

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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SENATE BILL DRS15185-LR-48B

Short Title: "Ban the Box".

(Public)

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

Referred to:

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.



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- 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.