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, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Protection Improvements Act of 2017".

SEC. 2. NATIONAL CRIMINAL HISTORY BACKGROUND CHECK AND CRIMINAL HISTORY REVIEW PROGRAM.

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

(1) in section 3 (42 U.S.C. 5119a)—

(A) by striking "provider" each place it appears and inserting "covered individual";

(B) by striking "provider's" each place it appears and inserting "covered individual's";

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

"(3)(A) The Attorney General shall establish a program, in accordance with this section, to provide qualified entities located in States that do not have in effect procedures described in paragraph (1), or qualified entities located in States that do not prohibit the use of the program established under this paragraph, with access to national criminal history background checks on, and criminal history reviews of, covered individuals.

"(B) A qualified entity described in subparagraph (A) may submit to the appropriate designated entity a request for a national criminal history background check on, and a criminal history review of, a covered individual. Qualified entities making a request under this paragraph shall comply with the guidelines set forth in subsection (b), and with any additional applicable procedures set forth by the Attorney General or by the State in which the entity is located.'';

(D) in subsection (b)—

(i) in paragraph (1)(E), by striking ''unsupervised'';

(ii) in paragraph (2)—

(I) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(II) in the matter preceding clause (i), as so redesignated, by striking ''that each covered individual who is the subject of a background check'' and inserting ''(A) that each covered individual who is the subject of a background check conducted pursuant to the procedures established pursuant to subsection (a)(1)''; and

(III) by adding at the end the following:

''(B) that each covered individual who is the subject of a national criminal history background check and criminal history review conducted pursuant to the procedures established pursuant to subsection (a)(3) is entitled to challenge the accuracy and completeness of any information in the criminal history record of the individual by contacting the Federal Bureau of Investigation under the procedure set forth in section 16.34 of title 28, Code of Federal Regulations, or any successor thereto.'';

(iii) in paragraph (3), insert after ''authorized agency'' the following: ''or designated entity, as applicable,''; and

(iv) in paragraph (4), insert after ''authorized agency'' the following: ''or designated entity, as applicable,'';

(E) in subsection (d), insert 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 with fingerprints on a covered individual, the fees collected by authorized State agencies and the Federal Bureau of Investigation may not exceed eighteen dollars, respectively, or the actual cost, whichever is less, of the background check conducted with fingerprints.

"(2) FEDERAL PROGRAM.—In the case of a national criminal history background check and criminal history review conducted pursuant to the procedures established pursuant to subsection (a)(3), the fees collected by a designated entity shall be set at a level that will ensure the recovery of the full costs of providing all such services. The designated entity shall remit the appropriate portion of such fee to the Attorney General, which amount is in accordance with the amount published in the Federal Register to be collected for the provision of a criminal history background check by the Federal Bureau of Investigation.

"(3) ENSURING FEES DO NOT DISCOURAGE VOLUNTEERS.—A fee system under this subsection shall be established in a manner that ensures that fees to qualified entities for background checks do not discourage volunteers from participating in programs to care for children, the elderly, or individuals with disabilities.''; and

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

''(f) NATIONAL CRIMINAL HISTORY BACKGROUND CHECK AND CRIMINAL HISTORY REVIEW PROGRAM.—

''(1) NATIONAL CRIMINAL HISTORY BACKGROUND CHECK.—Upon a designated entity receiving notice of a request submitted by a qualified entity pursuant to subsection (a)(3), the designated entity shall forward the request to the Attorney General, who shall, acting through the Director of the Federal Bureau of Investigation, complete a fingerprint-based check of the national criminal history background check system, and provide the information received in response to such national criminal history background check to the appropriate designated entity. The designated entity may, upon request from a qualified entity, complete a check of a State criminal history database.

''(2) CRIMINAL HISTORY REVIEW.—

''(A) DESIGNATED ENTITIES.—The Attorney General shall designate, and enter into an agreement with, one or more entities to make determinations described in paragraph (2). The

Attorney General may not designate and enter into an agreement with a Federal agency under this subparagraph.

"(B) DETERMINATIONS.—A designated entity shall, upon the receipt of the information described in paragraph (1), make a determination of fitness described in subsection (b)(4), using the criteria described in subparagraph (C).

"(C) CRIMINAL HISTORY REVIEW CRITERIA.—The Attorney General shall, by rule, establish the criteria for use by designated entities in making a determination of fitness described 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

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

''(12) the term 'designated entity' means an entity designated by the Attorney General under section 3(f)(2)(A).''.

SEC. 3. EFFECTIVE DATE.

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

○