

SENATE BILL NO. 156

BY SENATORS RISER AND MIZELL AND REPRESENTATIVE JACKSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 15:587.7(D) and to enact R.S. 15:587.8, relative to access in civil cases to the criminal history system; to provide for certain nonprofit and for profit volunteer and qualified entities; to provide for access to state criminal history information in a civil case of domestic violence, human trafficking, dating violence and sexual assault; to provide for certain licensed attorneys to obtain state criminal history system information in civil cases involving allegations of domestic abuse; to provide for certain licensed attorneys to obtain state criminal history system information in civil cases involving allegations of human trafficking; to provide for certain licensed attorneys to obtain state criminal history system information in civil cases involving dating violence; to provide for certain licensed attorneys to obtain state criminal history system information in civil cases involving allegations of sexual assault; to provide for pro se petitioners; to provide for definitions; to provide for confidentiality; to prohibit certain causes of action; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:587.7(D) is hereby amended and reenacted and R.S. 15:587.8 is hereby enacted to read as follows:

§587.7. Volunteer and employee criminal history system

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D. The cost of providing the information required under this Section shall be charged by the bureau, as specified in R.S. 15:587(B), to the individual subject to the inquiry **or the qualified entity, subject to the provisions of R.S. 23:897,** for furnishing information contained in the bureau's criminal history and identification files, including any additional costs of providing the national criminal history records check which pertain to the individual.

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§587.8. Access to criminal history system for victims of domestic abuse, victims of human trafficking, victims of dating violence, and victims of sexual assault.

A. In order to protect the integrity and the security of the family court and civil court system and in order to obtain evidence in furtherance of Code of Evidence Article 412.5, a licensed attorney who is counsel of record in a case involving a victim of domestic abuse, human trafficking, dating violence, or sexual assault shall be allowed to access state criminal history records on a certain individual who is a party or a witness in the civil cases in which the attorney is counsel of record.

B. For purposes of this Section, the following definitions shall apply:

(1) "Attorney" means an attorney who is licensed by the Louisiana State Bar Association and who is the counsel of record in a civil case as defined in Paragraph (3) of this Subsection.

(2) "Bureau" means the Louisiana Bureau of Criminal Identification and Information located within the Department of Public Safety and Corrections, public safety services, office of state police.

(3) "Civil case" means a case filed in family court or other court of competent jurisdiction where civil cases are heard related to allegations of domestic abuse, dating violence, family violence, violence against a child, violence against a spouse, sexual assault, or human trafficking, including but not limited to all of the following:

(a) A civil case for an injunction or protective order sought pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2161 et seq., R.S. 46:2171 et seq., or R.S. 46:2181 et seq., Children's Code Article 1564 et seq., or Code of Civil Procedure Articles 3604 or 3607.1.

(b) A civil case whereby evidence is admissible, pursuant to Louisiana Code of Evidence Article 412.5, related to acts of domestic abuse as defined in R.S. 46:2132, family violence as defined in R.S. 9:362, dating violence as defined

1 in R.S. 46:2151, or sexual abuse as defined in R.S. 9:362.

2 (c) A civil case to obtain recovery and damages for a victim of human
3 trafficking, pursuant to 18 U.S.C. 1595, or any other civil proceeding involving
4 the victims of human trafficking.

5 (d) A civil case filed pursuant to Title V of Book I of the Louisiana Civil
6 Code.

7 (4) "Criminal history records" means the state criminal history records
8 maintained by the bureau.

9 (5) "Individual" means a person who is a party to or a witness in a civil
10 case provided for in Paragraph (3) of this Subsection.

11 (7) "Witness" means a person who is not a party to the case but who
12 may be awarded custody or visitation of the child or who has had contact or
13 may have future contact with the child, the alleged victim, or the alleged
14 perpetrator of domestic abuse, human trafficking, dating violence, or sexual
15 assault.

16 (6) "Pro se litigant" is a party representing himself.

17 C.(1) An attorney, or his licensed investigator who is assigned to the case
18 and who is subject to the provisions of R.S. 15:587(A)(1)(c), may submit a
19 request for a criminal history records check to be conducted by the sheriff
20 related to a case in which the attorney is counsel of record in a civil case. The
21 attorney, or his licensed investigator, shall submit identifying information
22 related to the individual to the sheriff including the full legal name, date of
23 birth, or any other identifying information that the attorney may possess.

24 (2)(a) In addition to the individual's identifying information, the attorney
25 shall submit in his letter of request to the sheriff all of the following information
26 related to the case:

27 (i) The name and the Louisiana State Bar Association bar roll number
28 of the attorney making the request.

29 (ii) The name of the case, the suit number, and the judicial district of the
30 court for which the attorney is making the request.

1 **(b) If the attorney or his licensed investigator wilfully or intentionally**
2 **misrepresents the civil case information required in this Paragraph, the**
3 **attorney or his licensed investigator shall be subject to criminal prosecution for**
4 **filing false public records pursuant to R.S. 14:133.**

5 **D.(1) In order to ensure equal protection under the law, a pro se litigant**
6 **may obtain the same information that an attorney may obtain in Subsection C**
7 **of this Section so long as the pro se litigant obtains an ex parte court order from**
8 **the judge assigned to the civil case, in which the pro se litigant is a party,**
9 **authorizing the pro se litigant to obtain criminal history information on an**
10 **individual. The pro se litigant may then submit the judge's order for a request**
11 **for a criminal history records check to be conducted by the sheriff related to the**
12 **civil case in which the pro se litigant is a party to the civil case. The pro se**
13 **litigant shall submit identifying information related to the individual to the**
14 **sheriff including the full legal name, date of birth, and any other identifying**
15 **information that the pro se litigant may possess.**

16 **(2) In addition to the individual's identifying information, the pro se**
17 **litigant shall submit in his letter the name of the case, the suit number, and the**
18 **judicial district of the court for which the pro se litigant is making the request**
19 **along with the judge's order.**

20 **(3) If the pro se litigant wilfully or intentionally misrepresents the civil**
21 **case information required in this Paragraph, the pro se litigant shall be subject**
22 **to criminal prosecution for filing false public records pursuant to R.S. 14:133.**

23 **E. When a criminal history records check is requested by an attorney,**
24 **a licensed investigator, or a pro se litigant pursuant to this Section, the sheriff**
25 **shall provide the attorney, the licensed investigator, or the pro se litigant with**
26 **the state criminal history record information of the individual subject to the**
27 **inquiry.**

28 **F. State criminal history records checks, obtained pursuant to this**
29 **Section, are to be used by the attorney or pro se litigant in conjunction with the**
30 **civil case to which the information is sought and may be disclosed only to the**

1 court or opposing counsel or in court proceedings related to the civil case.

2 G.(1) The cost of providing the information required under this Section
3 shall be charged by the sheriff to the requesting person as that amount is
4 specified in R.S. 15:587(D).

5 (2) When the sheriff performs the criminal history records check
6 pursuant to this Section, he shall enter the code "D" in the question space
7 concerning the purpose of the inquiry so that the bureau may record the nature
8 of the inquiry for auditing purposes.

9 H. The attorney, licensed investigator, pro se litigant, and any other
10 person with access to the information shall maintain the confidentiality of the
11 state criminal history information and shall use the information only for those
12 purposes provided for in this Section.

13 I. No person shall maintain a cause of action for liability against the
14 state, the sheriff, any political subdivision of the state, or any agency, officer,
15 deputy, or employee of the state, the sheriff, or a political subdivision for
16 providing the information requested in accordance with this Section.

17 Section 2. This Act shall become effective upon signature by the governor
18 or, if not signed by the governor, upon expiration of the time for bills to become law
19 without signature by the governor, as provided by Article III, Section 18 of the
20 Constitution of Louisiana. If vetoed by the governor and subsequently approved by
21 the legislature, this Act shall become effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____