

2018 Regular Session

SENATE BILL NO. 308

BY SENATOR MIZELL

HEALTH SERVICES. Provides relative to the creation of a volunteer and employee criminal history system. (8/1/18)

1 AN ACT

2 To enact R.S. 15:587.7, relative to the creation of a volunteer and employee criminal history
3 system; to provide for definitions; to provide for access to state and national criminal
4 history records; to provide for confidentiality; to provide for immunity; to provide
5 for rulemaking; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 15:587.7 is hereby enacted to read as follows:

8 **§587.7. Volunteer and employee criminal history system**

9 **A. The Louisiana Bureau of Criminal Identification and Information**
10 **shall implement a volunteer and employee criminal history system to allow**
11 **qualified entities to access state and federal criminal history records on certain**
12 **individuals in the absence of specific statutory provisions regarding access to**
13 **criminal history record information. For purposes of this Section, the following**
14 **definitions shall apply:**

15 **(1) "Care" means treatment, education, training, instruction,**
16 **supervision, or recreation services provided to children, the elderly, or**
17 **individuals with disabilities.**

1 (2) "Individuals with disabilities" means persons with a mental or
2 physical impairment who require assistance to perform one or more daily living
3 tasks.

4 (3) "Bureau" means the Louisiana Bureau of Criminal Identification and
5 Information located within the Department of Public Safety and Corrections,
6 public safety services, office of state police.

7 (4) "Individual" means a person who has, seeks to have, or may have
8 access to children, the elderly, or individuals with disabilities, served by a
9 qualified entity who meets either of the following requirements:

10 (a) Is employed by or volunteers with, or seeks to be employed by or
11 volunteer with, a qualified entity.

12 (b) Owns or operates, or seeks to own or operate, a qualified entity.

13 (5) "Qualified entity" means a business or organization, whether public
14 or private, operated for profit, operated not-for-profit, or voluntary, which
15 provides care or care placement services, including a business or organization
16 that licenses or certifies individuals to provide care or care placement services.

17 B.(1) A qualified entity must register with the bureau before submitting
18 a request for criminal history records under this Section.

19 (2) Each qualified entity may require an individual to submit to a
20 criminal history records check to be conducted by the bureau. Fingerprints and
21 other identifying information from the individual shall be submitted to the
22 bureau by the individual.

23 (3) When a criminal history records check is requested by a qualified
24 entity pursuant to Paragraph (1) of this Subsection, the bureau shall provide the
25 qualified entity with the state criminal history record information of the
26 individual subject to the inquiry. In addition, when the qualified entity requests
27 national criminal history records checks, the bureau shall forward the
28 fingerprints to the Federal Bureau of Investigation for a national criminal
29 history records check and shall provide the qualified entity with the national

1 criminal history record information of the individual subject to the inquiry.

2 C. National and state criminal history records checks are to be used by
3 the qualified entity to determine the suitability of the individual to have access
4 to children, the elderly, or individuals with disabilities served by the qualified
5 entity. The determination of suitability shall be solely made by the qualified
6 entity. This Section does not require the bureau to make a determination on
7 behalf of any qualified entity.

8 D. The cost of providing the information required under this Section
9 shall be charged by the bureau, as specified in R.S. 15:587(B), to the individual
10 subject to the inquiry for furnishing information contained in the bureau's
11 criminal history and identification files, including any additional costs of
12 providing the national criminal history records check which pertain to the
13 individual.

14 E. The qualified entity shall maintain the confidentiality of the federal
15 and state criminal history information in accordance with applicable federal
16 and state laws.

17 F. A qualified entity shall not be liable for damages solely for failing to
18 obtain the information authorized under this Section. The state, any political
19 subdivision of the state, or any agency, officer, or employee of the state or a
20 political subdivision shall not be liable for damages for providing the
21 information requested under this Section.

22 G. The bureau is hereby authorized to adopt and promulgate rules and
23 regulations in accordance with the Administrative Procedure Act to carry out
24 the provisions of this Section for those qualified entities who choose to obtain
25 federal and state criminal history record information pursuant to this Section.

The original instrument was prepared by Christine Arbo Peck. The following digest, which does not constitute a part of the legislative instrument, was prepared by Linda Nugent.

DIGEST

SB 308 Reengrossed

2018 Regular Session

Mizell

Proposed law establishes a volunteer and employee criminal history system operated by the Louisiana Bureau of Criminal Identification and Information. Proposed law allows certain businesses and organizations that provide care to children, the elderly, or individuals with disabilities to register with the bureau to obtain a state and federal criminal history report on individuals who have or seek to have access to those children, elderly, or individuals with disabilities, to determine their suitability to be providing care to those persons. Specifies that the access to obtain such reports is allowable in the absence of specific statutory provisions regarding access to criminal history record information.

Proposed law allows the bureau to charge for the criminal history report pursuant to provisions in present law that establish a processing fee.

Proposed law requires the business or organization that requests the criminal history report to maintain the confidentiality of the report.

Proposed law provides that a qualified entity is not liable for damages solely for failing to obtain background check information and the state is not liable for damages for providing background check information under proposed law.

Proposed law authorizes the bureau to promulgate rules to implement the provisions of proposed law.

Effective August 1, 2018.

(Adds R.S. 15:587.7)

Summary of Amendments Adopted by SenateSenate Floor Amendments to engrossed bill

1. Specifies that access to the criminal history records by qualified entities is allowable in the absence of specific statutory provisions regarding access to such information.