

2017 Regular Session

HOUSE BILL NO. 557

BY REPRESENTATIVE SEABAUGH

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

1 AN ACT

2 To amend and reenact R.S. 15:587.1(D)(2) and R.S. 17:15(A)(1)(b), 407.42, and 407.71 and  
3 to repeal R.S. 17:407.41, relative to the Department of Education; to authorize the  
4 department to request criminal history information on certain personnel of school  
5 boards, nonpublic schools, early learning centers, registered family child care  
6 providers, registered in-home child care providers; to provide requirements relative  
7 to processing fees; to authorize the department to charge a fee; to provide relative to  
8 fingerprinting; to provide relative to effectiveness; to provide relative to  
9 implementation; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

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

12 §587.1. Provision of information to protect children

13 \* \* \*

14 D.

15 \* \* \*

16 (2) The prohibition in Paragraph (1) of this Subsection against an individual  
17 applicant bearing any of the costs of providing information shall not apply to  
18 requests made pursuant to the provisions of R.S. 17:15, 407.42, or 407.71 or R.S.  
19 46:51.2.

1 \* \* \*

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

3 §15. Criminal history review

4 A.(1)

5 \* \* \*

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

10 \* \* \*

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

13 §407.42. ~~Criminal History~~ Review of criminal history information and state central  
14 registry of child abuse and neglect

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

24 (2) No individual whose name is recorded on the state central registry within  
25 the Department of Children and Family Services as a perpetrator for a justified  
26 finding of abuse or neglect of a child or in any other state's child abuse and neglect  
27 registry or repository shall own or operate a licensed early learning center or shall  
28 be hired by a licensed early learning center as an employee or volunteer of any kind,  
29 including any therapeutic professionals, extracurricular personnel, and other

1 independent contractors, or shall be hired by the department in a position whose  
2 duties include the performance of licensing inspections unless there is a prior written  
3 finding by the Department of Children and Family Services that the individual does  
4 not pose a risk to children.

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

11 (a) ~~The owner or operator of an early learning center may request~~  
12 ~~information~~ Request information from the Louisiana Bureau of Criminal  
13 Identification and Information, consistent with the provisions of R.S. 15:587.1,  
14 ~~concerning whether or not any owner or volunteer, applicant, or employee of any~~  
15 ~~kind including contractors, of an early learning center~~ the person has been arrested  
16 for or convicted of or pled nolo contendere to any criminal offense.

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

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

25 (2) ~~Included in this regulation shall be the requirement and the procedure~~  
26 The department shall require and provide for the submission of a person's  
27 fingerprints in a form acceptable to the Louisiana Bureau of Criminal Identification  
28 and Information prior to employment of such person. A person who has submitted  
29 his fingerprints to the Louisiana Bureau of Criminal Identification and Information

1           may be temporarily hired ~~pending the report from the bureau as to any convictions~~  
2           ~~of or pleas of nolo contendere by the person to a crime listed in R.S. 15:587.1(C).~~  
3           during the time period between the submission of fingerprints and receipt of the  
4           information requested pursuant to this Section.

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

14   \*       \*       \*

15           §407.71. Grounds for revocation or refusal to renew registration; criminal activities;  
16                     lack of CPR or first aid training

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

1 required by the department as proof of compliance with this Subsection shall be the  
2 responsibility of the family child care provider.

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

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

26 (a) ~~The department may request~~ Request, consistent with the provisions of  
27 R.S. 15:587.1, from the Bureau of Criminal Identification and Information,  
28 information concerning whether or not a registered family child care provider, any  
29 adult employed in the residence or on the property of the residence where care is

1 provided, or any adult living in the residence where care is provided has been  
2 arrested for, convicted of, or pled nolo contendere to any criminal offense.

3 (b) Request information from the Department of Children and Family  
4 Services as to whether or not the individual's name is recorded on the state central  
5 registry for child abuse and neglect.

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

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

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

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

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#### 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)]

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HB 557 Original

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)