

HOUSE BILL 1550

By McCormick

AN ACT to amend Tennessee Code Annotated, Section 71-3-502 and Section 71-3-507, relative to child care agency personnel requirements.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 71-3-507(a)(1)(B), is amended by deleting the language "thirty-six (36)" and substituting instead the language "fifteen (15)" and by deleting the conjunction "or" at the end of the subdivision.

SECTION 2. Tennessee Code Annotated, Section 71-3-507(a)(1), is amended by inserting the following language as subdivision (C) and re-designating current subdivision (C) as subdivision (D):

(C) A person who is a volunteer and who shall not be used by the child care agency to meet child care standards and who will serve as a volunteer for more than twenty (20) hours in any one (1) calendar year; or

SECTION 3. Tennessee Code Annotated, Section 71-3-507(a)(2)(A), is amended by deleting the subdivision and substituting instead the following:

(A) Persons subject to the requirements of subdivision (a)(1) shall also supply a fingerprint sample in a manner prescribed by the department and by the Tennessee bureau of investigation (TBI), and shall submit to a fingerprint-based background review of criminal history records, and juvenile records that are available to the TBI, to be conducted by the TBI, and shall submit to a review of the person's status on the department of health's vulnerable persons registry under title 68, chapter 11, part 10, and on the state sex offender registry, and, pursuant to § 71-3-515, a review of the person's status in the department of children's services and the department of human

services records of indicated perpetrators of abuse or neglect of children or adults, as well as equivalent administrative registries in any jurisdiction in which the person has resided in the past five (5) years and a review of any available juvenile records in juvenile court.

SECTION 4. Tennessee Code Annotated, Section 71-3-507(a)(3), is amended by deleting the language "applicant, substitute or resident" wherever it appears and substituting instead the language "applicant, substitute, volunteer, or resident".

SECTION 5. Tennessee Code Annotated, Section 71-3-507(a)(3)(C), is amended by deleting the language "and" at the end of the subdivision.

SECTION 6. Tennessee Code Annotated, Section 71-3-507(a)(3)(D), is amended by deleting the period at the end of the subdivision and inserting the language "; and".

SECTION 7. Tennessee Code Annotated, Section 71-3-507(a)(3), is amended by inserting the following as a new subdivision:

(E) A listing of the residences of the applicant, substitute, volunteer, or resident for the past five (5) years.

SECTION 8. Tennessee Code Annotated, Section 71-3-507(a)(4), is amended by deleting the subdivision and substituting instead the following:

(4) The form shall notify the person that falsification of required information may subject the person to criminal prosecution, and that the person's employment, licensing, or other status or circumstances in the child care agency or the department is dependent upon the person's criminal and available juvenile records history status, the person's status on the department of health's vulnerable persons registry pursuant to title 68, chapter 11, part 10, and on the state's sex offender registry, and, pursuant to § 71-3-515, the person's status as an indicated perpetrator of abuse or neglect of children or adults as contained in the records of the department of children's services and the department of human services, or in the equivalent administrative registries in any jurisdiction in which the person has resided in the past five (5) years.

SECTION 9. Tennessee Code Annotated, Section 71-3-507(a), is amended by adding the following language as a new subdivision:

(6) The child care agency, substitute pool, or staffing agency shall notify the department within thirty (30) days of an employee leaving employment.

SECTION 10. Tennessee Code Annotated, Section 71-3-507(b)(1), is amended by deleting the subdivision and substituting instead the following:

(1) The disclosure form and information contained on the form obtained pursuant to this section, together with the fingerprints of the person, shall be submitted by the child care agency for its applicants, licensees, operators, substitutes, volunteers, or residents, and by the department for its applicants, to the appropriate department staff or state contractors providing fingerprinting services, in the format required by the department and the TBI. The child care agency shall attest on the disclosure form that the person is required to undergo a criminal background check or state registry review, and is either a resident or has been selected by the child care agency to fill a position as an employee, substitute, or volunteer who will work directly with children. A substitute pool or staffing agency assigning persons to work as substitute employees at a licensed child care agency shall submit the disclosure form for such persons and shall also attest on the disclosure form that the person is required to undergo the criminal background check or state registry review, and has been selected by the substitute pool or staffing agency to fill a position as an employee, substitute, or volunteer who will work directly with children. The department or contractor shall transmit the necessary information to the TBI for completion of the fingerprint-based background review of criminal records and juvenile records that are available to the TBI.

SECTION 11. Tennessee Code Annotated, Section 71-3-507(b)(5), is amended by deleting the subdivision and substituting instead the following:

(5)

(A) The department shall pay to the TBI or state contractors providing fingerprinting services the cost of obtaining, handling, and processing the criminal history background fingerprint check requested by the agency or by the department as set forth in § 38-6-109. Payment of the costs is to be made in accordance with §§ 38-6-103 and 38-6-109.

(B) The department shall only be responsible for payment of one (1) processing fee that is required by the TBI. If the fingerprint sample is rejected and if any further costs are required to process the fingerprint, the child care agency is responsible for any further costs, regardless of the number of efforts required to obtain a valid fingerprint sample. The child care agency, substitute pool, or staffing agency will be responsible for repayment to the department for any processing fees if it submits a person's discussion form more than one (1) time for the criminal history background check within a thirty (30) day period, or if it submits a person for a criminal history background check who is not a resident or a person who has been selected by the child care agency, substitute pool, or staffing agency to fill a position as an employee, substitute, or volunteer who will work directly with children.

SECTION 12. Tennessee Code Annotated Section, 71-3-507(c)(1), is amended by deleting the subdivision and substituting instead the following:

(1) All persons subject to subsection (a), and employees of the department's licensing division, shall also be subject to a review by the department of their status on the department of health's vulnerable persons registry pursuant to title 68, chapter 11, part 10, and on the state's sex offender registry and a review conducted pursuant to § 71-3-515, of their status in the department of children's services and the department of

human services records of indicated perpetrators of abuse or neglect of children or adults or in the equivalent administrative registries in any jurisdiction in which the person has resided in the past five (5) years and a review of any available juvenile records in juvenile court.

SECTION 13. Tennessee Code Annotated Section, 71-3-507(d), is amended by deleting the subsection and substituting instead the following:

(d)

(1) The child care agency or the department shall not permit a person to assume any role described in subdivision (a)(1) prior to the completion of a review of the criminal history and juvenile records available to the TBI and the juvenile court, including the fingerprint-based background review, review of the department of health's vulnerable persons registry and the state's sex offender registry, and, pursuant to § 71-3-515, a review of the department of children's services and the department of human services records of indicated perpetrators of abuse or neglect of children or adults, or in the equivalent administrative registries in any jurisdiction in which the person has resided in the past five (5) years, and juvenile court records reviews. The reviews must demonstrate that the person is not subject to a criminal history, a juvenile history, or a history on the registries or in the records of the department of children's services or the department of human services or the equivalent administrative registries in any jurisdiction in which the person has resided in the past five (5) years that would, as described in this part, disqualify or otherwise exclude the person from any role described in subdivision (a)(1).

(2) The criminal history, juvenile records, and administrative registry review provided for in subdivision (d)(1) shall additionally be completed at least once every five (5) years.

SECTION 14. Tennessee Code Annotated Section, 71-3-507(e)(1)(A)(i)(d), is amended by deleting the subdivision and substituting instead the following:

(d) The identification of the person on the department of health's vulnerable persons registry pursuant to title 68, chapter 11, part 10, or on the state's sex offender registry, or, whose status, pursuant to a review under § 71-3-515, of the department of children's services and the department of human services records of indicated perpetrators of abuse or neglect of children or adults, reviews of equivalent administrative registries in any jurisdiction in which the person has resided in the past five (5) years, or reviews of available juvenile court records, demonstrate a history that would require the person's exclusion under this part.

SECTION 15. Tennessee Code Annotated Section, 71-3-507(e)(1), is further amended by adding the following language as a new subdivision:

(C) The child care agency, substitute pool, or staffing agency shall immediately notify the department on the same business day of an arrest, pending indictment, or other information regarding a person who is an employee, substitute, volunteer, or resident which places the person within the prohibited categories established in subdivision (e)(1)(A) if the child care agency, substitute pool, or staffing agency knows or reasonably should know of such arrest, pending indictment, or other information. The child care agency, substitute pool, or staffing agency shall immediately exclude the person if the person must be excluded from positions or circumstances described in subdivision (a)(1) or from any access to children.

SECTION 16. Tennessee Code Annotated, Section 71-3-502(a)(4)(A)(ii), is amended by deleting the subdivision and substituting instead the following.

(ii) Training for caregivers that includes, but is not limited to, pre-service orientation as well as additional training within the first six (6) months of employment as provided by rule; and

SECTION 17. This act shall take effect July 1, 2016, the public welfare requiring it.