

SENATE BILL NO. 308

BY SENATOR MIZELL

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 limitation of liability;
5 to provide 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) "Bureau" means the Louisiana Bureau of Criminal Identification and**
16 **Information located within the Department of Public Safety and Corrections,**
17 **public safety services, office of state police.**

18 **(2) "Care" means treatment, education, training, instruction,**
19 **supervision, or recreation services provided to children, the elderly, or**
20 **individuals with disabilities.**

21 **(3) "Individual" means a person who has, seeks to have, or may have**
22 **access to children, the elderly, or individuals with disabilities, served by a**
23 **qualified entity who meets either of the following requirements:**

24 **(a) Is employed by or volunteers with, or seeks to be employed by or**
25 **volunteer with, a qualified entity.**

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

1 (4) "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 (5) "Qualified entity" means a business or organization, whether public
5 or private, operated for profit, operated not-for-profit, or voluntary, which
6 provides care or care placement services, including a business or organization
7 that licenses or certifies individuals to provide care or care placement services.

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

10 (2) Each qualified entity may require an individual to submit to a
11 criminal history records check to be conducted by the bureau. Fingerprints and
12 other identifying information from the individual shall be submitted to the
13 bureau by the individual.

14 (3) When a criminal history records check is requested by a qualified
15 entity pursuant to Paragraph (1) of this Subsection, the bureau shall provide the
16 qualified entity with the state criminal history record information of the
17 individual subject to the inquiry. In addition, when the qualified entity requests
18 national criminal history records checks, the bureau shall forward the
19 fingerprints to the Federal Bureau of Investigation for a national criminal
20 history records check and shall provide the qualified entity with the national
21 criminal history record information of the individual subject to the inquiry.

22 C. National and state criminal history records checks are to be used by
23 the qualified entity to determine the suitability of the individual to have access
24 to children, the elderly, or individuals with disabilities served by the qualified
25 entity. The determination of suitability shall be solely made by the qualified
26 entity. This Section does not require the bureau to make a determination on
27 behalf of any qualified entity.

28 D. The cost of providing the information required under this Section
29 shall be charged by the bureau, as specified in R.S. 15:587(B), to the individual
30 subject to the inquiry for furnishing information contained in the bureau's

1 criminal history and identification files, including any additional costs of
2 providing the national criminal history records check which pertain to the
3 individual.

4 E. The qualified entity shall maintain the confidentiality of the federal
5 and state criminal history information in accordance with applicable federal
6 and state laws.

7 F. A qualified entity shall not be liable for damages solely for failing to
8 obtain the information authorized under this Section. Except in instances of
9 gross negligence or willful and wanton misconduct, the state, any political
10 subdivision of the state, or any agency, officer, or employee of the state or a
11 political subdivision shall not be liable for damages for providing the
12 information requested under this Section.

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

17 Section 2. The provisions of this Act shall become effective on January 1, 2019.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____