

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 348
Committee Substitute Favorable 5/9/11

Short Title: Offenders/No Access to Personnel Records.-AB

(Public)

Sponsors:

Referred to:

March 15, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT OFFENDERS ARE PROHIBITED FROM OBTAINING
3 PUBLIC EMPLOYEES' PERSONNEL RECORDS, TO PROVIDE CRIMINAL
4 PENALTIES FOR PROVIDING SUCH PROHIBITED INFORMATION TO
5 OFFENDERS, AND TO MAKE IT A MISDEMEANOR FOR OFFENDERS TO
6 POSSESS SUCH INFORMATION.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** The General Assembly finds that allowing inmates, probationers,
9 parolees, and post-release supervisees to access those portions of public employees' personnel
10 files that are public records under State law exposes those public employees to the risk of
11 harassment and even violence. The General Assembly further finds that such offenders, due to
12 their status as inmates, probationers, parolees, and post-release supervisees, are not entitled to
13 the same privileges and rights exercised by members of the general public and should be
14 prohibited from accessing public employees' personnel files in the interest of protecting those
15 public employees from harm.

16 **SECTION 2.** G.S. 126-23 reads as rewritten:

17 "**§ 126-23. Certain records to be kept by State agencies open to inspection.**

18 (a) Each department, agency, institution, commission and bureau of the State shall
19 maintain a record of each of its employees, showing the following information with respect to
20 each such employee:

- 21 (1) Name.
- 22 (2) Age.
- 23 (3) Date of original employment or appointment to State service.
- 24 (4) The terms of any contract by which the employee is employed whether
25 written or oral, past and current, to the extent that the agency has the written
26 contract or a record of the oral contract in its possession.
- 27 (5) Current position.
- 28 (6) Title.
- 29 (7) Current salary.
- 30 (8) Date and amount of each increase or decrease in salary with that department,
31 agency, institution, commission, or bureau.
- 32 (9) Date and type of each promotion, demotion, transfer, suspension, separation,
33 or other change in position classification with that department, agency,
34 institution, commission, or bureau.
- 35 (10) Date and general description of the reasons for each promotion with that
36 department, agency, institution, commission, or bureau.



1 (11) Date and type of each dismissal, suspension, or demotion for disciplinary
2 reasons taken by the department, agency, institution, commission, or bureau.
3 If the disciplinary action was a dismissal, a copy of the written notice of the
4 final decision of the head of the department setting forth the specific acts or
5 omissions that are the basis of the dismissal.

6 (12) The office or station to which the employee is currently assigned.

7 (b) For the purposes of this section, the term "salary" includes pay, benefits, incentives,
8 bonuses, and deferred and all other forms of compensation paid by the employing entity.

9 (c) Subject only to rules and regulations for the safekeeping of the records, adopted by
10 the State Personnel Commission, every person having custody of such records shall permit
11 them to be inspected and examined and copies thereof made by any person during regular
12 business hours. ~~Any~~ Except as provided in subsection (d) of this section, any person who is
13 denied access to any such record for the purpose of inspecting, examining or copying the same
14 shall have a right to compel compliance with the provisions of this section by application to a
15 court of competent jurisdiction for a writ of mandamus or other appropriate relief.

16 (d) Notwithstanding any other provision of this section, persons in the custody of, or
17 under the supervision of, the Department of Correction and persons in the custody of local
18 confinement facilities are not entitled to access to the records made public under this section
19 and are prohibited from obtaining those records, absent a court order authorizing access to, or
20 custody, or possession."

21 **SECTION 3.** Article 7 of Chapter 126 of the General Statutes is amended by
22 adding a new section to read:

23 **"§ 126-28.1. Penalty for providing offenders access to personnel files.**

24 Absent a court order authorizing access to, or custody, or possession, any public official or
25 employee who knowingly and willingly provides access to or custody or possession of any
26 portion of a public employee record to persons who are prohibited from obtaining those records
27 pursuant to G.S. 126-23(d) is guilty of a Class 3 misdemeanor and upon conviction shall be
28 fined in the discretion of the court but not in excess of five hundred dollars (\$500.00)."

29 **SECTION 4.** G.S. 14-258.1 is amended by adding two new subsections to read:

30 "(f) Absent a court order authorizing access to, or custody, or possession, any person
31 who knowingly gives public employee records obtained under G.S. 126-23 to persons who are
32 prohibited from obtaining those records pursuant to G.S. 126-23(d), or absent a court order
33 authorizing access to, or custody, or possession, any person who knowingly gives or sells any
34 such records to a person for delivery to persons who are prohibited from obtaining those
35 records pursuant to G.S. 126-23(d), is guilty of a Class 1 misdemeanor.

36 (g) Absent a court order authorizing access to, or custody, or possession, any person in
37 the custody of, or under the supervision of, the Department of Correction or any person in the
38 custody of a local confinement facility who possesses public employee records that the person
39 is prohibited from obtaining under G.S. 126-23 is guilty of a Class 1 misdemeanor."

40 **SECTION 5.** Sections 3 and 4 of this act become effective December 1, 2011, and
41 apply to acts committed on or after that date. The remainder of this act is effective when it
42 becomes law.