

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 2035\*

Short Title: Foster Parent Records.

(Public)

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Sponsors: Representatives H. Hunter and Diamont.

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Referred to: Children, Youth and Families.

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June 6, 1994

1 A BILL TO BE ENTITLED  
2 AN ACT TO MANDATE CRIMINAL HISTORY AND CENTRAL REGISTRY  
3 HISTORY CHECKS OF ALL FOSTER PARENTS IN LICENSED FAMILY  
4 FOSTER HOMES AND TO APPROPRIATE FUNDS.

5 The General Assembly of North Carolina enacts:

6 Section 1. Chapter 131D of the General Statutes is amended by adding a new  
7 Article to read:

8  
9 **"ARTICLE 1B.**

10 **"Mandatory Criminal and Central Registry Checks of Foster Parents.**

11 **"§ 131D-10.15. Mandatory foster care parent's criminal history and Central**  
12 **Registry checks.**

13 (a) For purposes of this section:

14 (1) 'Central Registry history' means a history in the Central Registry on  
15 Child Abuse and Neglect of a substantiated claim of child abuse or  
16 child neglect as defined by G.S. 7A-517.

17 (2) 'Criminal history' means a county, State, or federal criminal history of  
18 conviction of a crime, whether a misdemeanor or a felony, that bears  
19 upon an individual's fitness to have responsibility for the safety and  
20 well-being of children, including homicide, rape and other sex  
21 offenses, assaults, kidnapping and abduction, malicious injury or  
22 damage by the use of incendiary device or material, offenses against  
23 public morality and decency, prostitution, a crime against children, and  
24 a crime against the family, as prescribed respectively in Articles 6, 7A,

1                   8, 10, 13, 26, 27, 39, and 40 of Chapter 14 of the General Statutes, a  
2                   violation of the North Carolina Controlled Substances Act, as  
3                   prescribed in Article 5 of Chapter 90 of the General Statutes, a  
4                   violation of the law prohibiting driving while impaired, as prescribed  
5                   in G.S. 20-138.1 through G.S. 20-138.5, a violation of the law  
6                   forbidding sales of alcohol to, or purchases of alcohol by, minors, as  
7                   prescribed in G.S. 18B-302(c), and a violation of the law prohibiting  
8                   public intoxication, as prescribed in G.S. 14-444(b), or similar federal  
9                   crimes.

10           (3) 'Foster parent' means any person providing foster care in any family  
11           foster care home, as defined in G.S. 131D-10.2, licensed by the State.

12           (b) Effective January 1, 1995, the Department of Human Resources shall ensure  
13 that all foster parents are checked for both any criminal history and any Central Registry  
14 history and may, by denying or revoking a license to provide foster care, prohibit a  
15 foster parent from providing foster care:

16                   (1) Who has a criminal history; or

17                   (2) Who has a Central Registry history if the Department determines that  
18                   the substantiated claim bears upon an individual's fitness to have  
19                   responsibility for the safety and well-being of children.

20           (c) The Department of Justice may provide to the Department of Human  
21 Resources the criminal history of any foster parent from the State and National  
22 Repositories of Criminal Histories. The Division shall provide to the Department of  
23 Justice, along with the request, the fingerprints of the person to be checked, any  
24 additional information required by the Department of Justice, and a form consenting to  
25 the check of the criminal record and to the use of the fingerprints and other identifying  
26 information required by the repositories signed by the person to be checked. Refusal to  
27 consent is grounds for the Department to prohibit the person from providing foster care.

28           (d) The Division of Social Services may provide to the Department of Human  
29 Resources the Central Registry history of a foster parent if this person signs a form  
30 consenting to this record check. Refusal to consent is grounds for the Department to  
31 prohibit the person from providing foster care.

32           (e) The Department of Human Resources shall notify in writing the foster parent  
33 and that person's supervising agency of any disqualifying information resulting from the  
34 check of the criminal history or of the Central Registry history, together with the  
35 Department's action pursuant to subsection (b) of this section.

36           A foster parent who disagrees with the decision of the Department may commence a  
37 contested case by filing a petition under G.S. 150B-23 within 30 days after the  
38 Department's notification. If the person does not file a petition within the required time,  
39 the Department's decision is final and not subject to review.

40           (f) All the information received by the Department through the checking of the  
41 criminal history and of the Central Registry history pursuant to the checks required by  
42 this section is privileged information and for the exclusive use of the Department and  
43 those persons authorized under this section to receive the information. The Department

1 may destroy the information after it is used for the purposes authorized by this section  
2 after one calendar year.

3 (g) No action for civil or criminal liability shall be brought against a supervising  
4 agency of a foster parent or a State or local agency as a result of the check of the  
5 criminal or Central Registry history if the employer, provider, or State or local agency  
6 was acting in good faith and in accordance with this section and the rules established  
7 pursuant to it.

8 (h) The Department of Justice shall charge a reasonable fee for conducting the  
9 checks of the criminal records authorized by this section.

10 (i) The Department of Human Resources, Division of Social Services, shall bear  
11 the costs of implementing this section."

12 Sec. 2. G.S. 114-19 reads as rewritten:

13 **"§ 114-19. Criminal statistics.**

14 (a) It shall be the duty of the State Bureau of Investigation to receive and collect  
15 police information, to assist in locating, identifying, and keeping records of criminals in  
16 this State, and from other states, and to compare, classify, compile, publish, make  
17 available and disseminate any and all such information to the sheriffs, constables, police  
18 authorities, courts or any other officials of the State requiring such criminal  
19 identification, crime statistics and other information respecting crimes local and  
20 national, and to conduct surveys and studies for the purpose of determining so far as is  
21 possible the source of any criminal conspiracy, crime wave, movement or cooperative  
22 action on the part of the criminals, reporting such conditions, and to cooperate with all  
23 officials in detecting and preventing.

24 ♦(b) The State Bureau of Investigation shall, on a daily basis, notify the  
25 Department of Revenue of all reports it receives pursuant to G.S. 114-18.1 of arrests  
26 and seizures involving non-tax-paid controlled substances and counterfeit controlled  
27 substances. The Bureau shall also, as soon as practicable, provide the Department with  
28 any additional information it receives regarding such arrests and seizures.

29 (c) The Department of Justice may provide to the Division of Social Services,  
30 Department of Human Resources, the criminal history of any foster parent from the  
31 State and National Repositories of Criminal Histories. The Division shall provide to the  
32 Department of Justice, along with the request, the fingerprints of the person to be  
33 checked, any additional information required by the Department of Justice, and a form  
34 consenting to the check of the criminal record and to the use of the fingerprints and  
35 other identifying information required by the repositories signed by the person to be  
36 checked. Refusal to consent is grounds for the Department to prohibit the person from  
37 providing foster care.

38 (d) The Department of Justice shall charge a reasonable fee for conducting the  
39 checks of the criminal records authorized by this section."

40 Sec. 3. The Department of Human Resources shall adopt rules to implement  
41 this act, in consultation with the Division of Social Services, the Social Services  
42 Commission, and the Division of Criminal Information of the Department of Justice.

1           Sec. 4. There is appropriated from the General Fund to the Department of  
2 Human Resources the sum of one million dollars (\$1,000,000) for the 1994-95 fiscal  
3 year to implement this act.

4           Sec. 5. This act becomes effective January 1, 1995. This act applies to foster  
5 parents providing foster care on or after that date.