

2017 Regular Session

HOUSE BILL NO. 557

BY REPRESENTATIVES SEABAUGH AND EDMONDS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CHILDREN/CARE: Provides for criminal background checks relative to early learning centers, school employees, registered family child care providers and in-home providers

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AN ACT

To amend and reenact R.S. 15:587.1(D)(2), R.S. 17:15(A)(1)(b), 407.42 and 407.71, and Section 3 of Act No. 646 of the 2016 Regular Session of the Legislature and to repeal R.S. 17:407.41 and Section 2 of Act No. 646 of the 2016 Regular Session of the Legislature, relative to the Department of Education; to authorize the department to request criminal history information on certain personnel of school boards, nonpublic schools, early learning centers, registered family child care providers, registered in-home child care providers; to provide requirements relative to processing fees; to authorize the department to charge a fee; to provide relative to fingerprinting; to provide relative to effectiveness; to provide relative to implementation; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:587.1(D)(2) is hereby amended and reenacted to read as follows:

§587.1. Provision of information to protect children

* * *

D.

* * *

(2) The prohibition in Paragraph (1) of this Subsection against an individual applicant bearing any of the costs of providing information shall not apply to

1 requests made pursuant to the provisions of R.S. 17:15, 407.42, or 407.71 or R.S.
2 46:51.2.

3 * * *

4 Section 2. R.S. 17:15(A)(1)(b) is hereby amended and reenacted to read as follows:

5 §15. Criminal history review

6 A.(1)

7 * * *

8 (b) For purposes of this Section, any person employed to provide cafeteria,
9 transportation, ~~or janitorial,~~ ~~or maintenance,~~ or student services by any person or
10 entity that contracts with a school or school system to provide such services shall be
11 considered to be hired by a school system.

12 * * *

13 Section 3. R.S. 17:407.42 and 407.71 are hereby amended and reenacted to read as
14 follows:

15 §407.42. ~~Criminal History~~ Review of criminal history information and state central
16 registry of child abuse and neglect

17 A.(1) No person who has been convicted of or has pled nolo contendere to
18 a crime listed in R.S. 15:587.1(C) or whose name is on the Louisiana Sex Offender
19 and Child Predator Registry, any other state's sex offender registry, or the National
20 Crime Information Center's National Sex Offender Registry shall directly or
21 indirectly own, operate, or participate in the governance of an early learning center,
22 or shall be hired by any early learning center as a volunteer or employee of any kind,
23 including any therapeutic professionals, extracurricular personnel, and other
24 independent contractors, or shall be hired by the department in a position whose
25 duties include the performance of licensing inspections in early learning centers.

26 (2) No individual whose name is recorded on the state central registry within
27 the Department of Children and Family Services as a perpetrator for a justified
28 finding of abuse or neglect of a child or in any other state's child abuse and neglect
29 registry or repository shall own or operate a licensed early learning center or shall

1 be hired by a licensed early learning center as an employee or volunteer of any kind,
2 including any therapeutic professionals, extracurricular personnel, and other
3 independent contractors, or shall be hired by the department in a position whose
4 duties include the performance of licensing inspections unless there is a prior written
5 finding by the Department of Children and Family Services that the individual does
6 not pose a risk to children.

7 B.(1) The State Board of Elementary and Secondary Education shall
8 establish by regulation, requirements and procedures ~~consistent with the provisions~~
9 ~~of R.S. 15:587.1~~ under which the department shall, for any owner, volunteer,
10 applicant, or employee of any kind, including contractors, of an early learning center
11 or an applicant or employee of the department in a position whose duties include the
12 performance of licensing inspections:

13 (a) ~~The owner or operator of an early learning center may request~~
14 ~~information~~ Request information from the Louisiana Bureau of Criminal
15 Identification and Information, consistent with the provisions of R.S. 15:587.1,
16 ~~concerning whether any owner or volunteer, applicant, or employee of any kind~~
17 ~~including contractors, of an early learning center~~ the person has been arrested for or
18 convicted of or pled nolo contendere to any criminal offense.

19 (b)~~The department may request information concerning whether or not an~~
20 ~~applicant or employee of the department in a position whose duties include the~~
21 ~~performance of licensing inspections has been arrested for or convicted of or pled~~
22 ~~nolo contendere to any criminal offense.~~ Request information from the Department
23 of Children and Family Services as to whether the person is listed on the state central
24 registry as a perpetrator for a justified finding of abuse or neglect of a child.

25 (c) Request information from the National Crime Information Center as to
26 whether the individual's name is recorded on the National Sex Offender Registry.

27 (2) ~~Included in this regulation shall be the requirement and the procedure~~
28 The department shall require and provide for the submission of a person's
29 fingerprints in a form acceptable to the Louisiana Bureau of Criminal Identification

1 and Information prior to employment of such person. A person who has submitted
2 his fingerprints to the Louisiana Bureau of Criminal Identification and Information
3 may be temporarily hired ~~pending the report from the bureau as to any convictions~~
4 ~~of or pleas of nolo contendere by the person to a crime listed in R.S. 15:587.1(C).~~
5 during the time period between the submission of fingerprints and receipt of the
6 information requested pursuant to this Section.

7 (3) The department may charge a processing fee not to exceed fifteen dollars
8 and may collect the processing fees charged by the Bureau of Criminal Identification
9 and Information for a state criminal history report, the Federal Bureau of
10 Investigation for a federal criminal history information report, the National Crime
11 Information Center for a search of the National Sex Offender Registry, the
12 Department of Children and Family Services for a search of its state central registry
13 of child abuse and neglect, and processing fees charged by other states when it
14 receives a request for an employment eligibility determination and shall timely
15 submit the appropriate processing fees to the appropriate agencies.

16 * * *

17 §407.71. Grounds for revocation or refusal to renew registration; criminal activities;
18 lack of CPR or first aid training

19 A.(1) No person who has been convicted of or pled nolo contendere to a
20 crime listed in R.S. 15:587.1(C), whose name is recorded on the state registry within
21 the Department of Children and Family Services as a perpetrator for a justified
22 finding of abuse or neglect of a child unless there is a prior written finding by the
23 Department of Children and Family Services that the person does not pose a risk to
24 children, whose name is on any other state's child abuse and neglect registry or
25 repository, whose name is on the Louisiana Sex Offender and Child Predator
26 Registry, whose name is on any other state's sex offender registry, or whose name
27 is on the National Crime Information Center's National Sex Offender Registry may
28 be a registered family child care provider, be employed in the residence or on the
29 property of the residence where the care is provided by the registered family child

1 care provider, or live in the residence where care is provided by the registered family
2 child care provider. The cost of any criminal background check which may be
3 required by the department as proof of compliance with this Subsection shall be the
4 responsibility of the family child care provider.

5 (2) No person who has been convicted of or pled nolo contendere to a crime
6 listed in R.S. 15:587.1(C), whose name is recorded on the state registry within the
7 Department of Children and Family Services as a perpetrator for a justified finding
8 of abuse or neglect of a child unless there is a prior written finding by the
9 Department of Children and Family Services that the person does not pose a risk to
10 children, whose name is on any other state's child abuse and neglect registry or
11 repository, whose name is on the Louisiana Sex Offender and Child Predator
12 Registry, whose name is on any other state's sex offender registry, or whose name
13 is on the National Crime Information Center's National Sex Offender Registry may
14 be a registered in-home child care provider, be an adult employed in the home or on
15 the property of the home where care is provided by the registered in-home child care
16 provider, or be any adult living in the home where care is provided by the registered
17 in-home child care provider who is not a caregiver. For the purposes of this
18 Paragraph, the term "caregiver" shall mean any person legally obligated to provide
19 or secure care for a child, including a parent, legal custodian, foster home parent, or
20 other person providing a residence for the child. The cost of any criminal
21 background check which may be required by the department as proof of compliance
22 with this Subsection shall be the responsibility of the in-home provider.

23 (3) ~~B.(1)~~ The State Board of Elementary and Secondary Education shall
24 establish by regulation requirements and procedures ~~consistent with the provisions~~
25 ~~of R.S. 15:587.1 that require the submission of a person's fingerprints in a form~~
26 ~~acceptable to the Louisiana Bureau of Criminal Identification and Information and~~
27 through which the department shall:

28 (a) ~~The department may request~~ Request, consistent with the provisions of
29 R.S. 15:587.1, from the Bureau of Criminal Identification and Information,

1 information concerning whether or not a registered family child care provider, any
2 adult employed in the residence or on the property of the residence where care is
3 provided, or any adult living in the residence where care is provided has been
4 arrested for, convicted of, or pled nolo contendere to any criminal offense.

5 (b) Request information from the Department of Children and Family
6 Services as to whether the individual's name is recorded on the state central registry
7 for child abuse and neglect.

8 (c) Request information from the National Crime Information Center as to
9 whether the individual's name is recorded on the National Sex Offender Registry.

10 (d) ~~The department may request~~ Request information ~~concerning whether or~~
11 ~~not identified in this Paragraph for~~ the registered in-home provider, any adult
12 employed in the home or on the property of the home where care is provided, or any
13 adult living in the home where care is provided ~~has been arrested for, convicted of,~~
14 ~~or pled nolo contendere to any criminal offense.~~

15 (2) The department shall require and provide for the submission of a person's
16 fingerprints in a form acceptable to the Louisiana Bureau of Criminal Identification
17 and Information. A person who has submitted his fingerprints to the Louisiana
18 Bureau of Criminal Identification and Information may be temporarily hired during
19 the time period between the submission of fingerprints and receipt of the information
20 requested pursuant to this Section.

21 (3) The department may charge a processing fee not to exceed fifteen dollars
22 and may collect the processing fees charged by the Bureau of Criminal Identification
23 and Information for a state criminal history report, the Federal Bureau of
24 Investigation for a federal criminal history information report, the National Crime
25 Information Center for a search of the National Sex Offender Registry, the
26 Department of Children and Family Services for a search of its state central registry
27 of abuse and neglect, and processing fees charged by other states when it receives
28 a request for a criminal background check and shall timely submit the appropriate
29 processing fees to the appropriate agencies.

1 ~~B:~~ C. Each family child care provider and in-home provider shall have
2 documented current certification in either Infant/Child CPR or Infant/Child/Adult
3 CPR in order to be registered.

4 ~~C:~~ D. The department may deny, revoke, or refuse to renew any registration
5 of a family child care provider or in-home provider who violates the provisions of
6 this Section.

7 ~~D:~~ E. The provisions of this Section shall not apply to a family child care
8 provider or in-home provider when such provider is related to all the children
9 receiving child care.

10 ~~E:~~ F. The provisions of this Section shall not apply to a family child care
11 provider or in-home provider who is registered with the department solely for
12 participation in the United States Child and Adult Care Food Program.

13 Section 4. R.S. 17:407.41 is hereby repealed in its entirety.

14 Section 5. Section 2 of Act No. 646 of the 2016 Regular Session is hereby repealed
15 in its entirety.

16 Section 6. Section 3 of Act No. 646 of the 2016 Regular Session is hereby amended
17 and reenacted to read as follows:

18 Section 3. ~~This~~ Section 1 and this Section of this Act shall become effective
19 when the State Board of Elementary and Secondary Education promulgates rules
20 providing for implementation procedures by which the state Department of
21 Education shall conduct employment eligibility determinations for staff members of
22 child care providers or on September 30, ~~2017~~ 2018, whichever is earlier.

23 Section 7.(A) Sections 1, 3, and 4 of this Act shall become effective when the State
24 Board of Elementary and Secondary Education promulgates rules providing for
25 implementation procedures by which the state Department of Education shall conduct
26 employment eligibility determinations for staff members of child care providers or on
27 September 30, 2018, whichever is earlier.

28 (B) Sections 2, 5, and 6 and this Section of this Act shall become effective upon
29 signature of this Act by the governor or, if not signed by the governor, upon expiration of

1 the time for bills to become law without signature by the governor, as provided by Article
 2 III, Section 18 of the Constitution of Louisiana. If this Act is vetoed by the governor and
 3 subsequently approved by the legislature, Sections 2, 5, and 6 and this Section of this Act
 4 shall become effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 557 Reengrossed

2017 Regular Session

Seabaugh

Abstract: Provides relative to criminal background checks for owners, employees, volunteers, and inspectors of early learning centers, registered in-home child care providers, registered family child care providers, and those who are employed in or live in a residence where in-home or family child care is provided.

Prohibited Criminal Activity

Present law prohibits a person who has been convicted of or pled nolo contendere to certain crimes or whose name is recorded on the state central registry within the Dept. of Children and Family Services (DCFS) or any other state's registry as a perpetrator for a justified finding of abuse or neglect of a child from doing the following:

- (1) Directly or indirectly owning, operating, or participating in the governance of, or working as an employee or volunteer at an early learning center.
- (2) Being hired by the state Dept. of Education (DOE) if the position includes the performance of early learning center licensing inspections.
- (3) Becoming a registered family child care or in-home child care provider.
- (4) Being employed in or live in the residence or on the property of the residence where the care is provided by the registered family or in-home child care provider who is not a caregiver.

Proposed law adds to this prohibition a person whose name is on the La. Sex Offender and Crime Predator Registry, any other state's sex offender registry, or the National Crime Information Center's National Sex Offender Registry.

Criminal History Background Checks

Present law authorizes the State Bd. of Elementary and Secondary Education (BESE) to establish requirements and procedures under which the owner or operator of an early learning center may request information concerning whether or not any center owner, volunteer, applicant, or employee of any kind, including contractors, has been arrested for or convicted of or pled nolo contendere to any criminal offense. Present law provides similarly for requesting the same information for registered family child care providers, registered in-home child care providers, any adult employed in or living in the residence or on the property of the residence where the care is provided.

Present law, which is not yet effective, authorizes DOE rather than owners and operators to request criminal history information for certain individuals and requires DOE to collect the

processing fees charged for state and federal criminal history reports when it receives a request for an employment eligibility determination and to timely submit these fees to the Bureau of Criminal Identification and Information. Proposed law repeals present law that is not yet effective and requires DOE rather than owners and operators to request criminal history information and specifically includes information from DCFS and the National Crime Information Center as information that shall be requested.

Present law requires any owner, operator, current or prospective employee, or volunteer of a licensed early learning center to self-report annually and upon the request of DOE whether or not his name is currently recorded on the state central registry for a justified finding of abuse or neglect as the named perpetrator. Present law requires the owner or operator of the facility to maintain such documents and imposes criminal penalties on anyone who falsifies such information. Present law provides for a risk assessment evaluation and appeal to those who make a positive disclosure. Proposed law repeals present law.

Present law requires criminal background checks of persons employed by contractors that provide cafeteria, janitorial, or maintenance services to a school or school system. Proposed law retains present law and also includes persons employed by entities that contract to provide student services.

Fingerprinting

Present law requires DOE to require the submission of a person's fingerprints in a form acceptable to La. Bureau of Criminal Identification and Information and provides that a person who does so may be temporarily hired pending a report from the bureau as to any convictions of or pleas of nolo contendere to certain crimes. Proposed law allows for temporary hiring during the time period between the submission of fingerprints and receipt of all criminal background check information required by present law and proposed law. Proposed law further makes the same provision for temporary hiring applicable to registered family or in-home child care provider, someone to be employed in the residence or on the property of the residence where care is provided by a registered family or in-home child care provider, or live in the residence where care is provided by the registered family child care provider or in-home child care provider who is not a caregiver.

Assessment of Costs

Present law permits the La. Bureau of Criminal Identification and Information to charge an individual applicant the cost of providing information required by present law. Proposed law adds the cost of criminal history checks for those related to an early learning center to the costs that may be charged to the individual applicant.

Proposed law further authorizes DOE to charge a processing fee not to exceed \$15 and to collect the processing fees charged for criminal history reports when it receives a request for an employment eligibility determination and to timely submit agency fees to the agencies.

Proposed law shall become effective when BESE promulgates rules providing for implementation procedures by which DOE shall conduct employment eligibility determinations or on September 30, 2018, whichever is earlier.

(Amends R.S. 15:587.1(D)(2) and R.S. 17:15(A)(1)(b), 407.42, and 407.71; Repeals R.S. 17:407.41)