



State of Tennessee

PUBLIC CHAPTER NO. 433

SENATE BILL NO. 1038

By Stevens, Gardenhire

Substituted for: House Bill No. 1365

By Farmer, Ragan, Whitson, Howell

AN ACT to amend Tennessee Code Annotated, Title 38, Chapter 6; Title 68, Chapter 102 and Title 71, Chapter 3, relative to background checks.

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

SECTION 1. Tennessee Code Annotated, Section 38-6-106, is amended by deleting subsection (b) and substituting the following:

(b) The governor, speaker of the senate, speaker of the house of representatives, and chief justice are authorized to request the director of the Tennessee bureau of investigation to conduct a background investigation concerning a person who has asked or agreed to be considered by the governor, speaker of the senate, speaker of the house of representatives, or chief justice for appointment to a position of trust and responsibility, including, but not limited to, positions relating to homeland security. Upon the request of the governor, speaker of the senate, speaker of the house of representatives, or chief justice, the director shall conduct the investigation and report the results to the governor, speaker of the senate, speaker of the house of representatives, or chief justice, either verbally or in writing, as the governor, speaker of the senate, speaker of the house of representatives, or chief justice may direct. The chair of the nominating commission appointed pursuant to § 38-6-101 may request a background investigation concerning a person who is under consideration by the nominating commission as a potential candidate for recommendation to the governor as a nominee for the position of director of the Tennessee bureau of investigation. The commission may contract with a law enforcement agency to conduct the investigation. The investigation must include fingerprinting of the applicant for a state and national criminal history background review. The law enforcement agency with which the nominating commission contracts shall report the results to the chair of the nominating commission, either verbally or in writing, as the chair of the nominating commission may direct.

SECTION 2. Tennessee Code Annotated, Section 38-6-106(g), is amended by adding the following language after the first sentence:

The background investigation must include fingerprint submissions of the potential appointee to both the Tennessee bureau of investigation and federal bureau of investigation.

SECTION 3. Tennessee Code Annotated, Section 38-6-106, is amended by adding the following new subsection:

(h) Persons applying or being considered for the following positions of trust and responsibility must provide fingerprint submissions to the Tennessee bureau of investigation and federal bureau of investigation for a criminal history review:

- (1) A commissioner of a department of the executive branch;
- (2) A general counsel position at a department of the executive branch;
- (3) A pilot employed by the Tennessee department of transportation; and
- (4) Law enforcement personnel entrusted with the protection of the governor.

SECTION 4. Tennessee Code Annotated, Section 71-3-501, is amended by adding the following new subdivision:

() "License":

(A) Means a license issued by the department of human services that authorizes a child care agency to operate as a family child care home, a group child care home, a child care center, or a drop-in center that provides child care for five (5) or more children who are not related to the primary caregiver for three (3) or more hours per day; and

(B) Includes both continuous licenses, issued after a provisional licensure period, and provisional licenses, an initial license valid for one hundred twenty (120) days for the purpose of allowing the agency to demonstrate their ability to attain and maintain compliance with all licensing laws and rules;

SECTION 5. Tennessee Code Annotated, Section 71-3-507(a)(1)(A), is amended by deleting the subdivision and substituting:

(A) A person:

(i) Applying to work with children as a paid employee, director, or manager with a child care agency licensed by the department;

(ii) Applying to work with the department in a position in which significant contact with children is likely in the course of the person's employment;

(iii) Applying for a child care agency license issued by the department that is not the renewal of an existing license; and

(iv) Seeking to be an operator, as defined by the rules of the department, of a licensed child care agency who would have significant contact with children in the course of such role and is not otherwise exempted from the application of this section by rules of the department;

SECTION 6. Tennessee Code Annotated, Section 68-102-308, is amended by deleting subdivision (c)(2) in its entirety.

SECTION 7. This act takes effect upon becoming a law, the public welfare requiring it.

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PASSED: April 20, 2023


RANDY McNALLY
SPEAKER OF THE SENATE


CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 11th day of May 2023


BILL LEE, GOVERNOR