

**ACT No. 243**

2019 Regular Session

HOUSE BILL NO. 548

BY REPRESENTATIVE COX

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AN ACT

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

1 foster and adoptive parent applicants and adult members of foster and adoptive  
2 parent households; parents whose children have been removed from their custody;  
3 parents or caretakers involved in investigations of abuse or neglect; potential  
4 caretakers of a child who is either in the custody of the department, is the subject of  
5 an investigation of abuse or neglect, or is or has been receiving services through the  
6 office of children and family services; ~~and~~ potential employees of the department  
7 whose duties include the investigation of child abuse or neglect, the supervisory or  
8 disciplinary authority over children, direct care of a child, or performance of  
9 licensing surveys; and individuals employed directly or indirectly by institutions or  
10 facilities providing, or with the potential of providing, daily care or supervision to  
11 any child or youth in the custody of or under the supervision of any Louisiana state  
12 government agency. For the purposes of this Section, the bureau shall employ such  
13 methods and procedures and shall observe such duty hours as to provide information  
14 upon request within forty-eight hours from its receipt.

15 (b) The bureau shall facilitate national criminal history record checks of  
16 prospective foster and adoptive parent applicants and adult members of foster and  
17 adoptive parent households; parents whose children have been removed from their  
18 custody; parents or caretakers involved in investigations of abuse or neglect;  
19 potential caretakers of a child who is either in the custody of the department, is the  
20 subject of an investigation of abuse or neglect, or is or has been receiving services  
21 through the office of children and family services; ~~and~~ potential employees of the  
22 department whose duties include the investigation of child abuse or neglect, the  
23 supervisory or disciplinary authority over children, direct care of a child, or  
24 performance of licensing surveys; and individuals employed directly or indirectly by  
25 institutions or facilities providing, or with the potential of providing, daily care or  
26 supervision to any child or youth in the custody of or under the supervision of any  
27 Louisiana state government agency by receiving and forwarding fingerprint cards to  
28 the Federal Bureau of Investigation. The Department of Children and Family  
29 Services is authorized to receive and screen the results of the state and national  
30 criminal history record checks in order to determine foster or adoptive parent

1 applicants' eligibility for certification or recertification as a placement resource for  
 2 children; to assist in the determination of the appropriateness of a parent or potential  
 3 caregiver as a placement resource for a child; to assess the situation for safety issues  
 4 and risks to the child and worker; ~~and~~ to assess the qualifications of a potential  
 5 department employee; and to assess the qualifications of individuals employed,  
 6 directly or indirectly, by institutions or facilities providing, or with the potential of  
 7 providing, daily care or supervision to any child or youth in the custody of or under  
 8 the supervision of any Louisiana state government agency. The department shall  
 9 maintain the confidentiality of criminal history information received in accordance  
 10 with applicable federal or state law.

11 \* \* \*

12 §587.1. Provision of information to protect children

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

30 \* \* \*

1           §587.1.2. Provision of information to protect children who receive services at a  
2                           therapeutic group home

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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; state central registry of child abuse and neglect; criminal background  
 9           checks

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

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

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

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

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

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

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

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

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

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

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

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

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

23           B. 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, including requirements and provisions for utilizing the criminal history  
26           information. The department may utilize the process provided in R.S. 49:953(B) for  
27           adoption of the rule.

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

29           §4.1. Exceptions

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