ 58-79-10. Powers of Commissioner of Insurance and Director of the State Bureau of**
50 **Investigation in investigations.**

1 The Commissioner of Insurance, through the Office of the State Fire Marshal, and the
2 Director of the State Bureau of Investigation, or ~~his~~their deputy appointed to conduct such
3 examination, ~~has~~have the powers of a trial justice for the purpose of summoning and compelling
4 the attendance of witnesses to testify in relation to any matter which is by provisions of this
5 Article a subject of inquiry and investigation, and may administer oaths and affirmations to
6 persons appearing as witnesses before them. False swearing in any such matter or proceeding is
7 perjury and shall be punished as such. The Commissioner of Insurance, through the Office of the
8 State Fire Marshal, and the Director of the State Bureau of Investigation or ~~his~~their deputy ~~has~~
9 have authority at all times of the day or night, in performance of the duties imposed by the
10 provisions of this Article, to enter upon and examine any building or premises where any fire has
11 occurred, and other buildings and premises adjoining or near the same. All investigations held
12 by or under the direction of the Commissioner of Insurance, through the Office of the State Fire
13 Marshal, and the Director of the State Bureau of Investigation or ~~his~~their deputy may, in their
14 discretion, be private, and persons other than those required to be present by the provisions of
15 this Article may be excluded from the place where the investigation is held, and witnesses may
16 be kept apart from each other and not allowed to communicate with each other until they have
17 been examined."

18 **SECTION 3.(d)** G.S. 58-79-15 reads as rewritten:

19 "**§ 58-79-15. Failure to comply with summons or subpoena.**

20 The failure of a person to comply with a summons or subpoena of the Commissioner of
21 Insurance, through the Office of the State Fire Marshal, and the Director of the State Bureau of
22 Investigation or ~~his~~their deputy under G.S. 58-79-10 shall be brought before a court of record
23 and punished as for contempt in the same manner as if he had failed to appear and testify before
24 said court of record."

25 **SECTION 3.(e)** G.S. 58-79-40 reads as rewritten:

26 "**§ 58-79-40. Insurance company to furnish information.**

27 (a) The chief of any municipal fire or police department, county fire marshal or sheriff,
28 ~~or~~ special agent of the State Bureau of ~~Investigation~~Investigation, or the Office of the State Fire
29 Marshal may request any insurance company investigating a fire loss of real or personal property
30 to release any information in its possession relative to that loss. The company shall release the
31 information and cooperate with any official authorized to request such information pursuant to
32 this section. The information shall include, but is not limited to:

- 33 (1) Any insurance policy relevant to a fire loss under investigation and any
34 application for such a policy;
- 35 (2) Policy premium payment records;
- 36 (3) History of previous claims made by the insured for fire loss;
- 37 (4) Material relating to the investigation of the loss, including statements of any
38 person, proof of loss, and any other relevant evidence.

39 (b) If an insurance company (or insurance agency) has reason to suspect that a fire loss
40 to its insured's real or personal property was caused by incendiary means, the company shall
41 furnish the State Bureau of ~~Investigation~~Investigation, and the Office of the State Fire Marshal,
42 with all relevant material acquired during its investigation of the fire loss, cooperate with and
43 take such action as may be requested of it by any law-enforcement agency, and permit any person
44 ordered by a court to inspect any of its records pertaining to the policy and the loss.

45 (c) In the absence of fraud or malice, no insurance company (or insurance agency), or
46 person who furnishes information on its behalf, shall be liable for damages in a civil action or
47 subject to criminal prosecution for any oral or written statement made or any other action that is
48 necessary to supply information required pursuant to this section.

49 (d) The officials and departmental and agency personnel receiving any information
50 furnished pursuant to this section shall hold the information in confidence until such time as its
51 release is required pursuant to a criminal or civil proceeding.

1 (e) Any official referred to in subsection (a) of this section may be required to testify as
2 to any information in his possession regarding the fire loss of real or personal property in any
3 civil action in which any person seeks recovery under a policy against an insurance company for
4 the fire loss."
5

6 **PART IV. FIRE DEPARTMENTS/DISCLOSE CRIMINAL HISTORY AND PROHIBIT**
7 **MEMBERS FROM SERVING IF CONVICTED OF CERTAIN CRIMES**

8 **SECTION 4.(a)** G.S. 143B-943 reads as rewritten:

9 **"§ 143B-943. Criminal history record checks of applicants to and current members of fire**
10 **departments and emergency medical services.**

11 (a) Definitions. – The following definitions apply in this section:

12 (1) Applicant. – A person who applies for a paid or volunteer position with a fire
13 department or an emergency medical service.

14 (2) Criminal history. – A State or federal history of conviction of a crime, whether
15 a misdemeanor or felony, that bears upon a covered person's fitness for
16 holding a paid or volunteer position with a fire department. The crimes
17 include, but are not limited to, criminal offenses as set forth in any of the
18 following Articles of Chapter 14 of the General Statutes: Article 5,
19 Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering
20 ~~Executive and Legislative~~ Executive, Legislative, and Court Officers; Article
21 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults;
22 Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or
23 Damage by Use of Explosive or Incendiary Device or Material; Article 14,
24 Burglary and Other Housebreakings; Article 15, Arson and Other Burnings;
25 Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article
26 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services
27 by False or Fraudulent Use of Credit Device or Other Means; Article 19B,
28 Financial Transaction Card Crime Act; Article 20, Frauds; Article 21,
29 Forgery; Article 22, Damages and Other Offenses to Land and Fixtures;
30 Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult
31 Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29,
32 Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against
33 the Public Peace; Article 36A, Riots, Civil Disorders, and Emergencies;
34 Article 39, Protection of Minors; Article 40, Protection of the Family; Article
35 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes
36 also include possession or sale of drugs in violation of the North Carolina
37 Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes,
38 and alcohol-related offenses such as sale to underage persons in violation of
39 G.S. 18B-302, or driving while impaired in violation of G.S. 20-138.1 through
40 G.S. 20-138.5.

41 (3) Current member. – A person who serves in a paid or volunteer position with
42 a fire department or an emergency medical service.

43 (b) When requested by a designated local Homeland Security director, a local fire chief
44 of a rated fire department, a county fire marshal, an emergency services director, or if there is no
45 designated local Homeland Security director, local fire chief of a rated fire department, county
46 fire marshal, or emergency services director, when requested by a local law enforcement agency,
47 the North Carolina Department of Public Safety may provide to the requesting director, chief,
48 marshal, ~~director~~, or agency an applicant's or current member's criminal history from the State
49 and National Repositories of Criminal Histories. The local Homeland Security director, local fire
50 chief, marshal, director, or local law enforcement agency shall provide to the North Carolina
51 Department of Public Safety the fingerprints of the applicant to be checked, any additional

1 information required by the Department of Public Safety, and a form signed by the applicant to
2 be checked consenting to the (i) check of the criminal record and ~~to the~~ (ii) use of fingerprints
3 and other identifying information required by the State or National Repositories. The fingerprints
4 of the individual shall be forwarded to the State Bureau of Investigation for a search of the State
5 criminal history record file, and the State Bureau of Investigation shall forward a set of
6 fingerprints to the Federal Bureau of Investigation for a national criminal history record check.
7 The local Homeland Security director, local fire chief, county fire marshal, emergency services
8 director, or local law enforcement agency shall keep all information pursuant to this section
9 confidential. The Department of Public Safety shall charge a reasonable fee for conducting the
10 checks of the criminal history records authorized by this section. The requesting local Homeland
11 Security director, local fire chief, county fire marshal, or local law enforcement agency may
12 charge an applicant or current member the fee amount charged by the Department of Public
13 Safety for the criminal history record check of the applicant or current member.

14 (c) All releases of criminal history information to the local Homeland Security director,
15 local fire chief, county fire marshal, emergency services director, or local law enforcement
16 agency shall be subject to, and in compliance with, rules governing the dissemination of criminal
17 history record checks as adopted by the North Carolina Department of Public Safety. All of the
18 information the local Homeland Security director, local fire chief, county fire marshal,
19 emergency services director, or local law enforcement agency receives through the checking of
20 the criminal history is privileged information and for the exclusive use of that director, chief,
21 marshal, or agency.

22 (d) If the applicant's or current member's verified criminal history record check reveals
23 one or more convictions ~~covered under subdivision (a)(2) of a crime listed in subsection (a)~~
24 ~~this section, then the conviction shall constitute~~ constitutes just cause for not selecting the
25 applicant for the position or for dismissing the current member from a current position with the
26 local fire department or emergency medical services. ~~The~~ Except as provided in subsection (d1)
27 of this section, the conviction shall does not automatically prohibit volunteering or employment;
28 however, the following factors shall be considered by the local Homeland Security director, local
29 fire chief, county fire marshal, emergency services director, or local law enforcement agency in
30 determining whether the ~~position applicant~~ shall be denied or the current member dismissed from
31 a current position:

- 32 (1) The level and seriousness of the ~~crime;~~ crime.
- 33 (2) The date of the ~~crime;~~ crime.
- 34 (3) The age of the person at the time of the ~~conviction;~~ conviction.
- 35 (4) The circumstances surrounding the commission of the crime, if
36 ~~known;~~ known.
- 37 (5) The nexus between the criminal conduct of the person and the duties of the
38 ~~person;~~ person.
- 39 (6) The prison, jail, probation, parole, rehabilitation, and employment records of
40 the person since the date the crime was ~~committed; and~~ committed.
- 41 (7) The subsequent commission by the person of a crime listed in subsection (a)
42 of this section.

43 (d1) An applicant is prohibited from serving in a paid or volunteer position with a fire
44 department if the applicant's verified criminal history record check reveals a conviction of arson
45 or another felony conviction involving burning or setting fire under Article 15, Article 22, or any
46 other Article of Chapter 14 of the General Statutes. A local Homeland Security director, local
47 fire chief, county fire marshal, or local law enforcement agency, as applicable, shall request, and
48 an applicant shall disclose, any pending felony charges involving burning or setting fire under
49 Article 15, Article 22, or any other Article of Chapter 14 of the General Statutes. Upon becoming
50 aware of pending felony charges, through the required disclosure or by other means, a local
51 Homeland Security director, local fire chief, county fire marshal, or local law enforcement

1 agency shall not offer the applicant a paid or volunteer position, except as provided in subsection
2 (f) of this section. This subsection does not apply to an applicant for a paid or volunteer position
3 with an emergency medical service.

4 (e) ~~The local fire department or emergency medical services may deny the an applicant~~
5 ~~or current member the position or dismiss an applicant or a current member who refuses to~~
6 ~~consent to a criminal history record check or use of fingerprints or other identifying information~~
7 ~~required by the State or National Repositories of Criminal Histories. This refusal constitutes just~~
8 ~~cause for the denial of the position or the dismissal from a current position. The emergency~~
9 ~~medical services may extend a conditional offer of the position pending the results of a criminal~~
10 ~~history record check required by this section.~~

11 (f) The local fire department shall deny an applicant the position and may dismiss a
12 current member who refuses to consent to a criminal history record check or use of fingerprints
13 or other identifying information required by the State or National Repositories of Criminal
14 Histories. This refusal constitutes just cause for the denial of the position or the dismissal from a
15 current position. The local fire department or emergency medical services may extend a
16 conditional offer of the position pending the (i) results of a criminal history record check
17 authorized required by this section-section or (ii) final disposition of felony charges disclosed as
18 required by this section or otherwise discovered.

19 (g) For purposes of this section, "local fire chief" shall include the fire chief of any bona
20 fide fire department certified to the Commissioner of Insurance with at least a Class 9S rating for
21 insurance grading purposes; "county fire marshal" shall include only fire marshals who are paid
22 employees of a county; and "emergency services director" shall include only emergency services
23 directors who are paid employees of a city or county."

24 **SECTION 4.(b)** G.S. 153A-233 reads as rewritten:

25 **"§ 153A-233. Fire-fighting and prevention services.**

26 A county may establish, organize, equip, support, and maintain a fire department; may
27 prescribe the duties of the fire department; may provide financial assistance to incorporated
28 volunteer fire departments; may contract for fire-fighting or prevention services with one or more
29 counties, ~~cities, or cities~~ or other units of local ~~government-government, incorporated volunteer~~
30 ~~fire departments, or with an agency of the State government, or with one or more incorporated~~
31 ~~volunteer fire departments; government; and may for these purposes appropriate funds not~~
32 ~~otherwise limited as to use by law. A county shall ensure that any county, city or other unit of~~
33 ~~local government, or incorporated volunteer fire department with whom the county contracts for~~
34 ~~fire-fighting or prevention services shall obtain a criminal history record check of any person~~
35 ~~who applies for a paid or volunteer position providing fire-fighting or prevention services. The~~
36 ~~criminal history record check shall be conducted and evaluated as provided in G.S. 143B-943.~~
37 The county may also designate fire districts or parts of existing districts and prescribe the
38 boundaries thereof for insurance grading purposes."

39 **SECTION 4.(c)** G.S. 153A-234 reads as rewritten:

40 **"§ 153A-234. Fire marshal.**

41 (a) A county may appoint a fire marshal and employ persons as his assistants. A county
42 may also impose any duty that might be imposed on a fire marshal on any other officer or
43 employee of the county. The board of commissioners shall set the duties of the fire marshal,
44 which may include but are not limited to:

- 45 (1) Advising the board on improvements in the fire-fighting or fire prevention
46 activities under the county's supervision or control.
- 47 (2) Coordinating fire-fighting and training activities under the county's
48 supervision or control.
- 49 (3) Coordinating fire prevention activities under the county's supervision or
50 control.

- 1 (4) Assisting incorporated volunteer fire departments in developing and
2 improving their fire-fighting or fire prevention capabilities.
- 3 (5) Making fire prevention inspections, including the periodic inspections and
4 reports of school buildings required by Chapter 115 and the inspections of
5 child care facilities required by Chapter 110. A fire marshal shall not make
6 electrical inspections unless he is qualified to do so under G.S. 153A-351.

7 (b) The fire marshal shall obtain a criminal history record check of any person who
8 applies for a paid or volunteer position with the fire department. The criminal history record
9 check shall be conducted and evaluated as provided in G.S. 143B-943."

10 **SECTION 4.(d)** G.S. 160A-292 reads as rewritten:

11 "**§ 160A-292. Duties of fire chief.**

12 (a) Where not otherwise prescribed, the duties of the fire chief shall be to preserve and
13 care for fire apparatus, have charge of fighting and extinguishing fires and training the fire
14 department, seek out and have corrected all places and conditions dangerous to the safety of the
15 city and its citizens from fire, and make annual reports to the council concerning these duties. If
16 these duties include State Building Code enforcement, they shall follow the provisions as defined
17 in G.S. 143-151.13.

18 (b) The fire chief shall obtain a criminal history record check of any person who applies
19 for a paid or volunteer position with the fire department. The criminal history record check shall
20 be conducted and evaluated as provided in G.S. 143B-943."

21
22 **PART V. SAVINGS CLAUSE AND EFFECTIVE DATE**

23 **SECTION 5.(a)** Prosecutions for offenses committed before the effective date of
24 this act are not abated or affected by this act, and the statutes that would be applicable but for
25 this act remain applicable to those prosecutions.

26 **SECTION 5.(b)** Sections 1 and 2 of this act become effective December 1, 2021,
27 and apply to offenses committed on or after that date. Section 3 of this act becomes effective
28 October 1, 2021. Section 4 of this act is effective when it becomes law and applies to applications
29 submitted on or after that date. The remainder of this act is effective when it becomes law.