

2016 Regular Session

HOUSE BILL NO. 918

BY REPRESENTATIVE WILLMOTT

NURSES/PRACTICAL: Provides relative to background checks for persons applying for licensure by the La. State Board of Practical Nurse Examiners

1 AN ACT

2 To amend and reenact R.S. 37:969(B)(introductory paragraph), (1) through (3), and (4)(a)
3 and (c) and 969.1(B) through (D) and to enact R.S. 37:21(B)(11) and 969(B)(4)(d),
4 relative to the Louisiana State Board of Practical Nurse Examiners; to exempt the
5 board from certain limitations on disciplinary proceedings; to authorize the board to
6 obtain certain criminal history record information; to provide for methods of
7 obtaining such information; to provide for technical corrections; and to provide for
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 37:969(B)(introductory paragraph), (1) through (3), and (4)(a) and
11 (c) and 969.1(B) through (D) are hereby amended and reenacted and R.S. 37:21(B)(11) and
12 969(B)(4)(d) are hereby enacted to read as follows:

13 §21. Limitations on disciplinary proceedings by professional or occupational boards
14 and commissions

15 * * *

16 B. The provisions of this Section shall not apply to the following:

17 * * *

18 (11) The Louisiana State Board of Practical Nurse Examiners.

19 * * *

20 §969. Duties and powers of the board

21 * * *

1 B. The board may do all of the following:

2 (1) Issue subpoenas and administer oaths to persons giving testimony at
3 hearings;

4 (2) Employ and fix compensations of persons necessary to carry on the work
5 of the board;

6 (3) Appoint an attorney to represent the board in all matters pertaining to the
7 administration of this Part and fix his compensation and define his duties;

8 (4)(a) Request and obtain state and national criminal history record
9 information on any person applying for the issuance, renewal, or reinstatement of
10 any license or permit which the board is authorized by law to issue, including
11 permission to enroll as a student in nurse training courses.

12 * * *

13 (c) Promulgate the rules, regulations, and procedures, in cooperation with the
14 Louisiana Bureau of Criminal Identification and Information of the office of state
15 police within the Department of Public Safety and Corrections and the Federal
16 Bureau of Investigation of the United States Department of Justice, in accordance
17 with the Administrative Procedure Act, that are necessary to implement the
18 provisions of this ~~Paragraph~~ Section.

19 (d) Require any applicant requesting the issuance, renewal, or reinstatement
20 of any license or permit which the board is authorized to issue, including permission
21 to enroll as a student in any nurse training course, to provide a full set of fingerprints,
22 in a form and manner prescribed by the board, as a condition of the board's
23 consideration of his application.

24 * * *

25 §969.1. Louisiana State Board of Practical Nurse Examiners; authorization to obtain
26 criminal history record information

27 * * *

28 B.(1) In addition to any other requirements established by law or board rules,
29 the board ~~may~~ shall:

1 (a) ~~(1)~~ Require that any person applying for any license or permit which the
2 board is authorized by law to issue each applicant, as a condition for eligibility for
3 licensure, to provide all of the following:

4 (a) A full set of fingerprints, in a form and manner prescribed by the board.

5 (b) ~~provide written~~ Written consent to the board to request and obtain for
6 state and national criminal history record information on such person to be obtained
7 as a condition for consideration of his application.

8 (b) ~~Charge and collect from the applicant, in addition to all other applicable~~
9 ~~fees and costs, such amount as may be incurred by the board in requesting and~~
10 ~~obtaining state and national criminal history record information on the applicant.~~

11 (2) ~~The board shall provide~~ Provide each applicant with a copy of the written
12 standards specifying the requirements that must be met by an applicant for licensure
13 and the grounds on which a license may be denied or revoked.

14 C. In accordance with the provisions and procedures prescribed by this
15 Section, or any other law or board rule, the board ~~may~~ shall request and obtain state
16 and national criminal history record information from the ~~Louisiana Bureau of~~
17 ~~Criminal Identification and Information of the office of state police within the~~
18 ~~Department of Public Safety and Corrections and the Federal Bureau of Investigation~~
19 ~~of the United States Department of Justice~~ bureau and the FBI relative to any person
20 applying for a license to ~~determine~~ issuance, renewal, or reinstatement of any license
21 or permit whose fingerprints the board has obtained pursuant to this Section for the
22 purpose of determining the applicant's suitability and eligibility for licensure.

23 D. ~~Upon request by the board, the bureau shall conduct a search of its~~
24 ~~criminal history record information relative to the applicant and report the results of~~
25 ~~its search to the board within sixty days after receipt of any such request.~~ Upon
26 receiving fingerprints, the bureau shall survey its criminal history records and
27 identification files and make a simultaneous request of the FBI for like information
28 from other jurisdictions. The bureau shall provide a report promptly and in writing,
29 but shall provide only such information as is necessary to specify whether or not the

1 person has been arrested for or convicted of or pled nolo contendere to any crime or
2 crimes, the crime or crimes of which he has been arrested for or convicted or to
3 which he has pled nolo contendere, and the date or dates on which they occurred.
4 The report provided pursuant to the provisions of this Subsection shall include
5 arrests, convictions, or other dispositions, including any conviction dismissed
6 pursuant to Code of Criminal Procedure Article 893 or 894. The bureau may charge
7 the board a reasonable processing fee for conducting and reporting on any such
8 search.

* * *

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)]

HB 918 Reengrossed

2016 Regular Session

Willmott

Abstract: Exempts the La. State Board of Practical Nurse Examiners from certain limitations on disciplinary proceedings and authorizes the board to obtain certain criminal history record information from its applicants.

Present law provides that unless a special law is applicable, no proceeding of any kind may be initiated by a professional or occupational board or commission as follows:

- (1) If the nature of the complaint is based on negligence or gross negligence, no proceeding may be initiated after two years from discovery by the complainant. However, under no circumstances shall such a proceeding be initiated more than five years from the date of the act or omission.
- (2) If the nature of the complaint is based on an intentional act or omission, no proceeding may be initiated after two years from discovery by the complainant. However, under no circumstances shall such a proceeding be initiated more than five years from the date of the act or omission.
- (3) If the nature of the complaint is based on fraud, no proceeding may be initiated after two years from discovery by the complainant.
- (4) If the nature of the complaint is based on a license or rules violation, no proceeding may be initiated after five years from the date of the act or omission.
- (5) In all cases where a complaint is filed with a professional or occupational board or commission, the board or commission shall notify the licensee in writing of the complaint within six months after the filing of the complaint or be barred from further action thereon. The board or commission shall hold any required hearing within six months after the notice of the hearing, but this period may be interrupted by the filing of procedural motions.

Present law exempts certain professional and occupational boards and commissions from the limitations of present law above. Proposed law retains present law and adds the La. State Board of Practical Nurse Examiners, referred to hereafter as the "board", as a board which is exempt from the above limitations.

Proposed law authorizes the board to require any applicant requesting issuance, renewal, or reinstatement of any license or permit from the board, including permission to enroll as a student in any nurse training course, to provide a full set of fingerprints as a condition of the board's consideration of his application.

Present law provides that upon request by the board, the La. Bureau of Criminal Identification and Information of the office of state police, referred to hereafter as the "bureau", shall conduct a search of its criminal history record information relative to the person applying to the board and report the results of its search to the board within 60 days after receipt of the request. Proposed law deletes present law and provides all of the following relative to checking and reporting of criminal history record information of persons applying to the board:

- (1) A requirement that upon receipt by the bureau of fingerprints from the board, the bureau shall survey its criminal history records and identification files and make a simultaneous request of the Federal Bureau of Investigation for like information from other jurisdictions.
- (2) A requirement that the bureau provide a report promptly and in writing, but shall provide only such information as is necessary to specify whether or not the person has been arrested for or convicted of or pled nolo contendere to any crime or crimes, the crime or crimes of which he has been arrested for or convicted or to which he has pled nolo contendere, and the date or dates on which they occurred.
- (3) Provisions stipulating that the report shall include arrests, convictions, or other dispositions, including any conviction dismissed pursuant to present law, C.Cr.P. Art. 893 or 894.

Proposed law deletes present law authorizing the board to charge and collect from applicants such amount as may be incurred by the board in requesting and obtaining state and national criminal history record information.

(Amends R.S. 37:969(B)(intro. para.), (1)-(3), and (4)(a) and (c) and 969.1(B)-(D); Adds R.S. 37:21(B)(11) and 969(B)(4)(d))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Revise proposed law requiring applicants to submit a full set of fingerprints to require instead that applicants provide a full set of fingerprints.
2. Revise present law requiring applicants to provide written consent to the La. State Board of Practical Nurse Examiners to request and obtain state and national criminal history record information to require instead that applicants provide written consent for such criminal history record information to be obtained by an unspecified party.
3. Delete proposed law referring to submission by the La. State Board of Practical Nurse Examiners of an applicant's fingerprints and other identifying information.

4. Delete proposed law providing that if the criminal history record information reported by the La. Bureau of Criminal Identification and Information to the La. State Board of Practical Nurse Examiners does not provide grounds for disqualification of the applicant for licensure, the board may forward the applicant's fingerprints and such other identifying information as may be required to the FBI with a request for a search of national criminal history record information relative to the applicant.
5. Add proposed law providing all of the following relative to checking and reporting of criminal history record information of persons applying to the La. State Board of Practical Nurse Examiners:
 - (a) A requirement that upon receipt by the La. Bureau of Criminal Identification and Information of fingerprints from the board, the bureau shall survey its criminal history records and identification files and make a simultaneous request of the FBI for like information from other jurisdictions.
 - (b) A requirement that the bureau provide a report promptly and in writing, but shall provide only such information as is necessary to specify whether or not the person has been arrested for or convicted of or pled nolo contendere to any crime or crimes, the crime or crimes of which he has been arrested for or convicted or to which he has pled nolo contendere, and the date or dates on which they occurred.
 - (c) Provisions stipulating that the report provided pursuant to proposed law shall include arrests, convictions, or other dispositions, including any conviction dismissed pursuant to present law, C.Cr.P. Art. 893 or 894.

The House Floor Amendments to the engrossed bill:

1. Delete present law authorizing the La. State Board of Practical Nurse Examiners to charge and collect from applicants such amount as may be incurred by the board in requesting and obtaining state and national criminal history record information.
2. Make technical changes.