

103^D CONGRESS
1ST SESSION

H. R. 1237

IN THE SENATE OF THE UNITED STATES

NOVEMBER 20 (legislative day, NOVEMBER 2), 1993

Received

AN ACT

To establish procedures for national criminal background checks for child care providers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Child Protec-
5 tion Act of 1993”.

1 **SEC. 2. REPORTING CHILD ABUSE CRIME INFORMATION.**

2 (a) IN GENERAL.—In each State, an authorized
3 criminal justice agency of the State shall report child
4 abuse crime information to, or index child abuse crime in-
5 formation in, the national criminal history background
6 check system.

7 (b) PROVISION OF STATE CHILD ABUSE CRIME
8 RECORDS THROUGH THE NATIONAL CRIMINAL HISTORY
9 BACKGROUND CHECK SYSTEM.—(1) Not later than 180
10 days after the date of enactment of this Act, the Attorney
11 General shall, subject to availability of appropriations—

12 (A) investigate the criminal history records sys-
13 tem of each State and determine for each State a
14 timetable by which the State should be able to pro-
15 vide child abuse crime records on an on-line basis
16 through the national criminal history background
17 check system;

18 (B) in consultation with State officials, estab-
19 lish guidelines for the reporting or indexing of child
20 abuse crime information, including guidelines relat-
21 ing to the format, content, and accuracy of criminal
22 history records and other procedures for carrying
23 out this Act; and

24 (C) notify each State of the determinations
25 made pursuant to subparagraphs (A) and (B).

1 (2) The Attorney General shall require as a part of
2 each State timetable that the State—

3 (A) by not later than the date that is 3 years
4 after the date of enactment of this Act, have in a
5 computerized criminal history file at least 80 percent
6 of the final dispositions that have been rendered in
7 all identifiable child abuse crime cases in which
8 there has been an event of activity within the last
9 5 years;

10 (B) continue to maintain a reporting rate of at
11 least 80 percent for final dispositions in all identifi-
12 able child abuse crime cases in which there has been
13 an event of activity within the preceding 5 years;
14 and

15 (C) take steps to achieve 100 percent disposi-
16 tion reporting, including data quality audits and
17 periodic notices to criminal justice agencies identify-
18 ing records that lack final dispositions and request-
19 ing those dispositions.

20 (c) LIAISON.—An authorized agency of a State shall
21 maintain close liaison with the National Center on Child
22 Abuse and Neglect, the National Center for Missing and
23 Exploited Children, and the National Center for the Pros-
24 ection of Child Abuse for the exchange of technical as-
25 sistance in cases of child abuse.

1 (d) ANNUAL SUMMARY.—(1) The Attorney General
2 shall publish an annual statistical summary of child abuse
3 crimes.

4 (2) The annual statistical summary described in
5 paragraph (1) shall not contain any information that may
6 reveal the identity of any particular victim or alleged viola-
7 tor.

8 (e) ANNUAL REPORT.—The Attorney General shall,
9 subject to the availability of appropriations, publish an an-
10 nual summary of each State’s progress in reporting child
11 abuse crime information to the national criminal history
12 background check system.

13 (f) STUDY OF CHILD ABUSE OFFENDERS.—(1) Not
14 later than 180 days after the date of enactment of this
15 Act, the Administrator of the Office of Juvenile Justice
16 and Delinquency Prevention shall begin a study based on
17 a statistically significant sample of convicted child abuse
18 offenders and other relevant information to determine—

19 (A) the percentage of convicted child abuse of-
20 fenders who have more than 1 conviction for an of-
21 fense involving child abuse;

22 (B) the percentage of convicted child abuse of-
23 fenders who have been convicted of an offense in-
24 volving child abuse in more than 1 State; and

1 (C) the extent to which and the manner in
2 which instances of child abuse form a basis for con-
3 victions for crimes other than child abuse crimes.

4 (2) Not later than 1 year after the date of enactment
5 of this Act, the Administrator shall submit a report to the
6 Chairman of the Committee on the Judiciary of the Senate
7 and the Chairman of the Committee on the Judiciary of
8 the House of Representatives containing a description of
9 and a summary of the results of the study conducted pur-
10 suant to paragraph (1).

11 **SEC. 3. BACKGROUND CHECKS.**

12 (a) IN GENERAL.—(1) A State may have in effect
13 procedures (established by State statute or regulation)
14 that require qualified entities designated by the State to
15 contact an authorized agency of the State to request a
16 nationwide background check for the purpose of determin-
17 ing whether a provider has been convicted of a crime that
18 bears upon an individual's fitness to have responsibility
19 for the safety and well-being of children.

20 (2) The authorized agency shall access and review
21 State and Federal criminal history records through the
22 national criminal history background check system and
23 shall make reasonable efforts to respond to the inquiry
24 within 15 business days.

1 (b) GUIDELINES.—The procedures established under
2 subsection (a) shall require—

3 (1) that no qualified entity may request a back-
4 ground check of a provider under subsection (a) un-
5 less the provider first provides a set of fingerprints
6 and completes and signs a statement that—

7 (A) contains the name, address, and date
8 of birth appearing on a valid identification doc-
9 ument (as defined in section 1028 of title 18,
10 United States Code) of the provider;

11 (B) the provider has not been convicted of
12 a crime and, if the provider has been convicted
13 of a crime, contains a description of the crime
14 and the particulars of the conviction;

15 (C) notifies the provider that the entity
16 may request a background check under sub-
17 section (a);

18 (D) notifies the provider of the provider's
19 rights under paragraph (2); and

20 (E) notifies the provider that prior to the
21 completion of the background check the quali-
22 fied entity may choose to deny the provider un-
23 supervised access to a child to whom the quali-
24 fied entity provides child care;

1 (2) that each provider who is the subject of a
2 background check is entitled—

3 (A) to obtain a copy of any background
4 check report; and

5 (B) to challenge the accuracy and com-
6 pleteness of any information contained in any
7 such report and obtain a prompt determination
8 as to the validity of such challenge before a
9 final determination is made by the authorized
10 agency;

11 (3) that an authorized agency, upon receipt of
12 a background check report lacking disposition data,
13 shall conduct research in whatever State and local
14 recordkeeping systems are available in order to ob-
15 tain complete data;

16 (4) that the authorized agency shall make a de-
17 termination whether the provider has been convicted
18 of, or is under pending indictment for, a crime that
19 bears upon an individual's fitness to have respon-
20 sibility for the safety and well-being of children and
21 shall convey that determination to the qualified en-
22 tity; and

23 (5) that any background check under subsection
24 (a) and the results thereof shall be handled in ac-

1 cordance with the requirements of Public Law 92–
2 544.

3 (c) REGULATIONS.—(1) The Attorney General may
4 by regulation prescribe such other measures as may be
5 required to carry out the purposes of this Act, including
6 measures relating to the security, confidentiality, accu-
7 racy, use, misuse, and dissemination of information, and
8 audits and recordkeeping.

9 (2) The Attorney General shall, to the maximum ex-
10 tent possible, encourage the use of the best technology
11 available in conducting background checks.

12 (d) LIABILITY.—A qualified entity shall not be liable
13 in an action for damages solely for failure to conduct a
14 criminal background check on a provider, nor shall a State
15 or political subdivision thereof nor any agency, officer or
16 employee thereof, be liable in an action for damages for
17 the failure of a qualified entity to take action adverse to
18 a provider who was the subject of a background check.

19 (e) FEES.—In the case of a background check pursu-
20 ant to a State requirement adopted after the date of the
21 enactment of this Act conducted with fingerprints on a
22 person who volunteers with a qualified entity, the fees col-
23 lected by authorized State agencies and the Federal Bu-
24 reau of Investigation may not exceed the actual cost of
25 the background check conducted with fingerprints. The

1 States shall establish fee systems that insure that fees to
2 non-profit entities for background checks do not discour-
3 age volunteers from participating in child care programs.

4 **SEC. 4. FUNDING FOR IMPROVEMENT OF CHILD ABUSE**
5 **CRIME INFORMATION.**

6 (a) USE OF FORMULA GRANTS FOR IMPROVEMENTS
7 IN STATE RECORDS AND SYSTEMS.—Section 509(b) of
8 the Omnibus Crime Control and Safe Streets Act of 1968
9 (42 U.S.C. 3759(b)) is amended—

10 (1) in paragraph (2) by striking “and” after
11 the semicolon;

12 (2) in paragraph (3) by striking the period and
13 inserting “; and”; and

14 (3) by adding at the end the following new
15 paragraph:

16 “(4) the improvement of State record systems
17 and the sharing of all of the records described in
18 paragraphs (1), (2), and (3) and the child abuse
19 crime records required under the National Child
20 Protection Act of 1993 with the Attorney General
21 for the purpose of implementing the National Child
22 Protection Act of 1993.”.

23 (b) ADDITIONAL FUNDING GRANTS FOR THE IM-
24 PROVEMENT OF CHILD ABUSE CRIME INFORMATION.—

25 (1) The Attorney General shall, subject to appropriations

1 and with preference to States that, as of the date of enact-
2 ment of this Act, have in computerized criminal history
3 files the lowest percentages of charges and dispositions of
4 identifiable child abuse cases, make a grant to each State
5 to be used—

6 (A) for the computerization of criminal history
7 files for the purposes of this Act;

8 (B) for the improvement of existing computer-
9 ized criminal history files for the purposes of this
10 Act;

11 (C) to improve accessibility to the national
12 criminal history background check system for the
13 purposes of this Act; and

14 (D) to assist the State in the transmittal of
15 criminal records to, or the indexing of criminal his-
16 tory record in, the national criminal history back-
17 ground check system for the purposes of this Act.

18 (2) There are authorized to be appropriated for
19 grants under paragraph (1) a total of \$20,000,000 for fis-
20 cal years 1994, 1995, 1996, and 1997.

21 (c) WITHHOLDING STATE FUNDS.—Effective 1 year
22 after the date of enactment of this Act, the Attorney Gen-
23 eral may reduce, by up to 10 percent, the allocation to
24 a State for a fiscal year under title I of the Omnibus

1 Crime Control and Safe Streets Act of 1968 that is not
2 in compliance with the requirements of this Act.

3 **SEC. 5. DEFINITIONS.**

4 For the purposes of this Act—

5 (1) the term “authorized agency” means a divi-
6 sion or office of a State designated by a State to re-
7 port, receive, or disseminate information under this
8 Act;

9 (2) the term “child” means a person who is a
10 child for purposes of the criminal child abuse law of
11 a State;

12 (3) the term “child abuse crime” means a crime
13 committed under any law of a State that involves
14 the physical or mental injury, sexual abuse or exploi-
15 tation, negligent treatment, or maltreatment of a
16 child by any person;

17 (4) the term “child abuse crime information”
18 means the following facts concerning a person who
19 has been arrested for, or has been convicted of, a
20 child abuse crime: full name, race, sex, date of birth,
21 height, weight, fingerprints, a brief description of
22 the child abuse crime or offenses for which the per-
23 son has been arrested or has been convicted, the dis-
24 position of the charge, and any other information
25 that the Attorney General determines may be useful

1 in identifying persons arrested for, or convicted of,
2 a child abuse crime;

3 (5) the term “child care” means the provision
4 of care, treatment, education, training, instruction,
5 supervision, or recreation to children by persons hav-
6 ing unsupervised access to a child;

7 (6) the term “national criminal history back-
8 ground check system” means the criminal history
9 record system maintained by the Federal Bureau of
10 Investigation based on fingerprint identification or
11 any other method of positive identification;

12 (7) the term “provider” means

13 (A) a person who—

14 (i) is employed by or volunteers with
15 a qualified entity;

16 (ii) who owns or operates a qualified
17 entity; or

18 (iii) who has or may have unsuper-
19 vised access to a child to whom the quali-
20 fied entity provides child care; and

21 (B) a person who—

22 (i) seeks to be employed by or volun-
23 teer with a qualified entity;

24 (ii) seeks to own or operate a qualified
25 entity; or

1 (iii) seeks to have or may have unsu-
2 pervised access to a child to whom the
3 qualified entity provides child care;

4 (8) the term “qualified entity” means a busi-
5 ness or organization, whether public, private, for-
6 profit, not-for-profit, or voluntary, that provides
7 child care or child care placement services, including
8 a business or organization that licenses or certifies
9 others to provide child care or child care placement
10 services; and

11 (9) the term “State” means a State, the Dis-
12 trict of Columbia, the Commonwealth of Puerto
13 Rico, American Samoa, the Virgin Islands, Guam,
14 and the Trust Territories of the Pacific.

Passed the House of Representatives November 20,
1993.

Attest: DONNALD K. ANDERSON,
Clerk.