

Union Calendar No. 87

115TH CONGRESS
1ST SESSION

H. R. 695

[Report No. 115-138]

To amend the National Child Protection Act of 1993 to establish a national criminal history background check system and criminal history review program for certain individuals who, related to their employment, have access to children, the elderly, or individuals with disabilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2017

Mr. SCHIFF (for himself, Mr. BISHOP of Michigan, Ms. JACKSON LEE, Mr. WALBERG, Mrs. WALORSKI, Mr. LANGEVIN, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. WELCH, Mr. TROTT, Mr. CONYERS, Mr. CONNOLLY, Mr. CICILLINE, Mr. TED LIEU of California, Mr. TIPTON, Ms. PINGREE, Mr. DESAULNIER, Mr. VELA, Mr. SWALWELL of California, Mr. SENSENBRENNER, Mr. MOOLENAAR, Mr. PAYNE, Mr. TAKANO, Mr. CARTWRIGHT, Mr. SOTO, Mr. YOUNG of Iowa, Mrs. WAGNER, Mr. COSTELLO of Pennsylvania, and Mrs. DINGELL) introduced the following bill; which was referred to the Committee on the Judiciary

MAY 22, 2017

Additional sponsors: Mr. PAULSEN, Ms. SHEA-PORTER, Ms. ROS-LEHTINEN, Mr. CARSON of Indiana, Mr. KILDEE, Mr. FRANKS of Arizona, Mrs. MURPHY of Florida, Mr. PALAZZO, Mr. BARR, Mr. RATCLIFFE, Mr. WILSON of South Carolina, Mrs. BROOKS of Indiana, Ms. MCCOLLUM, Mr. DUNCAN of Tennessee, Ms. BROWNLEY of California, Mrs. BEATTY, Mr. MESSER, Mr. FORTENBERRY, and Mr. KENNEDY

MAY 22, 2017

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on January 24, 2017]

A BILL

To amend the National Child Protection Act of 1993 to establish a national criminal history background check system and criminal history review program for certain individuals who, related to their employment, have access to children, the elderly, or individuals with disabilities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Child Protection Im-*
5 *provements Act of 2017”.*

6 **SEC. 2. NATIONAL CRIMINAL HISTORY BACKGROUND**

7 **CHECK AND CRIMINAL HISTORY REVIEW PRO-**
8 **GRAM.**

9 *The National Child Protection Act of 1993 (42 U.S.C.*
10 *5119 et seq.) is amended—*

11 *(1) in section 3—*

12 *(A) by amending subsection (a)(3) to read*
13 *as follows:*

14 *“(3)(A) The Attorney General shall establish a pro-*
15 *gram, in accordance with this section, to provide qualified*
16 *entities located in States which do not have in effect proce-*
17 *dures described in paragraph (1), or qualified entities lo-*
18 *cated in States which do not prohibit the use of the program*
19 *established under this paragraph, with access to national*
20 *criminal history background checks on, and criminal his-*
21 *tory reviews of, covered individuals.*

22 *“(B) A qualified entity described in subparagraph (A)*
23 *may submit to the appropriate designated entity a request*
24 *for a national criminal history background check on, and*
25 *a criminal history review of, a covered individual. Quali-*

1 *fied entities making a request under this paragraph shall*
2 *comply with the guidelines set forth in subsection (b), and*
3 *with any additional applicable procedures set forth by the*
4 *Attorney General or by the State in which the entity is lo-*
5 *cated.”;*

6 *(B) in subsection (b)—*

7 *(i) in paragraph (1)(E), by striking*
8 *“unsupervised”;*

9 *(ii) in paragraph (2)—*

10 *(I) by redesignating subparagraph*
11 *(A) as clause (i);*

12 *(II) in subparagraph (B)—*

13 *(aa) by adding “and” at the*
14 *end; and*

15 *(bb) by redesignating such*
16 *subparagraph as clause (ii);*

17 *(III) by striking “that each pro-*
18 *vider who is the subject of a back-*
19 *ground check” and inserting “(A) that*
20 *each covered individual who is the sub-*
21 *ject of a background check conducted*
22 *pursuant to the procedures established*
23 *pursuant to subsection (a)(1)”;* and

24 *(IV) by adding at the end the fol-*
25 *lowing:*

1 “(B) that each covered individual who is the sub-
2 ject of a national criminal history background check
3 and criminal history review conducted pursuant to
4 the procedures established pursuant to subsection
5 (a)(3) is entitled to challenge the accuracy and com-
6 pleteness of any information in the criminal history
7 record of the individual by contacting the Federal Bu-
8 reau of Investigation under the procedure set forth in
9 section 16.34 of title 28, Code of Federal Regulations,
10 or any successor thereto.”;

11 (iii) in paragraph (3), by inserting
12 after “authorized agency” the following: “or
13 designated entity, as applicable”; and

14 (iv) in paragraph (4), by inserting
15 after “authorized agency” the following: “or
16 designated entity, as applicable,”;

17 (C) in subsection (d), by inserting after “of-
18 ficer or employee thereof,” the following: “nor
19 shall any designated entity nor any officer or
20 employee thereof,”;

21 (D) by amending subsection (e) to read as
22 follows:

23 “(e) FEES.—

24 “(1) STATE PROGRAM.—In the case of a back-
25 ground check conducted pursuant to a State require-

1 *ment adopted after December 20, 1993, conducted*
2 *with fingerprints on a covered individual, the fees col-*
3 *lected by authorized State agencies and the Federal*
4 *Bureau of Investigation may not exceed eighteen dol-*
5 *lars, respectively, or the actual cost, whichever is less,*
6 *of the background check conducted with fingerprints.*

7 *“(2) FEDERAL PROGRAM.—In the case of a na-*
8 *tional criminal history background check and crimi-*
9 *nal history review conducted pursuant to the proce-*
10 *dures established pursuant to subsection (a)(3), the*
11 *fees collected by a designated entity shall be set at a*
12 *level that will ensure the recovery of the full costs of*
13 *providing all such services. The designated entity*
14 *shall remit the appropriate portion of such fee to the*
15 *Attorney General, which amount is in accordance*
16 *with the amount published in the Federal Register to*
17 *be collected for the provision of a criminal history*
18 *background check by the Federal Bureau of Investiga-*
19 *tion.*

20 *“(3) ENSURING FEES DO NOT DISCOURAGE VOL-*
21 *UNTEERS.—A fee system under this subsection shall*
22 *be established in a manner that ensures that fees to*
23 *qualified entities for background checks do not dis-*
24 *courage volunteers from participating in programs to*

1 *care for children, the elderly, or individuals with dis-*
2 *abilities.”;*

3 *(E) by inserting after subsection (e) the fol-*
4 *lowing:*

5 “*(f) NATIONAL CRIMINAL HISTORY BACKGROUND*
6 *CHECK AND CRIMINAL HISTORY REVIEW PROGRAM.—*

7 “*(1) NATIONAL CRIMINAL HISTORY BACKGROUND*
8 *CHECK.—Upon a designated entity receiving notice of*
9 *a request submitted by a qualified entity pursuant to*
10 *subsection (a)(3), the designated entity shall forward*
11 *the request to the Attorney General, who shall, acting*
12 *through the Director of the Federal Bureau of Inves-*
13 *tigation, complete a fingerprint-based check of the na-*
14 *tional criminal history background check system, and*
15 *provide the information received in response to such*
16 *national criminal history background check to the ap-*
17 *propriate designated entity. The designated entity*
18 *may, upon request from a qualified entity, complete*
19 *a check of a State criminal history database.*

20 “*(2) CRIMINAL HISTORY REVIEW.—*

21 “*(A) DESIGNATED ENTITIES.—The Attorney*
22 *General shall designate, and enter into an agree-*
23 *ment with, one or more entities to make deter-*
24 *minations described in paragraph (2). The At-*
25 *torney General may not designate and enter into*

1 *an agreement with a Federal agency under this*
2 *subparagraph.*

3 “(B) *DETERMINATIONS.*—*A designated enti-*
4 *ty shall, upon the receipt of the information de-*
5 *scribed in paragraph (1), make a determination*
6 *of fitness described in subsection (b)(4), using the*
7 *criteria described in subparagraph (C).*

8 “(C) *CRIMINAL HISTORY REVIEW CRI-*
9 *TERIA.*—*The Attorney General shall, by rule, es-*
10 *tablish the criteria for use by designated entities*
11 *in making a determination of fitness described*
12 *in subsection (b)(4). Such criteria shall be based*
13 *on the criteria established pursuant to section*
14 *108(a)(3)(G)(i) of the Prosecutorial Remedies*
15 *and Other Tools to end the Exploitation of Chil-*
16 *dren Today Act of 2003 (42 U.S.C. 5119a*
17 *note).”; and*

18 *(F) by striking—*

19 *(i) “provider” each place it appears,*
20 *and inserting “covered individual”; and*

21 *(ii) “provider’s” each place it appears,*
22 *and inserting “covered individual’s”; and*

23 *(2) in section 5—*

24 *(A) by amending paragraph (9) to read as*
25 *follows:*

1 “(9) the term ‘covered individual’ means an in-
2 dividual—

3 “(A) who has, seeks to have, or may have
4 access to children, the elderly, or individuals
5 with disabilities, served by a qualified entity;
6 and

7 “(B) who—

8 “(i) is employed by or volunteers with,
9 or seeks to be employed by or volunteer
10 with, a qualified entity; or

11 “(ii) owns or operates, or seeks to own
12 or operate, a qualified entity.”;

13 (B) in paragraph (10), by striking “and”
14 at the end;

15 (C) in paragraph (11), by striking the pe-
16 riod at the end and inserting “; and”; and

17 (D) by inserting after paragraph (11) the
18 following:

19 “(12) the term ‘designated entity’ means an enti-
20 ty designated by the Attorney General under section
21 3(f)(2)(A).”.

22 **SEC. 3. EFFECTIVE DATE.**

23 *This Act and the amendments made by this Act shall*
24 *be fully implemented by not later than 1 year after the date*
25 *of enactment of this Act.*

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