

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. 15:587(A)(1)(b) and R.S. 44:4.1(B)(23) and to enact R.S.  
3 37:3276.2, relative to the authority of the Louisiana State Board of Private Security  
4 Examiners; to provide for legislative intent; to provide for definitions; to provide for  
5 limitations to the access and use of certain criminal history record information; to  
6 provide for the standards and procedures for certain criminal history records; to  
7 require the charging of fees and costs; to provide for a public records exception; to  
8 provide for effectiveness; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 15:587(A)(1)(b) is hereby amended and reenacted to read as follows:

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

13 A.(1)

14 \* \* \*

15 (b) The Louisiana State Board of Private Security Examiners shall be entitled  
16 to the criminal history record and identification files of the bureau on those persons  
17 seeking to be licensed ~~as private security guards~~ or registered by the board as a  
18 means of performing background checks on those individuals. ~~A fee of twenty-six~~  
19 ~~dollars shall be charged for furnishing said records.~~ In addition, in order to  
20 determine an applicant's eligibility or suitability for licensure or registration under

1 the provisions of the Private Security Regulatory and Licensing Law, each applicant  
2 shall be fingerprinted and the fingerprints shall be forwarded by the bureau to the  
3 Federal Bureau of Investigation for a national criminal history record check.

4 \* \* \*

5 Section 2. R.S. 37:3276.2 is hereby enacted to read as follows:

6 §3276.2. Authority to obtain criminal history record information

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

12 B. As used in this Section:

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

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

18 (3) "Criminal history record information" means all state records of arrest,  
19 prosecution, and conviction, including those which have been expunged or dismissed  
20 pursuant to Code of Criminal Procedure Articles 893 and 894, and national records  
21 which include fingerprints of the applicant and other identifying information, if so  
22 requested by the board.

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

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

28 (2) Notwithstanding Paragraph (1) of this Subsection, the board's use of  
29 fingerprints shall be for the limited purpose of determining the licensure or

1 registration eligibility of each applicant and conducting directly related matters in  
2 accordance with the Administrative Procedure Act, R.S. 49:950 et seq., or other  
3 applicable law.

4 (3) The board is entitled to the criminal history record and identification files  
5 of the bureau of any person who is licensed or registered; or who is applying to be  
6 licensed or registered as a private security business, qualifying agent, instructor, or  
7 security officer. Fingerprints and other identifying information of the applicant shall  
8 be submitted to the bureau, and the bureau shall, upon request of the board and after  
9 receipt of such fingerprint card and other identifying information from the applicant,  
10 make available to the board all arrest and conviction information contained in the  
11 bureau's criminal history record and identification files which pertain to the applicant  
12 for licensure or registration. In addition, the fingerprints shall be forwarded by the  
13 bureau to the FBI for a national criminal history record check.

14 (4) In accordance with the authority provided for in this Chapter, the costs  
15 of providing the information required in accordance with this Section shall be  
16 charged by the bureau, as specified in R.S. 15:587, for furnishing information  
17 contained in the bureau's criminal history record and identification files, including  
18 any additional costs of providing the national criminal history record check, which  
19 pertains to the applicant. Any or all cost or fees for the provision of the information  
20 may be imposed on the applicant.

21 D. In addition to the other requirements of this Chapter, the board may  
22 require an applicant to do any of the following to determine the licensure or  
23 registration eligibility of an applicant:

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

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

1           (3) Pay the administrative costs imposed by or on behalf of the bureau,  
2           relating to the submission and processing of applicant fingerprints for review of  
3           criminal history record information.

4           E. The board shall utilize a form provided by the bureau relative to the  
5           access, use, and maintenance of criminal history record information. Each applicant  
6           shall complete the form prior to any fingerprint submission.

7           F.(1) Criminal history record information shall be considered confidential  
8           information and the board, its members, its employees, and any agent authorized to  
9           act on behalf of the board shall use the criminal history record information  
10           exclusively to evaluate the applicant's eligibility or disqualification.

11           (2) Criminal history record information obtained in accordance with this  
12           Section shall not be released or otherwise disclosed by the board, its members, its  
13           employees, or any agent authorized to act on behalf of the board to any person or  
14           agency without the written consent of the applicant unless the release is ordered by  
15           a court of competent jurisdiction.

16 Section 3. R.S. 44:4.1(B)(23) is hereby amended and reenacted to read as follows:

17 §4.1. Exceptions

18                                   \*       \*       \*

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

24                                   \*       \*       \*

25           (23) R.S. 37:74, 86, 90, 147, 691, 711.10, 763, 763.1, 781, 920.1, 969.1,  
26           1123(E), 1277, 1278, 1285, 1326, 1338.1, 1360.53.1, 1360.104.1, 1518, 1745.15,  
27           1747, 1806, 2156.1, 2406, 2505.1, 2863.1, 3276.2, 3481, 3507.1

28                                   \*       \*       \*

29 Section 4. This Act shall become effective on October 1, 2023.

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**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)]

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HB 112 Re-Reengrossed

2023 Regular Session

Muscarello

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

Present law provides that the La. State board of Private Security Examiners (board) is entitled to the criminal history record and identification files of the La. Bureau of Criminal Identification and Information (bureau) on those persons seeking to be licensed as private security guards.

Proposed law authorizes the board to request and obtain state and national criminal history record information from the bureau 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 and other identifying information shall be charged by the bureau, as specified in present law, and that any or all cost or fees for the provision of the information to the board may be imposed on the applicant.

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

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

Proposed law provides that the board shall utilize a form provided by the bureau to be completed by each applicant prior to any fingerprint submission.

Proposed law provides that the criminal history record information shall 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. 15:587 and 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.

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the engrossed bill:

1. Include changes in the present law provisions relative to the board's ability to obtain criminal history record information from the bureau for private security guards the broader ability to request both state and national criminal histories for persons seeking to be licensed or registered by the board.
2. Remove biometric information from the list of identifying information the board may request from an applicant.
3. Remove provision that the bureau will charge the board for furnishing the information.
4. Provide the board shall utilize the form provided by the bureau rather than prescribing its own form with specified requirements.
5. Make the requirements regarding the maintenance of the confidentiality of the information and the restriction on disclosure applicable to the board, its members, its employees, or agent authorized to act on behalf of the board.
6. Make technical changes.

The House Floor Amendments to the reengrossed bill:

1. Add Code of Criminal Procedure Article 894 to proposed law to include misdemeanor expungement in the definition of "criminal history record information".