
HOUSE COMMITTEE AMENDMENTS

2019 Regular Session

Amendments proposed by House Committee on Administration of Criminal Justice to
Original House Bill No. 548 by Representative CoxAMENDMENT NO. 1

On page 1, line 2, after "and (b)" and before "relative to" insert a comma "," and insert "to enact R.S. 15:587.1.2 and R.S. 40:2008.10, and to repeal R.S. 40:1203.1(3)(u),"

AMENDMENT NO. 2

On page 1, at the beginning of line 6, insert the following:

"to provide relative to the provision of information to protect children who receive services at a therapeutic group home; 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 confidentiality and use of the criminal history records; to provide relative to the procedures to obtain and costs of the background check;"

AMENDMENT NO. 3

On page 1, line 8, after "reenacted" and before "to" insert "and R.S. 15:587.1.2 is hereby enacted"

AMENDMENT NO. 4

On page 3, between lines 10 and 11, insert the following:

"§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 Subparagraph (2) of this Paragraph 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 by or contracted with 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.

1 (3) In responding to a request for information as provided for in Paragraph
 2 (1) of this Subsection, the bureau shall make available a record of all criminal arrests
 3 and convictions to the person prior to the date of the request.

4 (4) The Louisiana Department of Health, as recipient of the information from
 5 the bureau, shall maintain the confidentiality of such criminal history information in
 6 accordance with applicable federal or state law.

7 B.(1) Upon receiving a request pursuant to the provisions of R.S. 40:2008.10
 8 that meets the requirements of Subsection A of this Section, the bureau shall survey
 9 its criminal history records and identification files and make a simultaneous request
 10 of the Federal Bureau of Investigation for like information from other jurisdictions.
 11 The bureau shall provide a report promptly and in writing, but provide only such
 12 information as is necessary to specify whether or not that person has been arrested
 13 for or convicted of or pled nolo contendere to any crime or crimes, the crimes of
 14 which he has been arrested for or convicted or to which he has pled nolo contendere,
 15 and the date or dates on which they occurred. The report provided pursuant to the
 16 provisions of this Subsection shall include arrests, convictions, or other dispositions,
 17 including convictions dismissed pursuant to Code of Criminal Procedure Article 893
 18 or 894.

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

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

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

32 (d) The information may be used or admitted as evidence in any court
 33 proceeding or employment or disciplinary hearing in which the Louisiana
 34 Department of Health is an authorized participant.

35 C. The provisions of R.S. 40:2008.10 shall govern the ownership by,
 36 management by, and employment of persons at a therapeutic group home who have
 37 been convicted of, or pled guilty or nolo contendere to, any of the following crimes:

38 (1) R.S. 14:28.1, 30, 30.1, 31, 32.6, 32.7, 32.8, 32.12, 35.2, 38.1, 40.1, 40.3,
 39 40.7, 41, 42, 42.1, 43, 43.1, 43.1.1, 43.2, 43.3, 43.4, 43.5, 44, 44.1, 44.2, 45, 46.4, 66,
 40 74, 79.1, 80, 80.1, 81, 81.1, 81.2, 81.3, 81.4, 81.5, 82, 82.1, 82.2, 83, 83.1, 83.2, 83.3,
 41 83.4, 85, 86, 89, 89.1, 89.2, 92, 93, 93.2.1, 93.3, 93.4, 93.5, 106, 282, 283, 283.1,
 42 284, or 286; crimes of violence as defined in R.S. 14:2(B); sex offenses as defined
 43 in R.S. 15:541; or the attempt or conspiracy to commit any of these offenses.

44 (2) R.S. 40:966(A), 967(A), 968(A), 969(A), and 970(A), or the attempt or
 45 conspiracy to commit any of these offenses.

46 (3) A violation of R.S. 14:67 that is a felony, that involves the taking of
 47 assets of an aged person or person with a disability, or that is the offender's second
 48 or subsequent violation of the offense, or the attempt or conspiracy to commit any
 49 of these offenses.

50 (4) Those of a jurisdiction other than Louisiana which, in the judgment of
 51 the bureau employee charged with responsibility for responding to the request, would
 52 constitute a crime under the provisions cited in this Subsection.

53 (5) Those under the Federal Criminal Code having analogous elements of
 54 criminal and moral turpitude.

55 D. Notwithstanding Subsection C of this Section, the Louisiana Department
 56 of Health may, at its discretion, approve a waiver for a person who has a conviction
 57 for aggravated battery (R.S. 14:34) or aggravated assault (R.S. 14:37), or for a drug-
 58 related offense provided for in R.S. 40:966(A), 967(A), 968(A), 969(A), or 970(A),
 59 if the conviction was at least five years from the date of the request for waiver.

1 E. The costs of any criminal background check which is required under this
 2 Section or R.S. 40:2008.10 shall be the responsibility of the therapeutic group home.

3 F. The Louisiana Department of Health may adopt rules and regulations in
 4 accordance with the Administrative Procedure Act to implement the provisions of
 5 this Section.

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

7 §2008.10. Therapeutic group homes licensed by the Louisiana Department of
 8 Health; requirements; criminal background checks; grounds for denial and
 9 revocation

10 A. No person who has been convicted of or pled nolo contendere to a crime
 11 listed in RS 15:587.1.2(C), or whose name is recorded on the state central registry
 12 within the Department of Children and Family Services as a perpetrator for a
 13 justified finding of abuse or neglect of a child or whose name is on any other state's
 14 child abuse and neglect registry or repository, may be the owner, manager, or
 15 administrator of a therapeutic group home, be employed or contracted by a
 16 therapeutic group home, or be a volunteer or intern, paid or unpaid, at a therapeutic
 17 group home. The cost of any criminal background check or state central registry
 18 check which may be required by the Louisiana Department of Health as proof of
 19 compliance with this Section shall be the responsibility of the therapeutic group
 20 home.

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

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

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

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

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

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

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

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

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

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

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

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

55 (7)(a) For any therapeutic group home licensed on or before October 1,
 56 2019, the licensee shall submit to the Louisiana Department of Health by October 15,
 57 2019, a list of all owners, managers, administrators, employees, contractors,
 58 volunteers, and interns of the therapeutic group home as of October 15, 2019. Each

1 person listed shall submit his fingerprints to the Louisiana Bureau of Criminal
 2 Identification and Information by October 15, 2019. Each person shall also submit
 3 an attestation to the Louisiana Department of Health on a form provided by the
 4 department wherein the person attests that his fingerprints have been submitted. The
 5 attestation shall be received by the department by October 20, 2019. A person who
 6 has timely submitted his fingerprints to the Louisiana Bureau of Criminal
 7 Identification and Information may continue to own, manager, administer, be
 8 employed by, be contracted by, volunteer with, or intern with the therapeutic group
 9 home until the Louisiana Department of Health receives and reviews the information
 10 or report from the Louisiana Bureau of Criminal Identification and Information.

11 (b) If the information reveals that the person cannot be an owner pursuant
 12 to Subsection A of this Section, the therapeutic group home shall immediately
 13 remove the person from ownership or shall immediately surrender its license.

14 (c) If the information reveals that the person cannot be a manager,
 15 administrator, employee, contractor, volunteer, or intern with the therapeutic group
 16 home pursuant to Subsection A of this Section, the Louisiana Department of Health
 17 shall notify the licensed therapeutic group home and the therapeutic group home
 18 shall immediately terminate the person.

19 (8) For any therapeutic group home licensed on or before October 1, 2019,
 20 no new owner may be obtained and no new administrator, manager, employee,
 21 contractor, volunteer, or intern may be hired after October 15, 2019, until such
 22 person has submitted his fingerprints to the Louisiana Bureau of Criminal
 23 Identification and Information and the Louisiana Department of Health has received
 24 and reviewed the information or report from the Louisiana Bureau of Criminal
 25 Identification and Information and confirmed that the person can be an owner,
 26 administrator, manager, employee, contractor, volunteer, or intern pursuant to
 27 Subsection A of this Section.

28 (9) Any therapeutic group home that submits a licensing application to the
 29 Louisiana Department of Health after October 1, 2019, shall submit with the
 30 licensing application a list of all proposed owners, administrators, managers,
 31 employees, contractors, volunteers, and interns. No new therapeutic group home may
 32 be licensed after October 1, 2019, until all persons listed have submitted fingerprints
 33 to the Louisiana Bureau of Criminal Identification and Information and the Louisiana
 34 Department of Health has received and reviewed the information or report from the
 35 Louisiana Bureau of Criminal Identification and Information and confirmed that the
 36 person can be an owner, administrator, manager, employee, contractor, volunteer, or
 37 intern pursuant to Subsection A of this Section.

38 (a) No new owner may be obtained and no new administrator, manager,
 39 employee, contractor, volunteer, or intern may be hired by the therapeutic group
 40 home after submitting the initial license application, until that person has submitted
 41 fingerprints to the Louisiana Bureau of Criminal Identification and Information and
 42 the Louisiana Department of Health has received and reviewed the information or
 43 report from the Louisiana Bureau of Criminal Identification and Information and
 44 confirmed that the person can be an owner, administrator, manager, employee,
 45 contractor, volunteer, or intern pursuant to Subsection A of this Section.

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

53 (11) In addition to other sanctions that may be imposed on the therapeutic
 54 group home, the Louisiana Department of Health may also deny, revoke, or refuse
 55 to renew the license of a therapeutic group home who violates the provision of this
 56 Section.

57 C. The Louisiana Department of Health may adopt rules and regulations in
 58 accordance with the Administrative Procedure Act to implement the provisions of
 59 this Section.

1 Section 3. R.S. 40:1203.1(3)(u) is hereby repealed in its entirety."

2 AMENDMENT NO. 5

3 On page 3, line 11, change "Section 2." to "Section 4."