
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 "and 587.1(A)(1)(a), to enact R.S. 15:587.1.2, R.S. 40:2008.10, and R.S. 46:51.2(I), 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; 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; to prohibit the employment of certain individuals in a Child Care Institution; to provide relative to criminal history records checks of individuals employed by a Child Care Institution; to provide for an effective date;"

AMENDMENT NO. 3

On page 1, line 8, after "(b)" delete the remainder of the line and insert the following:

"and 587.1(A)(1)(a) are hereby amended and reenacted and R.S. 15:587.1.2 is hereby enacted to read"

AMENDMENT NO. 4

On page 3, delete lines 11 through 15 in their entirety and insert the following:

"§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 as provided in R.S. 46:51.2(I), a Child Care Institution as a direct or indirect employer of an individual 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.

* * *

§587.1.2. Provision of information to protect children who receive services at a therapeutic group home

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (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,
 5 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,
 6 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,
 7 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,
 8 284, or 286; crimes of violence as defined in R.S. 14:2(B); sex offenses as defined
 9 in R.S. 15:541; or the attempt or conspiracy to commit any of these offenses.

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

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

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

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

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

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

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

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

32 §2008.10. Therapeutic group homes licensed by the Louisiana Department of
 33 Health; requirements; criminal background checks; grounds for denial and
 34 revocation

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

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

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

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

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

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

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

57 (b) This Section shall not apply to contractors and other individuals
 58 providing a service at the therapeutic group home who are not employees,

1 volunteers, interns, or contracted members of the state of the therapeutic group
2 home, including but not limited to plumbers, landscapers, or visiting resources.

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

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

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

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

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

22 (7)(a) For any therapeutic group home licensed on or before October 1,
23 2019, the licensee shall submit to the Louisiana Department of Health by October 15,
24 2019, a list of all owners, managers, administrators, employees, contractors,
25 volunteers, and interns of the therapeutic group home as of October 15, 2019. Each
26 person listed shall submit his fingerprints to the Louisiana Bureau of Criminal
27 Identification and Information by October 15, 2019. Each person shall also submit
28 an attestation to the Louisiana Department of Health on a form provided by the
29 department wherein the person attests that his fingerprints have been submitted. The
30 attestation shall be received by the department by October 20, 2019. A person who
31 has timely submitted his fingerprints to the Louisiana Bureau of Criminal
32 Identification and Information may continue to own, manage, administer, be
33 employed by, be contracted by, volunteer with, or intern with the therapeutic group
34 home until the Louisiana Department of Health receives and reviews the information
35 or report from the Louisiana Bureau of Criminal Identification and Information.

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

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

44 (8) For any therapeutic group home licensed on or before October 1, 2019,
45 no new owner may be obtained and no new administrator, manager, employee,
46 contractor, volunteer, or intern may be hired after October 15, 2019, until such
47 person has submitted his fingerprints to the Louisiana Bureau of Criminal
48 Identification and Information and the Louisiana Department of Health has received
49 and reviewed the information or report from the Louisiana Bureau of Criminal
50 Identification and Information and confirmed that the person can be an owner,
51 administrator, manager, employee, contractor, volunteer, or intern pursuant to
52 Subsection A of this Section.

53 (9)(a) Any therapeutic group home that submits a licensing application to the
54 Louisiana Department of Health after October 1, 2019, shall submit with the
55 licensing application a list of all proposed owners, administrators, managers,
56 employees, contractors, volunteers, and interns. No new therapeutic group home may
57 be licensed after October 1, 2019, until all persons listed have submitted fingerprints
58 to the Louisiana Bureau of Criminal Identification and Information and the Louisiana
59 Department of Health has received and reviewed the information or report from the

1 Louisiana Bureau of Criminal Identification and Information and confirmed that the
 2 person can be an owner, administrator, manager, employee, contractor, volunteer, or
 3 intern pursuant to Subsection A of this Section.

4 (b) No new owner may be obtained and no new administrator, manager,
 5 employee, contractor, volunteer, or intern may be hired by the therapeutic group
 6 home after submitting the initial license application, until that person has submitted
 7 fingerprints to the Louisiana Bureau of Criminal Identification and Information and
 8 the Louisiana Department of Health has received and reviewed the information or
 9 report from the Louisiana Bureau of Criminal Identification and Information and
 10 confirmed that the person can be an owner, administrator, manager, employee,
 11 contractor, volunteer, or intern pursuant to Subsection A of this Section.

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

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

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

26 Section 3. R.S. 46:51.2(I) is hereby enacted to read as follows:

27 §51.2. Criminal history and central registry information

28 * * *

29 I.(1) Notwithstanding any other provision of law to the contrary, no
 30 individual shall be employed, directly or indirectly, by a Child Care Institution as
 31 defined in 45 CFR 1355.20, that is licensed by the department until both of the
 32 following conditions are met:

33 (a) The individual has submitted his fingerprints to the Louisiana Bureau of
 34 Criminal Identification and Information for a criminal history records check and it
 35 has been determined that the person has not been convicted of or pled nolo
 36 contendere to a crime listed in R.S. 15:587.1(C).

37 (b) The provider has requested that the department and any other state in
 38 which the individual has resided in the last five years conduct a search of the state
 39 central registry of justified abuse or neglect reports and it has been determined that
 40 the individual's name is not recorded therein. If the individual's name is or was
 41 recorded on the department's state central registry, the individual may make a formal
 42 written request to the division of administrative law for an administrative appeal of
 43 justified determination in accordance with Children's Code Article 616.1.1 and the
 44 procedures promulgated by the department.

45 (2) This Subsection shall not apply to contractors and other individuals
 46 providing a service at the Child Care Institution who are not employees or contracted
 47 members of the staff of the Child Care Institution, including but not limited to
 48 plumbers, landscapers, or visiting resources.

49 (3) The department shall promulgate rules and regulations, in accordance
 50 with the Administrative Procedure Act, necessary to implement the provisions of this
 51 Subsection.

52 Section 4. R.S. 40:1203.1(3)(u) is hereby repealed in its entirety.

53 Section 5. This Act shall become effective on October 1, 2019."