

ACT No. 423

2017 Regular Session

HOUSE BILL NO. 557

BY REPRESENTATIVES SEABAUGH AND EDMONDS

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

* * *

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

2 §15. Criminal history review

3 A.(1)

4 * * *

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

9 * * *

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

12 §407.42. ~~Criminal History~~ Review of criminal history information and state central
13 registry of child abuse and neglect

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

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

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

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

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

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

21 (2) ~~Included in this regulation shall be the requirement and the procedure~~
22 The department shall require and provide for the submission of a person's
23 fingerprints in a form acceptable to the Louisiana Bureau of Criminal Identification
24 and Information prior to employment of such person. A person who has submitted
25 his fingerprints to the Louisiana Bureau of Criminal Identification and Information,
26 and for whom the department has received a Louisiana or federal criminal history
27 information report, may be hired on a provisional basis until such time as all required
28 background checks have been completed; a provisional employee shall be monitored
29 in accordance with rules adopted by the State Board of Elementary and Secondary
30 Education by an individual who has completed a criminal background check. Under

1 no circumstances shall an early learning center employ a person in any capacity until
2 the department has received the required Louisiana or federal criminal history
3 information report.

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

13 C.(1) The State Board of Elementary and Secondary Education shall adopt
14 rules to provide for a procedure whereby an early learning center may obtain a
15 waiver from regulations adopted by the board establishing minimum child-to-staff
16 ratios, when an undue delay in completing required background checks for
17 employees makes it impossible to meet the prescribed ratios.

18 (2) An early learning center shall not be penalized for failing to meet
19 established minimum child-to-staff ratios, if it demonstrates that a good-faith effort
20 was made to comply with all background check requirements.

21 * * *

22 §407.71. Grounds for revocation or refusal to renew registration; criminal activities;
23 lack of CPR or first aid training

24 A.(1) No person who has been convicted of or pled nolo contendere to a
25 crime listed in R.S. 15:587.1(C), whose name is recorded on the state registry within
26 the Department of Children and Family Services as a perpetrator for a justified
27 finding of abuse or neglect of a child, whose name is on any other state's child abuse
28 and neglect registry or repository, whose name is on the Louisiana Sex Offender and
29 Child Predator Registry, whose name is on any other state's sex offender registry, or
30 whose name is on the National Crime Information Center's National Sex Offender

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

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

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

29 (a) ~~The department may request~~ Request, consistent with the provisions of
 30 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, and for whom the department has
19 received a Louisiana or federal criminal history information report, may be hired on
20 a provisional basis until such time as all required background checks have been
21 completed; a provisional employee shall be monitored in accordance with rules
22 adopted by the State Board of Elementary and Secondary Education by an individual
23 who has completed a criminal background check. Under no circumstances shall an
24 early learning center employ a person in any capacity until the department has
25 received the required Louisiana or federal criminal history information report.

26 (3) The department may charge a processing fee not to exceed fifteen dollars
27 and may collect the processing fees charged by the Bureau of Criminal Identification
28 and Information for a state criminal history report, the Federal Bureau of
29 Investigation for a federal criminal history information report, the National Crime
30 Information Center for a search of the National Sex Offender Registry, the

1 Department of Children and Family Services for a search of its state central registry
 2 of abuse and neglect, and processing fees charged by other states when it receives
 3 a request for a criminal background check and shall timely submit the appropriate
 4 processing fees to the appropriate agencies.

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

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

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

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

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

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

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

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

27 Section 7.(A) Sections 1, 3, and 4 of this Act shall become effective when the State
 28 Board of Elementary and Secondary Education promulgates rules providing for
 29 implementation procedures by which the state Department of Education shall conduct

1 employment eligibility determinations for staff members of child care providers or on
2 September 30, 2018, whichever is earlier.

3 (B) Sections 2, 5, and 6 and this Section of this Act shall become effective upon
4 signature of this Act by the governor or, if not signed by the governor, upon expiration of
5 the time for bills to become law without signature by the governor, as provided by Article
6 III, Section 18 of the Constitution of Louisiana. If this Act is vetoed by the governor and
7 subsequently approved by the legislature, Sections 2, 5, and 6 and this Section of this Act
8 shall become effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____