

Regular Session, 2013

SENATE BILL NO. 150

BY SENATOR ADLEY

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

HEALTH SERVICES. Provides for fingerprint based criminal background checks and for authorized agents for purposes of criminal history checks on nonlicensed persons and licensed ambulance personnel. (8/1/13)

1 AN ACT

2 To amend and reenact R.S. 40:1300.51(1), 1300.52(A), (B)(1), (C), (D)(2), and (E), the
3 introductory paragraphs of 1300.53(A) and (B), 1300.53(C)(1), and 1300.55 and to
4 enact R.S. 40:1300.57, relative to criminal history checks on nonlicensed persons
5 and licensed ambulance personnel; to provide with respect to an authorized agency;
6 to provide for the application and requirements for approval as an authorized agency;
7 and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 40:1300.51(1), 1300.52(A), (B)(1), (C), (D)(2), and (E), the
10 introductory paragraphs of 1300.53(A) and (B), 1300.53(C)(1), and 1300.55 are hereby
11 amended and reenacted and R.S. 40:1300.57 is hereby enacted to read as follows:

12 §1300.51. Definitions

13 For the purposes of this Part:

14 (1) "Authorized agency" means a private entity authorized by the office of
15 state police to conduct the ~~criminal history~~ **fingerprint based criminal background**
16 checks provided for in this Part. Nothing herein shall be construed as expanding the
17 access to confidential law enforcement records of the state of Louisiana or its

1 political subdivisions or authorizing access by said agency to the computerized
2 records of law enforcement agencies.

3 * * *

4 §1300.52. Employment of nonlicensed persons and licensed ambulance personnel;
5 mandatory ~~criminal history~~ **fingerprint based criminal background**
6 **check** and security checks; temporary employment; notice to
7 applicants

8 A.(1) Except as otherwise provided in Subsection C of this Section, prior to
9 any employer making an offer to employ or to contract with a nonlicensed person or
10 any licensed ambulance personnel to provide nursing care, health-related services,
11 medic services, or supportive assistance to any individual, the employer shall request
12 that a ~~criminal history~~ **fingerprint based criminal background check** and security
13 check be conducted on the nonlicensed person or any licensed ambulance personnel
14 pursuant to the provisions of this Section. If the employer is a facility, home, or
15 institution which is part of a larger complex of buildings, the requirement of a
16 ~~criminal history~~ **fingerprint based criminal background check** and security check
17 shall apply only to an offer of employment or contract made to a nonlicensed person
18 or any licensed ambulance personnel who will work primarily in the immediate
19 boundaries of the facility, home, or institution.

20 (2) Except as otherwise specified in Paragraph D(1) of this Section, an
21 employer may obtain the ~~criminal history~~ **fingerprint based criminal background**
22 **check** record maintained by the office of state police of a nonlicensed person or any
23 licensed ambulance personnel offering to provide nursing care, health-related
24 services, or supportive services to any individual.

25 B.(1) The employer shall request in writing that the office or authorized
26 agency conduct a ~~criminal history~~ **fingerprint based criminal background check**
27 and security check on the nonlicensed person or any licensed ambulance personnel
28 and shall provide the office or authorized agency with any relevant information
29 required by the office or authorized agency to conduct the check.

* * *

C.(1) An employer may make an offer of temporary employment to a nonlicensed person or any licensed ambulance personnel pending the results of the ~~criminal history~~ **fingerprint based criminal background check** and security check on the person. In such instances, the employer shall provide to the office or authorized agency the name and relevant information relating to the person within seventy-two hours after the date the person accepts temporary employment.

(2)(a) Notwithstanding the provisions of Paragraph (1) of this Subsection, any nurse's aide offered temporary employment prior to the receipt of the results of the required ~~criminal history~~ **fingerprint based criminal background check** and security check shall be under the direct supervision of a permanent employee or shall be in the presence of a member of the immediate family of the patient or of a care giver designated by the immediate family of the patient.

(b) As used in this Paragraph, "member of the immediate family" means a child, parent, grandparent, sibling, uncle, aunt, nephew, or niece of the patient related by blood, marriage, or adoption.

D. * * *

(2) Within thirty days of receiving notification by the employer to conduct a ~~criminal history~~ **fingerprint based criminal background check** and security check, the office or authorized agency shall complete the ~~criminal history~~ **fingerprint based criminal background check** and security check and then report the results of the check to the requesting employer in writing.

E. An employer shall inform each applicant for employment or each prospective contract provider that the employer is required to obtain a ~~criminal history record~~ **fingerprint based criminal background check** and perform a security check before such employer makes an offer of employment to, or contracts with, a nonlicensed person or any licensed ambulance personnel. The employer shall obtain written permission from the applicant for the release of such information to the employer on a form that clearly notifies the applicant it is a crime to provide false

1 information concerning a criminal history check to an employer.

2 §1300.53. Refusal to hire or contract; termination of employment; exemption;
3 appeal procedure; waiver

4 A. Except as otherwise provided in R.S. 40:1300.52(C), no employer shall
5 hire any licensed ambulance personnel or nonlicensed person when the results of a
6 ~~criminal history check~~ **fingerprint based criminal background** check reveal that
7 the licensed ambulance personnel or nonlicensed person has been convicted of any
8 of the following offenses:

9 * * *

10 B. Additionally, except as otherwise provided in R.S. 40:1300.52(C), no
11 employer who provides care or services to any person under the age of twenty-one
12 shall hire any licensed ambulance personnel or nonlicensed person when the results
13 of the ~~criminal history~~ **fingerprint based criminal background** check reveal that
14 the licensed ambulance personnel or nonlicensed person has been convicted of any
15 of the following offenses:

16 * * *

17 C.(1) If the results of a ~~criminal history~~ **fingerprint based criminal**
18 **background** check reveal that a nonlicensed person or any licensed ambulance
19 personnel hired on a temporary basis or any other person who is an employee has
20 been convicted of any of the offenses listed in Subsection A or B of this Section, the
21 employer shall immediately terminate the person's employment.

22 * * *

23 §1300.55. Compliance

24 The department shall review the employment files of any facility or agency
25 required to obtain ~~criminal history~~ **fingerprint based criminal background check**
26 records to ensure such facilities are in compliance with the provisions of this Part.

27 * * *

28 **§1300.57. Application to be approved as an authorized agency**

29 **A. An individual or business entity seeking approval as an authorized**

1 agency shall submit an application to the Louisiana Bureau of Criminal
2 Identification and Information along with the following documents to prove the
3 individual's or business entity's qualifications.

4 (1) The applicant must be currently licensed in the state of Louisiana as
5 a private investigator or detective by the Louisiana State Board of Private
6 Investigator Examiners as evidenced by current and valid licensure issued by
7 the Louisiana State Board of Private Investigator Examiners, or an individual
8 employed by a business entity domiciled in the state of Louisiana and registered
9 and in good standing with the secretary of state at the time of application whose
10 primary source of business is background screenings.

11 (2) The applicant must not currently be charged by bill of information
12 or under indictment for, or have been convicted of, any felony offense in this
13 state or any other jurisdiction, and submit to a background investigation to
14 determine that this requirement is met.

15 (3) The applicant shall be domiciled in the state of Louisiana and shall
16 present proof of qualification to do business within the state of Louisiana as
17 evidenced by a valid certificate of authority issued by the secretary of state, and
18 designation of an agent for service of process as required by law. If the
19 applicant is operating as a sole proprietorship, a current and valid occupational
20 license shall be presented.

21 (4) The applicant shall execute a written agreement whereby he agrees
22 to maintain the confidentiality of any and all information provided to it by the
23 Louisiana Bureau of Criminal Identification and Information pursuant to R.S.
24 40:1300.51 et seq., abide by all applicable laws, rules and regulations pertaining
25 to receipt and use of criminal history information, cooperate in any auditing
26 procedure conducted by the Louisiana Bureau of Criminal Identification and
27 Information, and inform the Louisiana Bureau of Criminal Identification and
28 Information in writing of any known violations regarding the use of criminal
29 history information he receives.

1 **B. Upon receipt of a completed application for approval as an**
 2 **authorized agency, the Louisiana Bureau of Criminal Identification and**
 3 **Information shall review the application and conduct whatever investigation it**
 4 **deems necessary to verify the information. Upon completion of this review, the**
 5 **Louisiana Bureau of Criminal Identification and Information shall inform the**
 6 **applicant in writing of its approval or denial of the application and, in the case**
 7 **of denial, the reasons for such denial.**

8 **C. Each authorized agency shall maintain the eligibility requirements**
 9 **to be approved as an authorized agency. Each authorized agency shall notify**
 10 **the Louisiana Bureau of Criminal Identification and Information in writing of**
 11 **a change in its qualification requirements within fifteen days of the change.**
 12 **Failure to continue to maintain the eligibility requirements shall result in**
 13 **cancellation of approval as an authorized agency.**

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Christopher D. Adams.

DIGEST

Adley (SB 150)

Present law provides for criminal history checks.

Proposed law amends present law to change from "criminal history checks" to "fingerprint based criminal background checks".

Present law requires an individual seeking approval as an authorized agency shall be currently licensed in the state of Louisiana as a private investigator or detective by the Louisiana State Board of Private Investigator Examiners.

Proposed law provides an individual or business entity seeking approval as an authorized agency shall submit an application to the Louisiana Bureau of Criminal Identification and Information (Bureau) along with the following documents to prove the individual's or business entity's qualifications:

- (1) The applicant must be currently licensed in Louisiana as a private investigator or detective by the Louisiana State Board of Private Investigator Examiners as evidenced by current and valid licensure issued by the Louisiana State Board of Private Investigator Examiners, or an individual employed by a business entity domiciled in the state of Louisiana and registered and in good standing with the secretary of state at the time of application whose primary source of business is background screenings.
- (2) The applicant must not currently be charged by bill of information or under indictment for, or have been convicted of, any felony offense in this state or any other jurisdiction, and submit to a background investigation to determine that this

- requirement is met.
- (3) The applicant shall be domiciled into the state of Louisiana and shall present proof of qualification to do business within Louisiana as evidenced by a valid certificate of authority issued by the secretary of state, and designation of an agent for service of process as required by law. If the applicant is operating as a sole proprietorship, a current and valid occupational license shall be presented.
- (4) The applicant shall execute a written agreement whereby he agrees to maintain the confidentiality of any and all information provided to it by the Bureau pursuant to present law, abide by all applicable laws, rules and regulations pertaining to receipt and use of criminal history information, cooperate in any auditing procedure conducted by the Bureau, and inform the Bureau in writing of any known violations regarding the use of criminal history information he receives.

Proposed law provides for the application to be approved as an authorized agency.

Effective August 1, 2013.

(Amends R.S. 40:1300.51(1), 1300.52(A), (B)(1), (C), (D)(2), and (E), 1300.53(A) (intro para) and (B)(intro para),(C)(1), and 1300.55; adds R.S. 40:1300.57)

Summary of Amendments Adopted by Senate

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

1. Changes from "criminal history checks" to "fingerprint based criminal background checks".
2. Adds business entity to those who may seek approval as authorized agency.
3. Requires the business entity must be domiciled in Louisiana.