To amend and reenact R.S. 15:587(A)(2)(a) and (b) and 587.1(A)(1)(a) and R.S. 44:4.1(B)(8) and to enact R.S. 15:587.1.2 and R.S. 40:2008.10, relative to the Louisiana Bureau of Criminal Identification and Information's duty to provide information; to authorize the release of certain criminal history information to the Department of Children and Family Services; to grant the department the authority to receive such information; to provide relative to the provision of information to protect children; to provide relative to the provision of information to protect children who receive services at a therapeutic group home and child care institutions; to provide relative to criminal history record information of certain persons who own, operate, or manage a therapeutic group home or who are employees, contractors, volunteers, or interns of a therapeutic group home; to provide relative to the procedures to obtain and costs of the background check; to provide for exceptions to the Public Records Law; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:587(A)(2)(a) and (b) and 587.1(A)(1)(a) are hereby amended and reenacted and R.S. 15:587.1.2 is hereby enacted to read as follows:

§587. Duty to provide information; processing fees; Louisiana Bureau of Criminal Identification and Information

A.

* * *

(2)(a) The bureau, in accordance with its powers to regulate and to enforce provisions herein, may further restrict those agencies eligible to receive information. However, the bureau shall make available to the Department of Children and Family Services all criminal history record information as defined in R.S. 15:576 related to...
foster and adoptive parent applicants and adult members of foster and adoptive
parent households; parents whose children have been removed from their custody;
parents or caretakers involved in investigations of abuse or neglect; potential
caretakers of a child who is either in the custody of the department, is the subject of
an investigation of abuse or neglect, or is or has been receiving services through the
office of children and family services; and potential employees of the department
whose duties include the investigation of child abuse or neglect, the supervisory or
disciplinary authority over children, direct care of a child, or performance of
licensing surveys; and individuals employed directly or indirectly by institutions or
facilities providing, or with the potential of providing, daily care or supervision to
any child or youth in the custody of or under the supervision of any Louisiana state
government agency. For the purposes of this Section, the bureau shall employ such
methods and procedures and shall observe such duty hours as to provide information
upon request within forty-eight hours from its receipt.

(b) The bureau shall facilitate national criminal history record checks of
prospective foster and adoptive parent applicants and adult members of foster and
adoptive parent households; parents whose children have been removed from their
custody; parents or caretakers involved in investigations of abuse or neglect;
potential caretakers of a child who is either in the custody of the department, is the
subject of an investigation of abuse or neglect, or is or has been receiving services
through the office of children and family services; and potential employees of the
department whose duties include the investigation of child abuse or neglect, the
supervisory or disciplinary authority over children, direct care of a child, or
performance of licensing surveys; and individuals employed directly or indirectly by
institutions or facilities providing, or with the potential of providing, daily care or
supervision to any child or youth in the custody of or under the supervision of any
Louisiana state government agency by receiving and forwarding fingerprint cards to
the Federal Bureau of Investigation. The Department of Children and Family
Services is authorized to receive and screen the results of the state and national
criminal history record checks in order to determine foster or adoptive parent
applicants' eligibility for certification or recertification as a placement resource for children; to assist in the determination of the appropriateness of a parent or potential caregiver as a placement resource for a child; to assess the situation for safety issues and risks to the child and worker; and to assess the qualifications of a potential department employee; and to assess the qualifications of individuals employed, directly or indirectly, by institutions or facilities providing, or with the potential of providing, daily care or supervision to any child or youth in the custody of or under the supervision of any Louisiana state government agency. The department shall maintain the confidentiality of criminal history information received in accordance with applicable federal or state law.

* * *

§587.1. Provision of information to protect children

A.(1)(a) As provided in R.S. 15:825.3, R.S. 17:15, 407.42, and 407.71, Children's Code Article 424.1, and R.S. 46:51.2 and 1441.13, any employer or others responsible for the actions of one or more persons who have been given or have applied to be considered for a position of supervisory or disciplinary authority over children, and as provided in R.S. 46:51.2(A), the Department of Children and Family Services as employer of one or more persons who have been given or have applied to be considered for a position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys, and for individuals who are employed by or contracted staff of a child care institution, as defined in 42 U.S.C. 672, licensed by the department, shall request in writing that the bureau supply information to ascertain whether that person or persons have been arrested for or convicted of, or pled nolo contendere to, any criminal offense. The request must be on a form prepared by the bureau and signed by a responsible officer or official of the organization or department making the request. It must include a statement signed by the person about whom the request is made which gives his permission for such information to be released.

* * *

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
§587.1.2. Provision of information to protect children who receive services at a
therapeutic group home

A.(1) As provided in R.S. 40:2008.10, the Louisiana Department of Health shall request in writing that the bureau supply information to ascertain whether the persons listed in Paragraph (2) of this Subsection have been arrested for or convicted of, or pled nolo contendere to, any criminal offense. The request shall be on a form prepared by the bureau and signed by a responsible official of the Louisiana Department of Health making the request. The request shall include a statement signed by the person about whom the request is made which gives his permission for such information to be released.

(2)(a) The persons to which this Section applies include:

(i) Any person who owns, operates, or manages a licensed therapeutic group home.

(ii) Any person who has applied for a license to operate a therapeutic group home.

(iii) Any person who is employed by, is contracted by, volunteers at, or interns with a therapeutic group home.

(iv) Any person who has applied to be employed or contracted by a therapeutic group home.

(v) Any person who has applied to volunteer or intern with a therapeutic group home.

(b) This Section shall not apply to contractors and other individuals providing a service at the therapeutic group home who are not employees, volunteers, interns, or contracted members of the staff of the therapeutic group home, including but not limited to plumbers, landscapers, or visiting resources.

(3) In responding to a request for information as provided for in Paragraph (1) of this Subsection, the bureau shall make available a record of all criminal arrests and convictions of the person prior to the date of the request.
The Louisiana Department of Health, as recipient of the information from the bureau, shall maintain the confidentiality of such criminal history information in accordance with applicable federal or state law.

Upon receiving a request pursuant to the provisions of R.S. 40:2008.10 that meets the requirements of Subsection A of this Section, the bureau shall survey its criminal history records and identification files and make a simultaneous request of the Federal Bureau of Investigation for like information from other jurisdictions. The bureau shall provide a report promptly and in writing, but provide only such information as is necessary to specify whether or not that person has been arrested for or convicted of or pled nolo contendere to any crime or crimes, the crimes for which he has been arrested or convicted or to which he has pled nolo contendere, and the date or dates on which they occurred. The report provided pursuant to the provisions of this Subsection shall include arrests, convictions, or other dispositions, including convictions dismissed pursuant to Code of Criminal Procedure Article 893 or 894.

When an individual's record contains information which has been expunged, the bureau shall include in its report to the Louisiana Department of Health the date of the arrest and a notation that the individual's record contains information which has been expunged and that the requestor may contact the bureau in order to obtain further information regarding the expunged information.

The bureau shall establish policies and procedures by which the Louisiana Department of Health may be furnished with expunged information. These policies and procedures shall not require the Louisiana Department of Health to personally appear at the office of the bureau in order to obtain access to the expunged information.

The Louisiana Department of Health shall maintain the confidentiality of the information as provided by law, and the expunged information shall not be deemed a public record.

The costs of any criminal background check which is required under this Section or R.S. 40:2008.10 shall be the responsibility of the therapeutic group home.
D. The Louisiana Department of Health may adopt rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Section, including requirements and provisions for utilizing the criminal history information. The department may utilize the process provided in R.S. 49:953(B) for adoption of the rule.

Section 2. R.S. 40:2008.10 is hereby enacted to read as follows:

§2008.10. Therapeutic group homes licensed by the Louisiana Department of Health; state central registry of child abuse and neglect; criminal background checks

A.(1)(a) The provisions of this Section shall apply to the following persons:

(i) Any person who owns, operates, or manages a licensed therapeutic group home.

(ii) Any person who has applied for a license to operate a therapeutic group home.

(iii) Any person who is employed by, is contracted by, volunteers at, or interns with a therapeutic group home.

(iv) Any person who has applied to be employed or contracted by a therapeutic group home.

(v) Any person who has applied to volunteer or intern with a therapeutic group home.

(b) This Section shall not apply to contractors and other individuals providing a service at the therapeutic group home who are not employees, volunteers, interns, or contracted members of the state of the therapeutic group home, including but not limited to plumbers, landscapers, or visiting resources.

(2) The Louisiana Department of Health shall request, consistent with the provisions of R.S. 15:587.2, from the Bureau of Criminal Identification and Information, information concerning whether or not any of the persons listed in Paragraph (1) of this Subsection has been arrested for, convicted of, or pled nolo contendere to any criminal offense.

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(3) The therapeutic group home shall request information from the
Department of Children and Family Services as to whether the individual's name is
recorded on the state central registry as a perpetrator for a justified finding of abuse
or neglect of a child.

(4) For any individual subject to these provisions that has lived in any other
state within the last five years, the Louisiana Department of Health shall request
information from the child abuse and neglect registry or repository of each of those
states as to whether the individual's name is recorded on that state's registry or
repository.

(5) The Louisiana Department of Health may request any information
necessary from the therapeutic group home, any person subject to the provisions of
this Section, or any other appropriate agency, to ensure compliance with this Section.

(6) The Louisiana Department of Health shall require and provide for the
submission of a person's fingerprints in a form acceptable to the Louisiana Bureau
of Criminal Identification and Information.

(7) The Louisiana Department of Health may charge a processing fee not to
exceed fifteen dollars, and may collect from the therapeutic group home the charges
and processing fees charged by the Bureau of Criminal Identification and
Information for a state criminal history report, the Federal Bureau of Investigation
for a federal criminal history information report, and any other state's registry or
repository of abuse and neglect. The Louisiana Department of Health shall timely
submit the appropriate charges and processing fees to the appropriate agencies.

B. The Louisiana Department of Health may adopt rules and regulations in
accordance with the Administrative Procedure Act to implement the provisions of
this Section, including requirements and provisions for utilizing the criminal history
information. The department may utilize the process provided in R.S. 49:953(B) for
adoption of the rule.

Section 3. R.S. 44:4.1(B)(8) is hereby amended and reenacted to read as follows:
§4.1. Exceptions

*     *     *

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are additions.
B. The legislature further recognizes that there exist exceptions, exemptions, and limitations to the laws pertaining to public records throughout the revised statutes and codes of this state. Therefore, the following exceptions, exemptions, and limitations are hereby continued in effect by incorporation into this Chapter by citation:

*          *          *

(8) R.S. 15:242, 440.6, 477.2, 549, 570(F), 574.12, 578.1, 587, 587.1.2, 616, 660, 840.1, 1176, 1204.1, 1212.1(E), 1507, 1614

*          *          *

Section 4. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PREZIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: ____________________

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