

2023 Regular Session

HOUSE BILL NO. 112

BY REPRESENTATIVE MUSCARELLO

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

PRIVATE SECURITY: Provides relative to the Louisiana State Board of Private Security Examiners

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(23) and to enact R.S. 37:3276.2, relative to the
3 authority of the Louisiana State Board of Private Security Examiners; to provide for
4 legislative intent; to provide for definitions; to provide for limitations to the access
5 and use of certain criminal history record information; to provide for the standards
6 and procedures for certain criminal history records; to require the charging of fees
7 and costs; to provide for a public records exception; to provide for effectiveness; and
8 to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 37:3276.2 is hereby enacted to read as follows:

11 §3276.2. Authority to obtain criminal history record information

12 A. The legislature hereby finds and declares it is vitally important to the
13 public safety, interest, and welfare to protect Louisiana citizens, their residences,
14 businesses, and other property, as well as visitors to the state, by reasonably
15 regulating the licensure and registration of persons performing private security
16 activity in the state.

17 B. As used in this Section:

18 (1) "Board" means the Louisiana State Board of Private Security Examiners,
19 an agency in the Department of Public Safety and Corrections.

1 (2) "Bureau" means the Louisiana Bureau of Criminal Identification and
2 Information of the office of state police within the Department of Public Safety and
3 Corrections.

4 (3) "Criminal history record information" means all state records of arrest,
5 prosecution, and conviction, including those which have been expunged or dismissed
6 pursuant to Code of Criminal Procedure Article 893, and national records which
7 include fingerprints of the applicant, biometrics, and other identifying information,
8 if so requested by the board.

9 (4) "FBI" means the Federal Bureau of Investigation of the United States
10 Department of Justice.

11 C.(1) Pursuant to this Section, the board may request and obtain state and
12 national criminal history record information from the bureau and the FBI regarding
13 each applicant.

14 (2) Notwithstanding Paragraph (1) of this Subsection, the board's use of
15 fingerprints shall be for the limited purpose of determining the licensure or
16 registration eligibility of each applicant and conducting directly related matters in
17 accordance with the Administrative Procedure Act, R.S. 49:950 et seq., or other
18 applicable law.

19 (3) The board is entitled to the criminal history record and identification files
20 of the bureau of any person who is licensed or registered; or who is applying to be
21 licensed or registered as a private security business, qualifying agent, instructor, or
22 security officer. Fingerprints, biometrics, and other identifying information of the
23 applicant shall be submitted to the bureau, and the bureau shall, upon request of the
24 board and after receipt of such fingerprint card and other identifying information
25 from the applicant, make available to the board all arrest and conviction information
26 contained in the bureau's criminal history record and identification files which
27 pertain to the applicant for licensure. In addition, the fingerprints shall be forwarded
28 by the bureau to the FBI for a national criminal history record check.

1 (4) In accordance with the authority provided for in this Chapter, the costs
2 of providing the information required in accordance with this Section shall be
3 charged by the bureau, as specified in R.S. 15:587, to the board for furnishing
4 information contained in the bureau's criminal history record and identification files,
5 including any additional costs of providing the national criminal history record
6 check, which pertains to the applicant. The board may impose any or all such fees
7 or costs on the applicant.

8 D. Notwithstanding any other provision of this Chapter, the board may
9 require an applicant to do any of the following to determine the licensure or
10 registration eligibility of an applicant:

11 (1) Submit a complete set of fingerprints in the form and manner required
12 by the bureau.

13 (2) Authorize the board to request and obtain state and national criminal
14 history record information relating to the applicant.

15 (3) Pay to the board an amount equal to the administrative costs imposed by
16 or on behalf of the bureau, relating to the submission and processing of applicant
17 fingerprints for review of criminal history record information.

18 E. The board is required to prescribe a form relative to the access, use, and
19 maintenance of criminal history record information. The form shall be completed by
20 each applicant prior to any fingerprint submission and shall include, at a minimum,
21 all of the following:

22 (1) An acknowledgment that fingerprints submitted to the bureau or board
23 shall be used to check the national criminal history records maintained by the FBI.

24 (2) An inquiry requiring the applicant to identify or state the specific reason
25 he has submitted fingerprints to the bureau or board.

26 (3) A statement providing the procedures and contact information necessary
27 to challenge the accuracy of information contained in the FBI identification records
28 of the applicant.

1 (4) Any other notice of information required by the bureau to be disclosed
2 to an applicant prior to the submission of fingerprints.

3 F.(1) Criminal history record information shall be considered confidential
4 information and the board, its members, officers, investigators, agents, and attorneys
5 shall use the criminal history record information exclusively to evaluate the
6 applicant's eligibility or disqualification.

7 (2) Criminal history record information obtained in accordance with this
8 Section shall not be released or otherwise disclosed by the board to any person or
9 agency without the written consent of the applicant unless the release is ordered by
10 a court of competent jurisdiction.

11 Section 2. R.S. 44:4.1(B)(23) is hereby amended and reenacted to read as follows:

12 §4.1. Exceptions

13 * * *

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

19 * * *

20 (23) R.S. 37:74, 86, 90, 147, 691, 711.10, 763, 763.1, 781, 920.1, 969.1,
21 1123(E), 1277, 1278, 1285, 1326, 1338.1, 1360.53.1, 1360.104.1, 1518, 1745.15,
22 1747, 1806, 2156.1, 2406, 2505.1, 2863.1, 3276.2, 3481, 3507.1

23 * * *

24 Section 3. This Act shall become effective on October 1, 2023.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 112 Engrossed

2023 Regular Session

Muscarello

Abstract: Provides the Louisiana State Board of Private Security Examiners authority to process fingerprints and receive state and federal criminal history checks on private security applicants.

Proposed law authorizes the Louisiana State Board of Private Security Examiners to request and obtain state and national criminal history record information from the Louisiana Bureau of Criminal Identification and Information and the FBI for any person who is licensed or registered; or who is applying to be licensed or registered as a private security business, instructor, or officer.

Proposed law limits the use of fingerprints for the purpose of determining the licensure or registration eligibility of each applicant and for conducting directly-related matters in accordance with applicable law.

Proposed law provides that the costs of providing fingerprints, biometrics, and other identifying information shall be charged by the Louisiana Bureau of Criminal Identification and Information, as specified in present law.

Proposed law provides that the board may require any of the following requirements to determine the licensure or registration eligibility of an applicant:

- (1) Submission of a complete set of fingerprints.
- (2) Authorization to the board to request and obtain state and national criminal history records.
- (3) Payment to the board an amount equal to the administrative costs relating to the processing of applicant fingerprints.

Proposed law provides that the board shall prescribe a form with certain minimum requirements to be completed by each applicant prior to any fingerprint submission.

Proposed law adds a confidentiality clause to require criminal history record information be confidential and used exclusively by the board to evaluate the applicant's eligibility or disqualification. Proposed law further provides that the board shall not release criminal history record information to any person or agency without written consent of the applicant, unless the release is court ordered.

Proposed law adds proposed law to the enumerated list of public records exceptions in present law (R.S. 44:4.1(B)(23)).

Effective Oct. 1, 2023.

(Amends R.S. 44:4.1(B)(23); Adds R.S. 37:3276.2)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Add a confidentiality clause to require criminal history record information be confidential and used exclusively to evaluate the applicant's eligibility.
2. Add a public records exception.
3. Make technical changes.