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SENATE BILL DRS15166-MH-42

Short Title: Fire Invest'n Law/Backgrd. Check Revisions. (Public)

Sponsors: Senators Johnson, Sawyer, and Britt (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED
AN ACT TO EXPAND THE INVESTIGATORY POWERS OF THE OFFICE OF THE STATE
FIRE MARSHAL WITH RESPECT TO CERTAIN FIRE INVESTIGATIONS AND TO
PROVIDE AN ALTERNATIVE MEANS OF BACKGROUND CHECKS FOR
RESIDENTS LIVING IN NORTH CAROLINA FOR LONGER THAN FIVE YEARS.

The General Assembly of North Carolina enacts:

FIRE INVESTIGATIONS

SECTION 1. Article 79 of Chapter 58 of the General Statutes reads as rewritten:

"Article 79.

"Investigation of Fires and Inspection of Premises.

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

The Director of the State Bureau of Investigation, through the State Bureau of Investigation, the Office of the State Fire Marshal, and the chief of the fire department, or chief of police where there is no chief of the fire department, in municipalities and towns, and the county fire marshal and the sheriff of the county and the chief of the rural fire department where such fire occurs outside of a municipality, are hereby authorized to investigate the cause, origin, and circumstances of every fire occurring in such municipalities or counties in which property has been destroyed or damaged, and shall specially make investigation whether the fire was the result of carelessness or design. A preliminary investigation shall be made by the chief of fire department or chief of police, where there is no chief of fire department in municipalities, and by the county fire marshal and the sheriff of the county or the chief of the rural fire department where such fire occurs outside of a municipality, and must be begun within three days, exclusive of Sunday, of the occurrence of the fire, and either the Director of the State Bureau of Investigation, through the State Bureau of Investigation, or the Office of the State Fire Marshal, shall have the right to supervise and direct the investigation when ~~he deems it expedient or necessary.~~ the official conducting the preliminary investigation requests investigative assistance from a State agency. The Director of the State Bureau of Investigation shall have the exclusive right to supervise and direct investigations in cases involving death or serious bodily injury, first- or second-degree arson, buildings owned or occupied by State or local government, buildings owned or occupied by educational institutions, and churches or other religious buildings.

~~The officer making the investigation of fires shall forthwith notify the Director of the State Bureau of Investigation, and must within one week of the occurrence of the fire furnish to the Director of the State Bureau of Investigation a written statement of all facts relating to the cause and origin of the fire, the kind, value and ownership of the property destroyed, and such other~~



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information as is called for by the forms provided by the Director of the State Bureau of Investigation. Departments capable of submitting the required information by the utilization of computers and related equipment, by means of an approved format of standard punch cards, magnetic tapes or an approved telecommunications system, may do so in lieu of the submission of the written statement as provided for in this section. The Director of the State Bureau of Investigation shall keep in his office a record of all reports submitted pursuant to this section. These reports shall at all times be open to public inspection.

"§ 58-79-5. Director of the State Bureau of Investigation and Office of the State Fire Marshal to make examination; arrests and prosecution.

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

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

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

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

The failure of a person to comply with a summons or subpoena of the Commissioner of Insurance through the Office of the State Fire Marshal or the Director of the State Bureau of

Investigation or ~~his deputy~~ their deputies under G.S. 58-79-10 shall be brought before a court of record and punished as for contempt in the same manner as if ~~he~~ the person had failed to appear and testify before said court of record.

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

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

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

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

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

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

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

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FIREFIGHTER BACKGROUND CHECK REVISIONS

SECTION 2.(a) G.S. 153A-233 reads as rewritten:

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

A county may establish, organize, equip, support, and maintain a fire department; may prescribe the duties of the fire department; may provide financial assistance to incorporated volunteer fire departments; may contract for fire-fighting or prevention services with one or more counties, cities or other units of local government, incorporated ~~volunteer~~ fire departments, or with an agency of the State government; and may for these purposes appropriate funds not otherwise limited as to use by law. A county shall ensure that any county, city or other unit of local government, or incorporated ~~volunteer~~ fire department with whom the county contracts for fire-fighting or prevention services shall obtain a criminal history record check of any person over the age of 18 who applies for a paid or volunteer position providing fire-fighting or prevention services. The criminal history record check shall be conducted and evaluated as provided in G.S. 143B-943. G.S. 143B-943, or, if an applicant has been a resident of North Carolina for over five years and reports no charges or convictions on the application, the record

1 check requirement of this section may be conducted through the county clerk of court or a
2 third-party vendor. The county may also designate fire districts or parts of existing districts and
3 prescribe the boundaries thereof for insurance grading purposes."

4 **SECTION 2.(b)** G.S. 153A-234(b) reads as rewritten:

5 "(b) The fire marshal shall obtain a criminal history record check of any person over the
6 age of 18 who applies for a paid or volunteer position with the fire department. The criminal
7 history record check shall be conducted and evaluated as provided in
8 G.S. 143B-943. G.S. 143B-943, or, if an applicant has been a resident of North Carolina for over
9 five years and reports no charges or convictions on the application, the record check requirement
10 of this subsection may be conducted through the county clerk of court or a third-party vendor."

11 **SECTION 2.(c)** G.S. 160A-292(b) reads as rewritten:

12 "(b) The fire chief shall obtain a criminal history record check of any person over the age
13 of 18 who applies for a paid or volunteer position with the fire department. The criminal history
14 record check shall be conducted and evaluated as provided in G.S. 143B-943. G.S. 143B-943, or,
15 if an applicant has been a resident of North Carolina for over five years and reports no charges
16 or convictions on the application, the record check requirement of this subsection may be
17 conducted through the county clerk of court or a third-party vendor."

18 **SECTION 3.** Section 1 of this act becomes effective October 1, 2023. The remainder
19 of this act is effective when it becomes law and applies to applications submitted on or after that
20 date.