

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 416

Short Title: "Ban the Box". (Public)

Sponsors: Senators Mohammed, Batch, and deViere (Primary Sponsors).

Referred to: Rules and Operations of the Senate

April 1, 2021

1 A BILL TO BE ENTITLED
2 AN ACT REQUIRING THE FAIR ASSESSMENT OF PERSONS WITH CRIMINAL
3 HISTORIES BY "BANNING THE BOX" AND PROVIDING THAT HAVING A
4 PHYSICAL ADDRESS IS NOT A REQUIREMENT FOR PUBLIC EMPLOYMENT.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Chapter 126 of the General Statutes is amended by adding a new
7 Article to read:

8 "Article 17.

9 "Fair Assessment of Persons for Public Employment.

10 **§ 126-100. Definitions.**

11 The following definitions apply in this Article:

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

21 **§ 126-101. Consideration of applicants.**

22 (a) A hiring authority may not inquire into or consider the criminal history of an applicant
23 for public employment, or include any such inquiry on any initial employment application form,
24 until the hiring authority has made a conditional offer of employment to the applicant. This
25 subsection does not apply to positions for which a hiring authority is otherwise required by law
26 to consider the criminal record of an applicant.

27 (b) A hiring authority may not disqualify an applicant for public employment because the
28 applicant does not have a physical or street address.

29 **§ 126-102. Criteria for disqualification.**

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

- 34 (1) The level and seriousness of the crime.
35 (2) The date of the crime.
36 (3) The age of the person at the time of the conviction.



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

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

8 **"§ 126-103. Opportunity to provide evidence of inaccuracy.**

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

13 **"§ 126-104. Data collection.**

14 The Office of State Human Resources shall do the following:

- 15 (1) Record and log the positions that are statutorily required to conduct
16 background checks prior to a conditional offer of employment.
17 (2) Conduct quarterly reviews to determine compliance with this Article and
18 make a report on all such reviews to the General Assembly annually.
19 (3) Collect, and make available to the public, data on the following information:
20 a. The number of applicants for public employment with criminal
21 histories given conditional offers of employment.
22 b. The number of applicants for public employment with criminal
23 histories who are subsequently employed.
24 c. The retention rate of public employees with criminal histories.
25 d. The number of applicants for public employment who do not have a
26 physical or street address.
27 e. The number of applicants for public employment who do not have a
28 physical or street address who are subsequently employed.
29 f. The retention rate of public employees who do not have a physical or
30 street address.

31 **"§ 126-105. Applicability.**

32 The provisions of this Article apply to all applicants for public employment and to all public
33 employers except as otherwise expressly provided."

34 **SECTION 2.** G.S. 126-4(4) reads as rewritten:

- 35 "(4) Recruitment programs designed to promote public employment, communicate
36 current hiring activities within State government, and attract a sufficient flow
37 of internal and external applicants; and determine the relative fitness of
38 applicants for the respective positions. Recruitment programs shall be
39 designed to make a fair assessment of individual qualifications and shall not
40 be designed to adversely affect anyone on account of an individual not having
41 a physical or street address."

42 **SECTION 3.** G.S. 126-5 is amended by adding a new subsection to read:

43 "(c17) Notwithstanding any other provision of law, the provisions of Article 17 of this
44 Chapter apply to applicants for employment with the State of North Carolina or any local political
45 subdivision of the State."

46 **SECTION 4.** This act is effective when it becomes law and applies to applications
47 for public employment made on or after that date.