Regular Session, 2011

HOUSE BILL NO. 392

BY REPRESENTATIVE HAZEL

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

CRIMINAL/RECORDS: Provides with respect to criminal background checks for persons seeking employment

AN ACT

To amend and reenact R.S. 15:587(F)(1) and 587.1(C)(introductory paragraph) and (1) and to enact R.S. 15:587.1(J), relative to criminal background checks; to authorize an employer to obtain conviction records for applicants seeking employment; to provide for the taking of fingerprints from prospective employees; to authorize Court Appointed Special Advocate programs to obtain criminal background records for persons considered for involvement with the program; to require the Louisiana Bureau of Criminal Identification and Information to forward fingerprints to the Federal Bureau of Investigation for a national criminal history check; to provide for additional offenses excluding employment in professions with access to children; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:587(F)(1) and 587.1(C)(introductory paragraph) and (1) are hereby amended and reenacted and R.S. 15:587.1(J) is hereby enacted to read as follows:

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

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F.(1) An employer or his representative shall be entitled to obtain conviction records of an applicant seeking employment, directly from the Bureau of Criminal Identification and Information in order to further qualify the applicant for the

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position being sought, if the applicant has signed a consent form authorizing the employer to obtain such conviction records. Upon written request and upon presentation of a consent form prepared by the bureau and executed by the applicant, the bureau shall provide ~~any~~ conviction records of the applicant to the employer or his representative in a timely manner. In addition, each applicant shall be fingerprinted, and the fingerprints shall be forwarded by the bureau to the Federal Bureau of Investigation for a national criminal history check. ~~For the purposes of this Subsection "conviction records" shall include only those records which are electronically maintained by the bureau, and are records of a finding of guilty, a plea of guilty or nolo contendere, including those which have been set aside or dismissed pursuant to Code of Criminal Procedure Article 893 or 894, or for which an individual has received an automatic first offender pardon. It~~ Records obtained pursuant to the provisions of this Subsection shall not include those records which have been ordered expunged pursuant to R.S. 44:9. The provisions of Subsection B of this Section shall apply to any request made pursuant to this Subsection. The bureau shall not be liable civilly or criminally for the release of information released pursuant to the provisions of this Subsection.

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§587.1. Provision of information to protect children

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C. The provisions of R.S. 15:825.3, R.S. 17:15, R.S. 46:51.2 and 1441.13, and Children's Code Article 424.1 shall govern the employment of persons who have been convicted of, or pled guilty or nolo contendere to, any of the following crimes:

(1) R.S. 14:30, R.S. 14:30.1, R.S. 14:31, R.S. 14:32.6 through R.S. 14:32.8, R.S. 14:41 through R.S. 14:45, R.S. 14:74, R.S. 14:78, R.S. 14:78.1, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 14:89.1, R.S. 14:89.2, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, crimes of violence as defined in R.S.14:2(B), sex offenses as defined in R.S. 15:541, R.S. 14:106, R.S. 14:282, R.S. 14:283, R.S. 14:283.1, R.S. 14:284, R.S. 14:286, R.S. 40:966(A), R.S. 40:967(A),

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R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A) or convictions for attempt or conspiracy to commit any of those offenses;

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J. Any Court Appointed Special Advocate program as defined in Children's Code Article 116(2.1) shall be entitled to information from the bureau to ascertain whether a person being considered for involvement with the CASA program has been arrested for, or convicted of, or pled nolo contendere to, any criminal offense. The bureau shall, upon request and after receipt of fingerprint cards or other identifying information from the CASA program, survey its criminal history records and identification files and make a simultaneous request of the Federal Bureau of Investigation for like information from other jurisdictions. The Louisiana Bureau of Criminal Identification and Information shall provide a report promptly and in writing, but provide only such information as is necessary to specify whether or not that person has been arrested for or convicted of or pled nolo contendere to any crime or crimes, the crime or crimes of which he has been arrested for or convicted or to which he has pled nolo contendere, and the date or dates on which they occurred. The report provided pursuant to the provisions of this Subsection shall include arrests, convictions, or other dispositions, including convictions dismissed pursuant to Code of Criminal Procedure Articles 893 and 894.

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)]

Hazel HB No. 392

Abstract: Authorizes employers to obtain conviction records and national criminal history information on prospective employees who consent to the release of such records.

Present law provides that an employer or his representative shall be entitled to obtain conviction records of an applicant seeking employment from the LA. Bureau of Criminal Identification and Information if the applicant has signed a consent form authorizing the employer to obtain such conviction records.

Proposed law provides that applicants shall be fingerprinted and requires the La. Bureau of Criminal Identification and Information to forward fingerprints obtained for background checks to the FBI for a national criminal history check.

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Proposed law further authorizes CASA to obtain criminal history information from the La. Bureau of Criminal Identification and Information for persons being considered for involvement with CASA.

Present law provides that the conviction of certain offenses prohibits the hiring of individuals for a position of supervisory or disciplinary authority over children.

Proposed law retains present law and adds convictions of first, second, and third degree feticide, aggravated incest, crime against nature by solicitation, and video voyeurism to this list.

(Amends R.S. 15:587(F)(1), 587.1(C)(intro. para.) and (1); Adds R.S. 15:587.1(J))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill.

1. Authorized CASA to obtain criminal history information for persons being considered for involvement with CASA.

2. Added the convictions of first, second, and third degree feticide, aggravated incest, crime against nature by solicitation, and video voyeurism to the list of offenses which preclude employment as a person having supervisory or disciplinary authority over children.

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