

2019 Regular Session

SENATE BILL NO. 19

BY SENATOR BOUDREAUX

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HEALTH DEPARTMENT. Provides relative to criminal history record information obtained by the Louisiana State Board of Medical Examiners. (8/1/19)

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AN ACT

To amend and reenact R.S. 44:4.1(B)(23) and to enact R.S. 37:1338.1, 1360.53.1, 1360.104.1, and 2863.1, relative to the authority of the Louisiana State Board of Medical Examiners to request and obtain state and national criminal history record information from certain state and federal agencies on any person applying for a license, registration, certificate, or permit to practice as a perfusionist, medical psychologist, genetic counselor, or polysomnographic health professional in this state; to provide for authority to collect fees and costs from an applicant for requesting and obtaining any criminal history record information; to provide for definitions; to provide for confidentiality of information; to provide for the release of such information upon written consent of the applicant or by court order; to provide for rulemaking authority; to provide for an exception to the Public Records Law; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:1338.1, 1360.53.1, 1360.104.1, and 2863.1 are hereby enacted to read as follows:

§1338.1. Authorization to obtain criminal history record information

1 A. As used in this Section, the following terms shall have the following
2 meaning:

3 (1) "Applicant" means an individual who has made application to the
4 board for the issuance or reinstatement of any license, registration, certificate,
5 permit, or any other designation considered necessary to practice as a
6 perfusionist in this state that the board is authorized by law to issue.

7 (2) "Bureau" means the Louisiana Bureau of Criminal Identification and
8 Information of the office of state police within the Department of Public Safety
9 and Corrections.

10 (3) "Criminal history record information" means information collected
11 by state and federal criminal justice agencies on individuals consisting of
12 identifiable descriptions and notations of arrests, detentions, or any formal
13 criminal charges, and any disposition arising therefrom, including sentencing,
14 criminal correctional supervision, and release, but does not include intelligence
15 for investigatory purposes, nor does it include any identification information
16 which does not indicate involvement of the individual in the criminal justice
17 system.

18 (4) "FBI" means the Federal Bureau of Investigation of the United States
19 Department of Justice.

20 (5) "Licensure" means the granting of any license, permit, certification,
21 or registration that the board is authorized to issue pursuant to this Part.

22 B. In addition to any other requirements established by regulation, the
23 board shall require an applicant, as a condition of licensure:

24 (1) To submit a full set of fingerprints, in a form and manner prescribed
25 by the board.

26 (2) To permit the board to request and obtain state and national criminal
27 history record information on the applicant.

28 (3) To pay, in addition to all other applicable fees and costs, such amount
29 as may be incurred by the board in requesting and obtaining state and national

1 criminal history record information on the applicant.

2 C. In accordance with the provisions and procedures prescribed by this
3 Section, the board shall request and obtain state and national criminal history
4 record information from the bureau and the FBI relative to any applicant for
5 licensure whose fingerprints the board has obtained pursuant to this Section for
6 the purpose of determining the applicant's suitability and eligibility for
7 licensure.

8 D. Upon request by the board and upon the board's submission of an
9 applicant's fingerprints and such other identifying information as may be
10 required, the bureau shall conduct a search of its criminal history record
11 information and make a simultaneous request of the FBI relative to the
12 applicant and report the results of its search to the board within sixty days from
13 receipt of any such request. The bureau may charge the board a processing fee
14 for conducting and reporting on any such search.

15 E. Any and all state or national criminal history record information
16 obtained by the board from the bureau or FBI which is not already a matter of
17 public record shall be considered nonpublic and confidential information
18 restricted to the exclusive use of the board, its members, officers, investigators,
19 agents, and attorneys for the purpose of evaluating the applicant's eligibility or
20 disqualification for licensure. No such information or records related thereto
21 shall, except with the written consent of the applicant or by order of a court of
22 competent jurisdiction, be released or otherwise disclosed by the board to any
23 other person or agency.

24 * * *

25 §1360.53.1. Authorization to obtain criminal history record information

26 A. As used in this Section, the following terms shall have the following
27 meaning:

28 (1) "Applicant" means an individual who has made application to the
29 board for the issuance or reinstatement of any license, registration, certificate,

1 permit, or any other designation considered necessary to practice as a medical
2 psychologist in this state that the board is authorized by law to issue.

3 (2) "Bureau" means the Louisiana Bureau of Criminal Identification and
4 Information of the office of state police within the Department of Public Safety
5 and Corrections.

6 (3) "Criminal history record information" means information collected
7 by state and federal criminal justice agencies on individuals consisting of
8 identifiable descriptions and notations of arrests, detentions, or any formal
9 criminal charges, and any disposition arising therefrom, including sentencing,
10 criminal correctional supervision, and release, but does not include intelligence
11 for investigatory purposes, nor does it include any identification information
12 which does not indicate involvement of the individual in the criminal justice
13 system.

14 (4) "FBI" means the Federal Bureau of Investigation of the United States
15 Department of Justice.

16 (5) "Licensure" means the granting of any license, permit, certification,
17 or registration that the board is authorized to issue pursuant to this Part.

18 B. In addition to any other requirements established by regulation, the
19 board shall require an applicant, as a condition of licensure:

20 (1) To submit a full set of fingerprints, in a form and manner prescribed
21 by the board.

22 (2) To permit the board to request and obtain state and national criminal
23 history record information on the applicant.

24 (3) To pay, in addition to all other applicable fees and costs, such amount
25 as may be incurred by the board in requesting and obtaining state and national
26 criminal history record information on the applicant.

27 C. In accordance with the provisions and procedures prescribed by this
28 Section, the board shall request and obtain state and national criminal history
29 record information from the bureau and the FBI relative to any applicant for

1 licensure whose fingerprints the board has obtained pursuant to this Section for
2 the purpose of determining the applicant's suitability and eligibility for
3 licensure.

4 D. Upon request by the board and upon the board's submission of an
5 applicant's fingerprints and such other identifying information as may be
6 required, the bureau shall conduct a search of its criminal history record
7 information and make a simultaneous request of the FBI relative to the
8 applicant and report the results of its search to the board within sixty days from
9 receipt of any such request. The bureau may charge the board a processing fee
10 for conducting and reporting on any such search.

11 E. Any and all state or national criminal history record information
12 obtained by the board from the bureau or FBI which is not already a matter of
13 public record shall be considered nonpublic and confidential information
14 restricted to the exclusive use of the board, its members, officers, investigators,
15 agents, and attorneys for the purpose of evaluating the applicant's eligibility or
16 disqualification for licensure. No such information or records related thereto
17 shall, except with the written consent of the applicant or by order of a court of
18 competent jurisdiction, be released or otherwise disclosed by the board to any
19 other person or agency.

20 * * *

21 §1360.104.1. Authorization to obtain criminal history record information

22 A. As used in this Section, the following terms shall have the following
23 meaning:

24 (1) "Applicant" means an individual who has made application to the
25 board for the issuance or reinstatement of any license, registration, certificate,
26 permit, or any other designation considered necessary to engage in the practice
27 of genetic counseling in this state that the board is authorized by law to issue.

28 (2) "Bureau" means the Louisiana Bureau of Criminal Identification and
29 Information of the office of state police within the Department of Public Safety

1 and Corrections.

2 (3) "Criminal history record information" means information collected
3 by state and federal criminal justice agencies on individuals consisting of
4 identifiable descriptions and notations of arrests, detentions, or any formal
5 criminal charges, and any disposition arising therefrom, including sentencing,
6 criminal correctional supervision, and release, but does not include intelligence
7 for investigatory purposes, nor does it include any identification information
8 which does not indicate involvement of the individual in the criminal justice
9 system.

10 (4) "FBI" means the Federal Bureau of Investigation of the United States
11 Department of Justice.

12 (5) "Licensure" means the granting of any license, permit, certification,
13 or registration that the board is authorized to issue pursuant to this Part.

14 B. In addition to any other requirements established by regulation, the
15 board shall require an applicant, as a condition of licensure:

16 (1) To submit a full set of fingerprints, in a form and manner prescribed
17 by the board.

18 (2) To permit the board to request and obtain state and national criminal
19 history record information on the applicant.

20 (3) To pay, in addition to all other applicable fees and costs, such amount
21 as may be incurred by the board in requesting and obtaining state and national
22 criminal history record information on the applicant.

23 C. In accordance with the provisions and procedures prescribed by this
24 Section, the board shall request and obtain state and national criminal history
25 record information from the bureau and the FBI relative to any applicant for
26 licensure whose fingerprints the board has obtained pursuant to this Section for
27 the purpose of determining the applicant's suitability and eligibility for
28 licensure.

29 D. Upon request by the board and upon the board's submission of an

1 applicant's fingerprints and such other identifying information as may be
2 required, the bureau shall conduct a search of its criminal history record
3 information and make a simultaneous request of the FBI relative to the
4 applicant and report the results of its search to the board within sixty days from
5 receipt of any such request. The bureau may charge the board a processing fee
6 for conducting and reporting on any such search.

7 E. Any and all state or national criminal history record information
8 obtained by the board from the bureau or FBI which is not already a matter of
9 public record shall be considered nonpublic and confidential information
10 restricted to the exclusive use of the board, its members, officers, investigators,
11 agents, and attorneys for the purpose of evaluating the applicant's eligibility or
12 disqualification for licensure. No such information or records related thereto
13 shall, except with the written consent of the applicant or by order of a court of
14 competent jurisdiction, be released or otherwise disclosed by the board to any
15 other person or agency.

16 * * *

17 §2863.1. Authorization to obtain criminal history record information

18 A. As used in this Section, the following terms shall have the following
19 meaning:

20 (1) "Applicant" means an individual who has made application to the
21 board for the issuance or reinstatement of any license, registration, certificate,
22 permit, or any other designation considered necessary to engage in the practice
23 of polysomnography in this state that the board is authorized by law to issue.

24 (2) "Bureau" means the Louisiana Bureau of Criminal Identification and
25 Information of the office of state police within the Department of Public Safety
26 and Corrections.

27 (3) "Criminal history record information" means information collected
28 by state and federal criminal justice agencies on individuals consisting of
29 identifiable descriptions and notations of arrests, detentions, or any formal

1 criminal charges, and any disposition arising therefrom, including sentencing,
2 criminal correctional supervision, and release, but does not include intelligence
3 for investigatory purposes, nor does it include any identification information
4 which does not indicate involvement of the individual in the criminal justice
5 system.

6 (4) "FBI" means the Federal Bureau of Investigation of the United States
7 Department of Justice.

8 (5) "Licensure" means the granting of any license, permit, certification,
9 or registration that the board is authorized to issue pursuant to this Chapter.

10 B. In addition to any other requirements established by regulation, the
11 board shall require an applicant, as a condition of licensure:

12 (1) To submit a full set of fingerprints, in a form and manner prescribed
13 by the board.

14 (2) To permit the board to request and obtain state and national criminal
15 history record information on the applicant.

16 (3) To pay, in addition to all other applicable fees and costs, such amount
17 as may be incurred by the board in requesting and obtaining state and national
18 criminal history record information on the applicant.

19 C. In accordance with the provisions and procedures prescribed by this
20 Section, the board shall request and obtain state and national criminal history
21 record information from the bureau and the FBI relative to any applicant for
22 licensure whose fingerprints the board has obtained pursuant to this Section for
23 the purpose of determining the applicant's suitability and eligibility for
24 licensure.

25 D. Upon request by the board and upon the board's submission of an
26 applicant's fingerprints and such other identifying information as may be
27 required, the bureau shall conduct a search of its criminal history record
28 information and make a simultaneous request of the FBI relative to the
29 applicant and report the results of its search to the board within sixty days from

1 receipt of any such request. The bureau may charge the board a processing fee
2 for conducting and reporting on any such search.

3 E. Any and all state or national criminal history record information
4 obtained by the board from the bureau or FBI which is not already a matter of
5 public record shall be considered nonpublic and confidential information
6 restricted to the exclusive use of the board, its members, officers, investigators,
7 agents, and attorneys for the purpose of evaluating the applicant's eligibility or
8 disqualification for licensure. No such information or records related thereto
9 shall, except with the written consent of the applicant or by order of a court of
10 competent jurisdiction, be released or otherwise disclosed by the board to any
11 other person or agency.

12 Section 2. R.S. 44:4.1(B)(23) is hereby amended and reenacted to read as follows:

13 §4.1. Exceptions

14 * * *

15 B. The legislature further recognizes that there exist exceptions, exemptions,
16 and limitations to the laws pertaining to public records throughout the revised
17 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
18 limitations are hereby continued in effect by incorporation into this Chapter by
19 citation:

20 * * *

21 (23) R.S. 37:74, 86, 90, 147, 691, 711.10, 763, 763.1, 781, 920.1, 969.1,
22 1123(E), 1277, 1278, 1285, 1326, **1338.1, 1360.53.1, 1360.104.1,** 1518, 1745.15,
23 1747, 1806, 2156.1, 2406, 2505.1, **2863.1,** 3481, 3507.1

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The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Christine Arbo Peck.

SB 19 Reengrossed DIGEST 2019 Regular Session Boudreaux

Present law authorizes the Louisiana State Board of Medical Examiners (LSBME) to regulate perfusionists, medical psychologists, genetic counselors, and polysomnographic health professionals. Proposed law authorizes the LSBME to request and obtain state and

national criminal history record information as a requirement of application for license, registration, certificate, or permit to practice in this state.

Proposed law provides that the LSBME shall request and obtain state and national criminal history record information from the Louisiana Bureau of Criminal Identification and Information of the office of state police within the Department of Public Safety and Corrections and the Federal Bureau of Investigation of the United States Department of Justice.

Proposed law provides that the LSBME, in addition to any other requirements established by regulation, shall require an applicant, as a condition of licensure to submit a full set of fingerprints, in a form and manner prescribed by the board, permit the board to request and obtain state and national criminal history record information on the applicant, and pay, in addition to all other applicable fees and costs, such amount as may be incurred by the board in requesting and obtaining state and national criminal history record information on the applicant.

Proposed law provides for confidentiality of criminal history information obtained by LSBME and provides for the release of such information upon written consent of the applicant or by court order.

Proposed law provides for an exception to the Public Records Law.

Proposed law provides for rulemaking.

Effective August 1, 2019.

(Amends R.S. 44:4.1(B)(23); adds R.S. 37:1338.1, 1360.53.1, 1360.104.1, and 2863.1)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to the original bill

1. Removes indictments and bills of information from the definition of "criminal history record information".
2. Clarifies that the Louisiana Bureau of Criminal Identification and Information of the office of state police within the Department of Public Safety and Corrections simultaneously searched their own records and makes a request of the FBI for a search of their records upon request by the board.
3. Removes provision providing for secondary search if initial criminal history record search does not provide for grounds for disqualification of the applicant.
4. Provides for an exception to the Public Records Law for criminal history information obtained pursuant to proposed law.
5. Makes technical amendments.