

GREEN SHEET REDIGEST

HB 557

2017 Regular Session

Seabaugh

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

CHILDREN/CARE: Provides for criminal background checks relative to early learning centers, school employees, registered family child care providers and in-home providers

DIGEST

Prohibited Criminal Activity

Present law prohibits a person who has been convicted of or pled nolo contendere to certain crimes or whose name is recorded on the state central registry within the Dept. of Children and Family Services (DCFS) or any other state's registry as a perpetrator for a justified finding of abuse or neglect of a child from doing the following:

- (1) Directly or indirectly owning, operating, or participating in the governance of, or working as an employee or volunteer at an early learning center.
- (2) Being hired by the state Dept. of Education (DOE) if the position includes the performance of early learning center licensing inspections.
- (3) Becoming a registered family child care or in-home child care provider.
- (4) Being employed in or live in the residence or on the property of the residence where the care is provided by the registered family or in-home child care provider who is not a caregiver.

Proposed law adds to this prohibition a person whose name is on the La. Sex Offender and Crime Predator Registry, any other state's sex offender registry, or the National Crime Information Center's National Sex Offender Registry.

Criminal History Background Checks

Present law authorizes the State Bd. of Elementary and Secondary Education (BESE) to establish requirements and procedures under which the owner or operator of an early learning center may request information concerning whether or not any center owner, volunteer, applicant, or employee of any kind, including contractors, has been arrested for or convicted of or pled nolo contendere to any criminal offense. Present law provides similarly for requesting the same information for registered family child care providers, registered in-home child care providers, any adult employed in or living in the residence or on the property of the residence where the care is provided.

Present law, which is not yet effective, authorizes DOE rather than owners and operators to request criminal history information for certain individuals and requires DOE to collect the processing fees charged for state and federal criminal history reports when it receives a request for an employment eligibility determination and to timely submit these fees to the Bureau of Criminal Identification and Information. Proposed law repeals present law that is not yet effective and requires DOE rather than owners and operators to request criminal history information and specifically includes information from DCFS and the National Crime Information Center as information that shall be requested.

Present law requires any owner, operator, current or prospective employee, or volunteer of a licensed early learning center to self-report annually and upon the request of DOE whether or not his name is currently recorded on the state central registry for a justified finding of abuse or neglect as the named perpetrator. Present law requires the owner or operator of the

facility to maintain such documents and imposes criminal penalties on anyone who falsifies such information. Present law provides for a risk assessment evaluation and appeal to those who make a positive disclosure. Proposed law repeals present law.

Present law requires criminal background checks of persons employed by contractors that provide cafeteria, janitorial, or maintenance services to a school or school system. Proposed law retains present law and also includes persons employed by entities that contract to provide student services.

Fingerprinting

Present law requires DOE to require the submission of a person's fingerprints in a form acceptable to La. Bureau of Criminal Identification and Information and provides that a person who does so may be temporarily hired pending a report from the bureau as to any convictions of or pleas of nolo contendere to certain crimes. Proposed law allows for provisional hiring of an employee for whom the department has received a La. or federal criminal history information report as required by present law and proposed law, until all required background checks have been completed. Provides that a provisional employee shall be monitored and supervised at all times by an employee who has a completed criminal background check. Further provides that, under no circumstances, shall an early learning center employ a person in any capacity until the department has received the required La. or federal criminal history information report.

Proposed law further makes the same provisions for provisional hiring applicable to registered family or in-home child care provider, someone to be employed in the residence or on the property of the residence where care is provided by a registered family or in-home child care provider, or live in the residence where care is provided by the registered family child care provider or in-home child care provider who is not a caregiver.

Child-to-Staff Ratios

Proposed law requires the State Board of Elementary and Secondary Education to adopt rules to provide for a procedure whereby an early learning center may obtain a waiver from regulations adopted by the board establishing minimum child-to-staff ratios, when an undue delay in completing required background checks for employees makes it impossible to meet the prescribed ratios.

Proposed law provides that an early learning center shall not be penalized for failing to meet established minimum child-to-staff ratios, if it demonstrates that a good-faith effort was made to comply with all background check requirements.

Assessment of Costs

Present law permits the La. Bureau of Criminal Identification and Information to charge an individual applicant the cost of providing information required by present law. Proposed law adds the cost of criminal history checks for those related to an early learning center to the costs that may be charged to the individual applicant.

Proposed law further authorizes DOE to charge a processing fee not to exceed \$15 and to collect the processing fees charged for criminal history reports when it receives a request for an employment eligibility determination and to timely submit agency fees to the agencies.

Proposed law shall become effective when BESE promulgates rules providing for implementation procedures by which DOE shall conduct employment eligibility determinations or on September 30, 2018, whichever is earlier.

(Amends R.S. 15:587.1(D)(2) and R.S. 17:15(A)(1)(b), 407.42, and 407.71; Repeals R.S. 17:407.41)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Education to the engrossed bill

1. Deletes provisions allowing the temporary hiring of a person during the period between the submission of fingerprints and receipt of the criminal background check.
2. Deletes provisions allowing an individual whose name is on the DCFS state central registry as a perpetrator for a justified finding of abuse or neglect of a child to own or operate a licensed early learning center or be hired as an employee or volunteer, or be hired to perform inspections, if there is a prior written finding by DCFS that the individual does not pose a risk to children.
3. Requires BESE to provide for a waiver from minimum child-to-staff ratios if the failure to meet the ratios is the result of undue delays in completing criminal background checks.
4. Provides that an early learning center shall not be penalized for failing to meet minimum child-to-staff ratios if it can demonstrate good faith effort was made to comply.