

## DIGEST

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SB 156 Reengrossed

2019 Regular Session

Riser

Present law requires the Louisiana Bureau of Criminal Identification and Information (bureau) to maintain a volunteer and employee criminal history information system to allow qualified entities to access state and federal criminal history records on certain individuals who volunteer or work with children, the elderly, and individuals with disabilities. Defines "qualified entities" as a business or organization, whether public or private, operated for profit, operated not-for-profit, or voluntary, which provides care or care placement services, including a business or organization that licenses or certifies individuals to provide care or care placement services, for children, the elderly, or individuals with disabilities.

Proposed law retains present law.

Present law provides that the cost of providing the information to the qualified entity shall be charged by the bureau to the individual subject to the inquiry, including any additional costs of providing the national criminal history records check.

Proposed law retains present law and also authorizes the bureau to charge a processing fee to the qualified entity provided the provisions of labor law that prohibit an employer from passing on the costs of a record to an employee or applicant as a condition of employment are not violated.

Proposed law provides access to the criminal history system for victims of domestic abuse, dating violence, human trafficking, and sexual assault. Provides that a licensed attorney who is counsel of record in a case involving a victim of domestic abuse, dating violence, human trafficking, or sexual assault shall be allowed to access state criminal history records on a certain individual who is a defendant or a witness in the civil cases in which the attorney is counsel of record.

Proposed law defines "attorney", "bureau", "civil case", "criminal history records", "individual", "pro se litigant", and "witness".

Proposed law provides that an attorney, or his licensed investigator who is assigned to the case, may submit a request for a criminal history records check to be conducted by the sheriff. The attorney or his licensed investigator submits identifying information related to the individual to the sheriff including the full legal name, date of birth, or any other identifying information that the attorney may possess. Requires the attorney also submit in his letter of request all of the following information related to the case:

- (1) The name and the Louisiana State Bar Association bar roll number of the attorney making the request.
- (2) The name of the case, suit number, and the judicial district of the court for which the attorney is making the request.

Proposed law provides that if the attorney or his licensed investigator wilfully or intentionally misrepresents the civil case information, the attorney or his licensed investigator shall be subject to criminal prosecution for filing false public records.

Proposed law authorizes a pro se litigant to obtain the same information that an attorney may obtain so long as the pro se litigant obtains an ex parte court order from the judge assigned to the civil case, in which the pro se litigant is a party, authorizing the pro se litigant to obtain criminal history information on the individual. Provides for the pro se litigant to submit the judge's order for a request for a criminal history records check to be conducted by the sheriff and requires the pro se litigant to submit identifying information related to the

individual including the full legal name, date of birth, and any other identifying information that the pro se litigant may possess.

Proposed law requires that in addition to the individual's identifying information, the pro se litigant must submit in his letter the name of the case, the suit number, and the judicial district of the court for which the pro se litigant is making the request along with the judge's order. Provides that if the pro se litigant wilfully or intentionally misrepresents the civil case information, the pro se litigant shall be subject to criminal prosecution for filing false public records.

Proposed law provides that when a criminal history records check is requested by an attorney, investigator, or pro se litigant, the sheriff must provide the state criminal history record information of the individual subject to the inquiry.

Proposed law provides that state criminal history records checks are to be used by the attorney or pro se litigant in conjunction with the civil case and may be disclosed only to the court or opposing counsel or in court proceedings related to the civil case.

Proposed law provides that the cost of providing the information shall be charged by the sheriff to the requesting person as provided in present law, not to exceed fifteen dollars.

Proposed law requires the sheriff performing the criminal history records check to enter the code "D" in the question space concerning the purpose of the inquiry so that the bureau may record the nature of the request for auditing purposes.

Proposed law provides that the attorney, investigator, pro se litigant, and any other person shall maintain the confidentiality of the state criminal history information and shall use the information only for those purposes provided for in proposed law.

Proposed law provides that no person shall maintain a cause of action for liability against the state, the sheriff, any political subdivision of the state, or any agency, officer, deputy, or employee of the state, the sheriff, or a political subdivision for providing the information requested in accordance with proposed law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 15:587.7(D); Adds R.S. 15:587.8)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Judiciary B to the original bill

1. Removes provisions adding victims of domestic violence, human trafficking and sexual assault to present law provisions regarding criminal background checks on volunteers and employees who work with children, the elderly, and individuals with disabilities.
2. Adds victims of dating violence to proposed law regarding victims or domestic abuse, human trafficking, and sexual assault.
3. Limits access to state criminal history records.
4. Adds licensed investigators associated with the attorney of record to the individuals authorized to access the record.
5. Changes from parties contacting bureau directly to parties accessing the information through the sheriff.
6. Adds suit number to the information required to be included in a request for a record.

7. Adds proposed law provisions prohibiting a cause of action for liability.

Senate Floor Amendments to engrossed bill

1. Defines "Pro se litigant" as a single person.
2. Specifies that the attorney's bar roll number shall be submitted with the request.
3. Makes technical changes.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the reengrossed bill:

1. Define "witness".
2. Authorize pro se parties to request background checks of all parties as opposed to background checks of defendants only.
3. Add specific reference to the \$15 fee authorized in present law.
4. Make technical changes.