

Calendar No. 218

115TH CONGRESS
1ST SESSION

S. 705

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 SENATE OF THE UNITED STATES

MARCH 23, 2017

Mr. HATCH (for himself, Mr. FRANKEN, Mr. BLUNT, Ms. KLOBUCHAR, Mr. SCHUMER, Mr. MCCAIN, Mr. KENNEDY, Mr. BLUMENTHAL, Mr. SASSE, and Mr. CRUZ) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

SEPTEMBER 11, 2017

Reported by Mr. GRASSLEY, with amendments

[Omit the part struck through and insert the part printed in *italic*]

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**

8 **PROGRAM.**

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

11 (1) in section 3 (42 U.S.C. 5119a)—

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) in paragraph (2)—

17 (I) by redesignating subpara-
 18 graphs (A) and (B) as clauses (i) and
 19 (ii), respectively;

20 (II) in the matter preceding
 21 clause (i), as so redesignated, by
 22 striking “that each covered individual
 23 who is the subject of a background
 24 check” and inserting “(A) that each
 25 covered individual who is the subject

1 of a background check conducted pur-
2 suant to the procedures established
3 pursuant to subsection (a)(1)”; and

4 (III) by adding at the end the
5 following:

6 “(B) that each covered individual who is
7 the subject of a national criminal history back-
8 ground check and criminal history review con-
9 ducted pursuant to the procedures established
10 pursuant to subsection (a)(3) is entitled to chal-
11 lenge the accuracy and completeness of any in-
12 formation in the criminal history record of the
13 individual by contacting the Federal Bureau of
14 Investigation under the procedure set forth in
15 section 16.34 of title 28, Code of Federal Regu-
16 lations, or any successor thereto.”;

17 (iii) in paragraph (3), insert after
18 “authorized agency” the following: “or des-
19 ignated entity, as applicable,”; and

20 (iv) in paragraph (4), insert after
21 “authorized agency” the following: “or des-
22 ignated entity, as applicable,”;

23 (E) in subsection (d), insert after “officer
24 or employee thereof,” the following: “, nor shall

1 any designated entity nor any officer or em-
2 ployee thereof,”;

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

5 “(e) FEES.—

6 “(1) STATE PROGRAM.—In the case of a back-
7 ground check conducted pursuant to a State require-
8 ment adopted after December 20, 1993, conducted
9 with fingerprints on a covered individual, the fees
10 collected by authorized State agencies and the Fed-
11 eral Bureau of Investigation ~~may not exceed eight-~~
12 ~~een dollars, respectively, or the actual cost, which-~~
13 ~~ever is less, of the background check conducted with~~
14 *may not exceed the actual cost of the background*
15 *check conducted with* fingerprints.

16 “(2) FEDERAL PROGRAM.—In the case of a na-
17 tional criminal history background check and crimi-
18 nal history review conducted pursuant to the proce-
19 dures established pursuant to subsection (a)(3), the
20 fees collected by a designated entity shall be set at
21 a level that will ensure the recovery of the full costs
22 of providing all such services. The designated entity
23 shall remit the appropriate portion of such fee to the
24 Attorney General, which amount is in accordance
25 with the amount published in the Federal Register

1 to be collected for the provision of a criminal history
 2 background check by the Federal Bureau of Inves-
 3 tigation.

4 “(3) ENSURING FEES DO NOT DISCOURAGE
 5 VOLUNTEERS.—A fee system under this subsection
 6 shall be established in a manner that ensures that
 7 fees to qualified entities for background checks do
 8 not discourage volunteers from participating in pro-
 9 grams to care for children, the elderly, or individuals
 10 with disabilities. *A fee charged to a qualified entity*
 11 *that is not organized under section 501(c)(3) of the*
 12 *Internal Revenue Code of 1986 may not be less than*
 13 *the total sum of the costs of the Federal Bureau of In-*
 14 *vestigation and the designated entity.”; and*

15 (G) by inserting after subsection (e) the
 16 following:

17 “(f) NATIONAL CRIMINAL HISTORY BACKGROUND
 18 CHECK AND CRIMINAL HISTORY REVIEW PROGRAM.—

19 “(1) NATIONAL CRIMINAL HISTORY BACK-
 20 GROUND CHECK.—Upon a designated entity receiv-
 21 ing notice of a request submitted by a qualified enti-
 22 ty pursuant to subsection (a)(3), the designated en-
 23 tity shall forward the request to the Attorney Gen-
 24 eral, who shall, acting through the Director of the
 25 Federal Bureau of Investigation, complete a finger-

1 print-based check of the national criminal history
2 background check system, and provide the informa-
3 tion received in response to such national criminal
4 history background check to the appropriate des-
5 ignated entity. The designated entity may, upon re-
6 quest from a qualified entity, complete a check of a
7 State criminal history database.

8 “(2) CRIMINAL HISTORY REVIEW.—

9 “(A) DESIGNATED ENTITIES.—The Attor-
10 ney General shall designate, and enter into an
11 agreement with, one or more entities to make
12 determinations described in paragraph (2). The
13 Attorney General may not designate and enter
14 into an agreement with a Federal agency under
15 this subparagraph.

16 “(B) DETERMINATIONS.—A designated en-
17 tity shall, upon the receipt of the information
18 described in paragraph (1), make a determina-
19 tion of fitness described in subsection (b)(4),
20 using the criteria described in subparagraph
21 (C).

22 “(C) CRIMINAL HISTORY REVIEW CRI-
23 TERIA.—The Attorney General shall, by rule,
24 establish the criteria for use by designated enti-
25 ties in making a determination of fitness de-

scribed in subsection (b)(4). Such criteria shall be based on the criteria established pursuant to section 108(a)(3)(G)(i) of the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (42 U.S.C. 5119a note).”; and
(2) in section 5 (42 U.S.C. 5119c)—

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

“(9) the term ‘covered individual’ means an individual—

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

“(B) who—

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

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

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

(C) in paragraph (11), by striking the period at the end and inserting “; and”; and

1 (D) by inserting after paragraph (11) the
2 following:

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

6 **SEC. 3. EFFECTIVE DATE.**

7 This Act and the amendments made by this Act shall
8 be fully implemented by not later than 1 year after the
9 date of enactment of this Act.

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