

115TH CONGRESS
1ST SESSION

S. 705

AN ACT

To amend the National Child Protection Act of 1993 to establish a voluntary 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**

8 **PROGRAM.**

9 The National Child Protection Act of 1993 (34
 10 U.S.C. 40101 et seq.) is amended—

11 (1) in section 3 (34 U.S.C. 40102)—

12 (A) by striking “provider” each place it
 13 appears and inserting “covered individual”;

14 (B) by striking “provider’s” each place it
 15 appears and inserting “covered individual’s”;

16 (C) by amending subsection (a)(3) to read
 17 as follows:

18 “(3)(A) The Attorney General shall establish a
 19 program, in accordance with this section, to provide
 20 qualified entities located in States that do not have
 21 in effect procedures described in paragraph (1), or
 22 qualified entities located in States that do not pro-
 23 hibit the use of the program established under this
 24 paragraph, with access to national criminal history

1 background checks on, and criminal history reviews
 2 of, covered individuals.

3 “(B) A qualified entity described in subpara-
 4 graph (A) may submit to the appropriate designated
 5 entity a request for a national criminal history back-
 6 ground check on, and a criminal history review of,
 7 a covered individual. Qualified entities making a re-
 8 quest under this paragraph shall comply with the
 9 guidelines set forth in subsection (b), and with any
 10 additional applicable procedures set forth by the At-
 11 torney General or by the State in which the entity
 12 is located.”;

13 (D) in subsection (b)—

14 (i) in paragraph (1)(E), by striking
 15 “unsupervised”;

16 (ii) by striking paragraph (2) and in-
 17 serting the following:

18 “(2)(A) that the State, or in a State that does
 19 not have in effect procedures described in subsection
 20 (a)(1), the designated entity, ensures that—

21 “(i) each covered individual who is the sub-
 22 ject of a background check under subsection (a)
 23 is entitled to obtain a copy of any background
 24 check report;

“(ii) each covered individual who is the subject of a background check under subsection (a) is provided a process by which the covered individual may appeal the results of the background check to challenge the accuracy or completeness of the information contained in the background report of the covered individual; and

“(iii)(I) each covered individual described in clause (ii) is given notice of the opportunity to appeal;

“(II) each covered individual described in clause (ii) will receive instructions on how to complete the appeals process if the covered individual wishes to challenge the accuracy or completeness of the information contained in the background report of the covered individual; and

“(III) the appeals process is completed in a timely manner for each covered individual described in clause (ii); and

“(B) the State, or in a State that does not have in effect procedures described in subsection (a)(1), the designated entity, may allow for a review process—

“(i) through which the State or designated entity, as the case may be, may determine that a covered individual who is the subject of a background check under subsection (a) is disqualified for a crime specified in subsection (f)(2)(C); and

“(ii) which shall be consistent with title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.);”;

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

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

(E) in subsection (d), by inserting after “officer or employee thereof,” the following: “, nor shall any designated entity nor any officer or employee thereof,”;

(F) by amending subsection (e) to read as follows:

“(e) FEES.—

“(1) STATE PROGRAM.—In the case of a background check conducted pursuant to a State requirement adopted after December 20, 1993, conducted

1 with fingerprints on a covered individual, the fees
2 collected by authorized State agencies and the Fed-
3 eral Bureau of Investigation may not exceed the ac-
4 tual cost of the background check conducted with
5 fingerprints.

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

19 “(3) ENSURING FEES DO NOT DISCOURAGE
20 VOLUNTEERS.—A fee system under this subsection
21 shall be established in a manner that ensures that
22 fees to qualified entities for background checks do
23 not discourage volunteers from participating in pro-
24 grams to care for children, the elderly, or individuals
25 with disabilities. A fee charged to a qualified entity

1 that is not organized under section 501(c)(3) of the
 2 Internal Revenue Code of 1986 may not be less than
 3 the total sum of the costs of the Federal Bureau of
 4 Investigation and the designated entity.”; and

5 (G) by inserting after subsection (e) the
 6 following:

7 “(f) NATIONAL CRIMINAL HISTORY BACKGROUND
 8 CHECK AND CRIMINAL HISTORY REVIEW PROGRAM.—

9 “(1) NATIONAL CRIMINAL HISTORY BACK-
 10 GROUND CHECK.—Upon a designated entity receiv-
 11 ing notice of a request submitted by a qualified enti-
 12 ty pursuant to subsection (a)(3), the designated en-
 13 tity shall forward the request to the Attorney Gen-
 14 eral, who shall, acting through the Director of the
 15 Federal Bureau of Investigation, complete a finger-
 16 print-based check of the national criminal history
 17 background check system, and provide the informa-
 18 tion received in response to such national criminal
 19 history background check to the appropriate des-
 20 ignated entity. The designated entity may, upon re-
 21 quest from a qualified entity, complete a check of a
 22 State criminal history database.

23 “(2) CRIMINAL HISTORY REVIEW.—

24 “(A) DESIGNATED ENTITIES.—The Attor-
 25 ney General shall designate, and enter into an

1 agreement with, one or more entities to make
2 determinations described in paragraph (2). The
3 Attorney General may not designate and enter
4 into an agreement with a Federal agency under
5 this subparagraph.

6 “(B) DETERMINATIONS.—A designated en-
7 tity shall, upon the receipt of the information
8 described in paragraph (1), make a determina-
9 tion of fitness described in subsection (b)(4),
10 using the criteria described in subparagraph
11 (C).

12 “(C) CRIMINAL HISTORY REVIEW CRI-
13 TERIA.—A covered individual may be deter-
14 mined to be unfit under subsection (b)(4) if the
15 covered individual—

16 “(i) refuses to consent to a criminal
17 background check under this section;

18 “(ii) knowingly makes a materially
19 false statement in connection with a crimi-
20 nal background check under this section;

21 “(iii) is registered, or is required to be
22 registered, on a State sex offender registry
23 or repository or the National Sex Offender
24 Registry established under the Adam

Walsh Child Protection and Safety Act of
2006 (34 U.S.C. 20901 et seq.);

“(iv) has been convicted of a felony
consisting of—

“(I) murder, as described in sec-
tion 1111 of title 18, United States
Code;

“(II) child abuse or neglect;

“(III) a crime against children,
including child pornography;

“(IV) spousal abuse;

“(V) a crime involving rape or
sexual assault;

“(VI) kidnapping;

“(VII) arson;

“(VIII) physical assault or bat-
tery; or

“(IX) a drug-related offense com-
mitted during the preceding 5 years;

“(v) has been convicted of a violent
misdemeanor committed as an adult
against a child, including—

“(I) child abuse;

“(II) child endangerment;

“(III) sexual assault; or

1 “(IV) of a misdemeanor involving
2 child pornography; or

3 “(vi) in the case of a covered indi-
4 vidual who has, seeks to have, or may have
5 access to the elderly or individuals with
6 disabilities, has been convicted of any
7 criminal offense relating to the abuse, ex-
8 ploitation, or neglect (as those terms are
9 defined in section 2011 of the Social Secu-
10 rity Act (42 U.S.C. 1397j)) of an elder or
11 an individual with disabilities.”; and

12 (2) in section 5 (34 U.S.C. 40104)—

13 (A) by amending paragraph (9) to read as
14 follows:

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

17 “(A) who has, seeks to have, or may have
18 access to children, the elderly, or individuals
19 with disabilities, served by a qualified entity;
20 and

21 “(B) who—

22 “(i) is employed by or volunteers with,
23 or seeks to be employed by or volunteer
24 with, a qualified entity; or

1 “(ii) owns or operates, or seeks to
2 own or operate, a qualified entity;”;

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

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

7 (D) by inserting after paragraph (11) the
8 following:

9 “(12) the term ‘designated entity’ means an en-
10 tity designated by the Attorney General under sec-
11 tion 3(f)(2)(A).”.

12 **SEC. 3. EFFECTIVE DATE.**

13 This Act and the amendments made by this Act shall
14 be fully implemented by not later than 1 year after the
15 date of enactment of this Act.

 Passed the Senate October 16, 2017.

 Attest:

Secretary.

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