

An Act

ENROLLED SENATE
BILL NO. 1662

By: Gollihare of the Senate

and

Duel and Swope of the House

An Act relating to the Oklahoma State Bureau of Investigation; defining terms; authorizing the Director of the Oklahoma State Bureau of Investigation to develop certain procedures related to requests for certain record checks; stating criteria for such requests; requiring submission of fingerprints for certain determination; determining responsibility of certain entity to provide certain decision; authorizing application to certain individuals and entities; providing certain construction; providing for codification; and providing an effective date.

SUBJECT: Oklahoma State Bureau of Investigation background checks

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 150.9.2 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. For purposes of this section, the following terms are defined as follows:

1. "Authorized agency" means the agency designated by statute to report, receive, or disseminate a state or national criminal history record check;

2. "Child" means a person who is under the age of eighteen (18) years;

3. "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities;

4. "Covered individual" means a person who:

- a. has, seeks to have, or may have access to children, the elderly, or individuals with disabilities, served by a qualified entity, and
- b. (1) is employed by or volunteers with, or seeks to be employed by or volunteer with, a qualified entity, or
(2) owns or operates, or seeks to own or operate, a qualified entity;

5. "Employed by" means to be paid to provide or seek to provide care services for a qualified entity, regardless of being paid directly by the qualified entity or by an entity contracted by the qualified entity to provide care;

6. "Individuals with disabilities" means persons with a mental or physical impairment who require assistance to perform one or more daily living tasks;

7. "National criminal history record check system" means the criminal history record system maintained by the Federal Bureau of Investigation (FBI) based on fingerprint identification or any other method of positive identification; and

8. "Qualified entity" means a business or organization whether public, private, for-profit, not-for-profit, or voluntary, that provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services.

B. The Director of the Oklahoma State Bureau of Investigation (OSBI) shall develop procedures in accordance with the federal

National Child Protection Act of 1993 and the federal Volunteers for Children Act to enable a qualified entity to request a state and national criminal history record check to determine whether a covered individual is the subject of any child abuse crime.

C. The request for a state and national criminal history record check shall be made by:

1. Electronically submitting the fingerprints of the covered individual to the OSBI as directed by the authorized agency; and

2. Submitting to the authorized agency a copy of a statement signed by the covered individual that includes:

- a. a waiver permitting the qualified entity to request and receive a criminal history record check for the purpose of determining the qualification and fitness of a person to serve as a covered individual,
- b. the name, address, and date of birth of the covered individual as it appears on a valid identification document,
- c. a disclosure of whether the individual has ever been convicted of or is the subject of pending charges for a criminal offense and, if convicted, a description of the crime and the result of the conviction, and
- d. a notice to the individual that he or she is entitled to obtain a copy of the criminal history record check to verify the accuracy and completeness of any information contained in such report before a determination is made by the qualified entity.

D. An authorized agency shall require a qualified entity to obtain fingerprints from a covered individual and to submit the fingerprints to the OSBI and the FBI for a state and national criminal history record check. The OSBI shall use the fingerprints to identify the individual and to determine whether he or she has a record of criminal history in this state or other jurisdictions or countries. The OSBI will provide results of the criminal history record check to the authorized agency. The authorized agency may

use the information obtained from the fingerprints and such state and national criminal history record checks in the official determination of the qualifications and fitness of the person to serve as a covered individual.

E. The authorized agency shall be solely responsible for making any determination that a criminal history record of a person shows that such person has been convicted of a crime that bears upon the fitness of such person to serve as a provider. This section does not require the OSBI to make such a determination on behalf of any authorized agency.

F. This section shall only apply to covered individuals and qualified entities as defined in this section. This section shall not be construed to replace, supersede, or in any way affect any state law that requires a national criminal history record check, prescribes procedures for a national criminal history record check required by state law, or precludes an individual from employment based on the results of a national criminal history record check required by state law.

SECTION 2. This act shall become effective November 1, 2024.

Passed the Senate the 12th day of March, 2024.

Presiding Officer of the Senate

Passed the House of Representatives the 16th day of April, 2024.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____