

RÉSUMÉ DIGEST

ACT 423 (HB 557)

2017 Regular Session

Seabaugh

New law amends relative to criminal histories of persons associated with early learning centers (R.S. 17:407.31, et seq.) or with family child care providers or in-home providers (R.S. 17:407.61, et seq.).

Prohibited Criminal Activity

Existing 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.

New law applies this prohibition to 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

Existing 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. Existing law provides similarly for requesting the same information for registered family child care providers, registered in-home child care providers, and any adult employed in or living in the residence or on the property of the residence where the care is provided.

Prior law, which was not yet effective, authorized DOE rather than owners and operators to request criminal history information for certain individuals and required DOE to collect the processing fees charged for state and federal criminal history reports when receiving a request for an employment eligibility determination and to timely submit these fees to the Bureau of Criminal Identification and Information. New law repeals prior law 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.

Prior law required 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 was recorded on the state central registry for a justified finding of abuse or neglect as the named perpetrator; required the owner or operator of the facility to maintain such documents and imposed criminal penalties for falsification; and provided for a risk assessment evaluation and appeal process for those making a positive disclosure. New law repeals prior law.

Fingerprinting

Existing 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. New law allows for provisional hiring of an employee for whom the department has received a La. or federal criminal history information report as required by existing law and new law until all required background checks have been completed. Provides that a provisional employee shall be monitored by an individual who has completed a criminal background check. Further prohibits employment of a person until the department has received the required La. or federal criminal history information report.

New law further makes the same provisions for provisional hiring applicable to a 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 someone who lives 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.

Child-to-Staff Ratios

New law requires BESE to adopt rules to provide for a procedure whereby an early learning center may obtain a waiver from BESE regulations that establish minimum child-to-staff ratios when an undue delay in completing required background checks for employees makes it impossible to meet the prescribed ratios. New law provides that an early learning center shall not be penalized for failing to meet such minimum ratios if it demonstrates that a good-faith effort was made to comply with all background check requirements.

Assessment of Costs

Existing law permits the La. Bureau of Criminal Identification and Information to charge an individual applicant the cost of providing information required by existing law. New law adds the cost of criminal history checks related to early learning centers to the costs that may be charged to an individual applicant.

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

School Contractors

Existing law (R.S. 17:15) requires criminal background checks of persons employed by contractors to provide cafeteria, janitorial, or maintenance services to any school or school system. New law also applies this requirement to persons employed by contractors to provide student services.

Provision relative to school contractors effective upon signature of governor (June 26, 2017); otherwise, 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)