

ORIGINAL 2022 Regular Session

SENATE BILL NO. 492

BY SENATOR ROBERT MILLS

TEACHERS. Creates a process to expedite obtaining criminal background checks for teachers and substitute teachers. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 15:587.1(B)(1)(a) and R.S. 17:15(B) and to enact R.S. 17:15.1,

3 relative to criminal history records for certain educators and substitute educators; to

4 provide for criminal history records; to expedite the process for obtaining criminal

5 history records; to provide for requests for criminal history records on behalf of the

6 school governing authorities; to provide for a secure central registry to collect and

7 retain information related to criminal history records; to prohibit disclosure of

8 criminal history records; to provide for definitions; to provide for due process; and

9 to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 15:587.1(B)(1)(a) is hereby amended and reenacted to read as
12 follows:

13 §587.1. Provision of information to protect children

14 * * *

15 B.(1)(a) Upon receiving a request pursuant to the provisions of R.S. 17:15,
16 **15.1**, 407.42, and 407.71, and R.S. 46:51.2 when authorized by R.S. 15:587, that
17 meets the requirements of Subsection A of this Section, the bureau of criminal

1 identification and information shall survey its criminal history records and
 2 identification files and make a simultaneous request of the Federal Bureau of
 3 Investigation for like information from other jurisdictions. The bureau of criminal
 4 identification and information shall provide a report promptly and in writing, but
 5 provide only such information as is necessary to specify whether or not that person
 6 has been arrested for or convicted of or pled nolo contendere to any crime or crimes,
 7 the crime or crimes of which he has been arrested for or convicted or to which he has
 8 pled nolo contendere, and the date or dates on which they occurred. The report
 9 provided pursuant to the provisions of this Subsection shall include arrests,
 10 convictions, or other dispositions, including convictions dismissed pursuant to Code
 11 of Criminal Procedure Articles 893 and 894.

* * *

13 Section 2. To amend and reenact R.S. 17:15(B) is hereby amended and reenacted
 14 and R.S. 17:15.1 is hereby enacted to read as follows:

§15. Criminal history review

* * *

17 B.(1) Each city, parish, and other local public school board shall establish,
 18 by regulation, requirements, and procedures consistent with the provisions of R.S.
 19 15:587.1 under which the school systems shall determine whether an applicant, or
 20 employee, including any person employed as provided in Subparagraph (A)(1)(c) of
 21 this Section, has been arrested for or convicted of or pled nolo contendere to any
 22 criminal offense.

23 (2)(a) Included in ~~this~~ the regulation provided for in Paragraph (1) of this
 24 Subsection shall be the requirement and the procedure for the submission of a
 25 person's fingerprints in a form acceptable to the Louisiana Bureau of Criminal
 26 Identification and Information prior to employment of ~~such~~ the person in order to
 27 obtain a criminal history record.

28 (b) A school governing authority may utilize the procedures provided
 29 in R.S. 17:15.1 to expedite compliance with this Section.

* * *

1 **§15.1. Expedited receipt of criminal history records for educators and**
2 **substitute educators; secure central registry of compliant or**
3 **noncompliant educators and substitute educators**

4 **A. In order to assist school governing authorities in expediting the**
5 **process required in R.S. 17:15 to determine if an educator or substitute**
6 **educator is compliant or not compliant with the provisions of R.S. 15:587.1, a**
7 **qualified entity shall be chosen to establish a secure central registry that shall**
8 **contain a list of applicants who are designated to be compliant or designated to**
9 **be noncompliant.**

10 **B. Wherever used in this Section, unless a different meaning clearly**
11 **appears in the context, the following terms whether used in the singular or**
12 **plural, shall have the following meanings:**

13 **(1) "Applicant" means an educator or substitute educator that is subject**
14 **to the requirements of R.S. 17:15.**

15 **(2) "Bureau" means the Louisiana Bureau of Criminal Identification and**
16 **Information located within the Department of Public Safety and Corrections,**
17 **public safety services, office of state police.**

18 **(3) "Compliant" means that an applicant is compliant with the**
19 **provisions of R.S. 15:587.1.**

20 **(4) "Criminal history record" means the criminal history record that is**
21 **maintained by the bureau that contains information as to whether the applicant**
22 **has engaged in past criminal activity in violation of R.S. 15:587.1.**

23 **(5) "Noncompliant" means that an applicant is not compliant with the**
24 **provisions of R.S. 15:587.1.**

25 **(6) "Rap Back service update" means an updated record that uses**
26 **fingerprint identification to identify an applicant that has violated a provision**
27 **of criminal law that has been reported to the United States Federal Bureau of**
28 **Investigations after the date that the applicant's original criminal history record**
29 **was issued by the bureau and sent to the qualified entity.**

30 **(7) "Secure central registry" means the computer data base which offers**

1 restricted access to authorized school governing authorities and contains the
2 names, dates of birth, social security numbers, and other related information
3 of applicants who are subject to the requirements provided in R.S. 17:15 and
4 whether an individual applicant is compliant or noncompliant based upon the
5 criminal history record when applied to the provisions of R.S. 15:587.1.

6 C. In order to comply with the provisions of this Section, the school
7 governing authority shall provide for the submission of an applicant's
8 fingerprints in a form acceptable to the bureau.

9 D.(1) The qualified entity shall enter into all necessary agreements, with
10 the bureau and the United States Federal Bureau of Investigations which
11 prohibits the qualified entity from sharing any information obtained from the
12 bureau regarding the details contained in the criminal history record with the
13 school governing authority or any other person, in any manner, which would
14 violate the United States Code or the Code of Federal Regulations that restrict
15 the sharing of information obtained from the National Criminal Information
16 Center.

17 (2) The disclosure of information by the qualifying entity shall be limited
18 to notifying the school governing authority that the applicant is designated as
19 compliant or noncompliant.

20 E.(1) Upon request from a school governing authority, the qualified
21 entity shall obtain a criminal history record for an applicant who is subject to
22 the requirements of R.S. 17:15 and the qualified entity is authorized to do all of
23 the following:

24 (a) Make the request for the criminal history record on behalf of the
25 school governing authority from the bureau, pursuant to the provisions of R.S.
26 15:587.1.

27 (b) Request information from the Department of Children and Family
28 Services as to whether the person is listed on the state central registry as a
29 perpetrator for a justified finding of abuse or neglect of a child.

30 (c) Request information from the National Crime Information Center

1 as to whether the individual's name is recorded on the National Sex Offender
2 Registry.

3 (2) Upon request, the qualified entity shall provide credentials for access
4 to the secure central registry to a school governing authority.

5 (3) Under no circumstances shall a school governing authority employ
6 a person in any capacity until the required criminal history record has been
7 obtained by the school governing authority pursuant to R.S. 17:15, or the school
8 governing authority has received confirmation that the applicant has been
9 designated as compliant under this Section.

10 F.(1) Once the qualified entity has obtained the criminal history record
11 and other information as required in Subsection E of this Section, the qualified
12 entity shall report to the school governing authority that the applicant is
13 compliant or noncompliant and shall simultaneously enter into the secure
14 central registry that the applicant is either compliant or noncompliant.

15 (2) The qualified entity shall enter any rap back service update
16 information received from the bureau into the secure central registry.

17 G. The costs of providing the criminal history record under this Section
18 shall be charged by the bureau to the requesting person in the amount which
19 is set forth in R.S. 15:587(D).

20 H. If a school governing authority has reason to believe that the qualified
21 entity has previously obtained a criminal history record for the applicant, the
22 school governing authority may access the secure central registry to determine
23 if the applicant is compliant or noncompliant.

24 I. The qualified entity shall establish due process by which an applicant
25 may appeal a finding contained in the secure central registry that the applicant
26 is noncompliant when the applicant has reason to believe that the finding is
27 inaccurate.

28 J.(1) Nothing herein is intended to prohibit a school governing authority
29 from retaining or employing an educator or substitute educator when the school
30 governing authority independently determines that the educator or substitute

1 educator is actually in compliance with R.S. 15:587.1, regardless of the fact that
 2 the secure central registry has listed the applicant as noncompliant due to
 3 clerical error.

4 (2) If the school governing authority independently determines or has
 5 reason to believe that the applicant was improperly designated as noncompliant
 6 in the secure central registry, the school governing authority shall notify the
 7 qualified entity regarding the alleged error, and the qualified entity shall
 8 request a new criminal history record from the bureau and reenter the
 9 applicant's designation based upon the new criminal history record obtained
 10 from the bureau at no costs to the applicant.

11 K. No cause of action for liability may be maintained against the
 12 qualified entity, the state, or any agency, officer, deputy, or employee of the
 13 state or the qualified entity related to the information requested or received in
 14 accordance with this Section.

15 Section 3. This Act shall become effective upon signature by the governor or, if not
 16 signed by the governor, upon expiration of the time for bills to become law without signature
 17 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 18 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 19 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Carla S. Roberts.

DIGEST

SB 492 Original 2022 Regular Session Robert Mills

Present law requires the Louisiana Bureau of Criminal Identification and Information (bureau) to maintain a criminal history information system to allow qualified entities to access state and federal criminal history records on certain individuals who volunteer or work with children, the elderly, and individuals with disabilities. Defines "qualified entities" as a business or organization, whether public or private, operated for profit, operated not-for-profit, or voluntary, which provides care or care placement services, including a business or organization that licenses or certifies individuals to provide care or care placement services, for children, the elderly, or individuals with disabilities.

Proposed law retains present law.

Present law provides that the cost of providing the information to the qualified entity will be charged by the bureau to the individual subject to the inquiry, including any additional

costs of providing the national criminal history records.

Proposed law retains present law and also authorizes the bureau to charge the costs to the qualified entity who is requesting the criminal history record under proposed law.

Proposed law authorizes access to the criminal history information system is to be given to a qualified entity who collects the information and enters the information on a secure central registry computer data base in order that local school boards and other school governing authorities can access the registry to determine if a teacher or substitute teacher is compliant or noncompliant with present law that requires that applicants be free from certain criminal conduct.

Proposed law defines "applicant", "bureau", "compliant", "criminal history record", "noncompliant", and "rap back service update", and "secure central registry".

Proposed law establishes an appeal process for removing clerical errors or misinformation that an applicant was wrongly labeled as noncompliant on the secure central registry computer data base.

Present law prohibits a teacher or anyone who has supervisory authority over a child from being employed by a school system if that person has committed certain crimes.

Proposed law retains present law and provides that proposed law is not intended to prohibit a school board or other school governing authority from hiring or retaining a teacher or substitute teacher when the school governing authority independently determines that the teacher or substitute teacher has a clean criminal history record, regardless of the fact that the computer data base has listed the applicant as noncompliant due to clerical error. Proposed law further provides that, if the school board finds out that the applicant was improperly designated as noncompliant in the computer data base, the school board is to notify the qualified entity and the qualified entity will request a new criminal history record from the bureau and reenter the applicant's designation based upon the new criminal history record obtained from the bureau without additional cost to the applicant.

Proposed law provides that no person can maintain a cause of action for liability against the qualified entity, the state, or any agency, officer, deputy, or employee of the state of the qualified entity, for providing the information requested or received in accordance with proposed law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 15:587.1(B)(1)(a) and R.S. 17:15(B); adds R.S. 17:15.1)