

Union Calendar No. 218

103D CONGRESS
1ST SESSION

H. R. 1237

[Report No. 103-393]

A BILL

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

NOVEMBER 20, 1993

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 1993

Mrs. SCHROEDER (for herself, Mr. EDWARDS of California, Mr. CRAMER, Mr. KOPETSKI, Mr. RAMSTAD, Mr. SHAYS, and Mr. SMITH of Oregon) introduced the following bill; which was referred to the Committee on the Judiciary

NOVEMBER 20, 1993

Additional sponsors: Ms. PELOSI, Mr. FRANK of Massachusetts, Mr. YATES, Mr. BARCIA of Michigan, Mr. BERMAN, Mr. TOWNS, Ms. SLAUGHTER, Mr. PETERSON of Minnesota, Mr. FROST, Mr. WHEAT, Mr. PARKER, Mr. BEREUTER, Miss COLLINS of Michigan, Mrs. MEEK, Mr. LAZIO, Mr. HYDE, Mr. COLEMAN, Mr. CLEMENT, Mr. WYNN, Ms. ROYBAL-ALLARD, Mr. NADLER, Mr. EVANS, Ms. MCKINNEY, Mr. ENGEL, Mr. NEAL of Massachusetts, Mr. STARK, Mr. BONIOR, Mr. BISHOP, Mr. RUSH, Mr. WAXMAN, Ms. LOWEY, Mr. MINGE, Mr. BROWN of California, Mr. ACKERMAN, and Mr. REED

NOVEMBER 20, 1993

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[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 4, 1993]

A BILL

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”.*

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

7 *(a) IN GENERAL.—In each State, an authorized crimi-*
8 *nal justice agency of the State shall report child abuse crime*
9 *information to, or index child abuse crime information in,*
10 *the national criminal history background check system.*

11 *(b) PROVISION OF STATE CHILD ABUSE CRIME*
12 *RECORDS THROUGH THE NATIONAL CRIMINAL HISTORY*
13 *BACKGROUND CHECK SYSTEM.—(1) Not later than 180*
14 *days after the date of enactment of this Act, the Attorney*
15 *General shall—*

16 *(A) investigate the criminal history records sys-*
17 *tem of each State and determine for each State a*
18 *timetable by which the State should be able to provide*
19 *child abuse crime records on an on-line basis through*
20 *the national criminal history background check sys-*
21 *tem;*

1 (B) in consultation with State officials, establish
2 guidelines for the reporting or indexing of child abuse
3 crime information, including guidelines relating to
4 the format, content, and accuracy of criminal history
5 records and other procedures for carrying out this
6 Act; and

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

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

11 (A) by not later than the date that is 3 years
12 after the date of enactment of this Act, have in a com-
13 puterized criminal history file at least 80 percent of
14 the final dispositions that have been rendered in all
15 identifiable child abuse crime cases in which there has
16 been an event of activity within the last 5 years;

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

21 (C) take steps to achieve 100 percent disposition
22 reporting, including data quality audits and periodic
23 notices to criminal justice agencies identifying records
24 that lack final dispositions and requesting those dis-
25 positions.

1 (c) *LIAISON*.—An authorized agency of a State shall
2 maintain close liaison with the National Center on Child
3 Abuse and Neglect, the National Center for Missing and Ex-
4 ploited Children, and the National Center for the Prosecu-
5 tion of Child Abuse for the exchange of technical assistance
6 in cases of child abuse.

7 (d) *ANNUAL SUMMARY*.—(1) The Attorney General
8 shall publish an annual statistical summary of the child
9 abuse crime information reported under this Act.

10 (2) The annual statistical summary described in para-
11 graph (1) shall not contain any information that may
12 reveal the identity of any particular victim or alleged
13 violator.

14 (e) *ANNUAL REPORT*.—The Attorney General shall
15 publish an annual summary of each State's progress in re-
16 porting child abuse crime information to the national
17 criminal history background check system.

18 (f) *STUDY OF CHILD ABUSE OFFENDERS*.—(1) Not
19 later than 180 days after the date of enactment of this Act,
20 the Administrator of the Office of Juvenile Justice and De-
21 linquency Prevention shall begin a study based on a statis-
22 tically significant sample of convicted child abuse offenders
23 and other relevant information to determine—

1 (A) *the percentage of convicted child abuse of-*
2 *fenders who have more than 1 conviction for an of-*
3 *fense involving child abuse;*

4 (B) *the percentage of convicted child abuse of-*
5 *fenders who have been convicted of an offense involv-*
6 *ing child abuse in more than 1 State; and*

7 (C) *the extent to which and the manner in which*
8 *instances of child abuse form a basis for convictions*
9 *for crimes other than child abuse crimes.*

10 (2) *Not later than 1 year after the date of enactment*
11 *of this Act, the Administrator shall submit a report to the*
12 *Chairman of the Committee on the Judiciary of the Senate*
13 *and the Chairman of the Committee on the Judiciary of*
14 *the House of Representatives containing a description of*
15 *and a summary of the results of the study conducted pursu-*
16 *ant to paragraph (1).*

17 **SEC. 3. BACKGROUND CHECKS.**

18 (a) *IN GENERAL.*—(1) *A State may have in effect pro-*
19 *cedures (established by State statute or regulation) that re-*
20 *quire qualified entities designated by the State to contact*
21 *an authorized agency of the State to request a nationwide*
22 *background check for the purpose of determining whether*
23 *a provider has been convicted of a crime that bears upon*
24 *an individual's fitness to have responsibility for the safety*
25 *and well-being of children.*

1 (2) *The authorized agency shall access and review*
2 *State and Federal criminal history records through the na-*
3 *tional criminal history background check system and shall*
4 *make reasonable efforts to respond to the inquiry within*
5 *15 business days.*

6 (b) *GUIDELINES.—The procedures established under*
7 *subsection (a) shall require—*

8 (1) *that no qualified entity may request a back-*
9 *ground check of a provider under subsection (a) un-*
10 *less the provider first provides a set of fingerprints*
11 *and completes and signs a statement that—*

12 (A) *contains the name, address, and date of*
13 *birth of the provider;*

14 (B) *the provider has not been convicted of*
15 *a crime and, if the provider has been convicted*
16 *of a crime, contains a description of the crime*
17 *and the particulars of the conviction;*

18 (C) *notifies the provider that the entity may*
19 *request a background check under subsection (a);*

20 (D) *notifies the provider of the provider's*
21 *rights under paragraph (2); and*

22 (E) *notifies the provider that prior to the*
23 *completion of the background check the qualified*
24 *entity may choose to deny the provider unsuper-*

1 *vised access to a child to whom the qualified en-*
2 *tity provides child care;*

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

5 *(A) to obtain a copy of any background*
6 *check report; and*

7 *(B) to challenge the accuracy and complete-*
8 *ness of any information contained in any such*
9 *report and obtain a prompt determination as to*
10 *the validity of such challenge before a final deter-*
11 *mination is made by the authorized agency;*

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

17 *(4) that the authorized agency shall make a de-*
18 *termination whether the provider has been convicted*
19 *of a crime that bears upon an individual's fitness to*
20 *have responsibility for the safety and well-being of*
21 *children and shall convey that determination to the*
22 *qualified entity; and*

23 *(5) that any background check under subsection*
24 *(a) and the results thereof shall be handled in accord-*
25 *ance with the requirements of Public Law 92-544.*

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

7 (2) *The Attorney General shall, to the maximum extent*
8 *possible, encourage the use of the best technology available*
9 *in conducting background checks.*

10 (d) *LIABILITY.*—*A qualified entity shall not be liable*
11 *in an action for damages solely for failure to conduct a*
12 *criminal background check on a provider, nor shall a State*
13 *or political subdivision thereof nor the officers or employees*
14 *thereof, be liable in an action for damages for failure to*
15 *comply with this Act.*

16 (e) *FEES.*—*In the case of a background check con-*
17 *ducted with fingerprints on a person who volunteers with*
18 *a qualified entity, the fees collected by authorized State*
19 *agencies and the Federal Bureau of Investigation may not*
20 *exceed the fees otherwise established and collected for name*
21 *checks.*

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

24 (a) *USE OF FORMULA GRANTS FOR IMPROVEMENTS IN*
25 *STATE RECORDS AND SYSTEMS.*—*Section 509(b) of the*

1 *Omnibus Crime Control and Safe Streets Act of 1968 (42*
2 *U.S.C. 3759(b)) is amended—*

3 *(1) in paragraph (2) by striking “and” after the*
4 *semicolon;*

5 *(2) in paragraph (3) by striking the period and*
6 *inserting “; and”; and*

7 *(3) by adding at the end the following new para-*
8 *graph:*

9 *“(4) the improvement of State record systems*
10 *and the sharing of all of the records described in*
11 *paragraphs (1), (2), and (3) and the child abuse*
12 *crime records required under the National Child Pro-*
13 *tection Act of 1993 with the Attorney General for the*
14 *purpose of implementing the National Child Protec-*
15 *tion Act of 1993.”.*

16 *(b) ADDITIONAL FUNDING GRANTS FOR THE IMPROVE-*
17 *MENT OF CHILD ABUSE CRIME INFORMATION.—(1) The At-*
18 *torney General shall, subject to appropriations and with*
19 *preference to States that, as of the date of enactment of this*
20 *Act, have in computerized criminal history files the lowest*
21 *percentages of charges and dispositions of identifiable child*
22 *abuse cases, make a grant to each State to be used—*

23 *(A) for the computerization of criminal history*
24 *files for the purposes of this Act;*

1 (B) for the improvement of existing computerized
2 criminal history files for the purposes of this Act;

3 (C) to improve accessibility to the national
4 criminal history background check system for the pur-
5 poses of this Act; and

6 (D) to assist the State in the transmittal of
7 criminal records to, or the indexing of criminal his-
8 tory record in, the national criminal history back-
9 ground check system for the purposes of this Act.

10 (2) There are authorized to be appropriated for grants
11 under paragraph (1) a total of \$20,000,000 for fiscal years
12 1994, 1995, 1996, and 1997.

13 (c) *WITHHOLDING STATE FUNDS.*—Effective 1 year
14 after the date of enactment of this Act, the Attorney General
15 may reduce, by up to 10 percent, the allocation to a State
16 for a fiscal year under title I of the Omnibus Crime Control
17 and Safe Streets Act of 1968 that is not in compliance with
18 the requirements of this Act.

19 **SEC. 5. DEFINITIONS.**

20 For the purposes of this Act—

21 (1) the term “authorized agency” means a divi-
22 sion or office of a State designated by a State to re-
23 port, receive, or disseminate information under this
24 Act;

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

4 (3) the term “child abuse crime” means a crime
5 committed under any law of a State that involves the
6 physical or mental injury, sexual abuse or exploi-
7 tation, negligent treatment, or maltreatment of a
8 child by any person;

9 (4) the term “child abuse crime information”
10 means the following facts concerning a person who
11 has been arrested for, is under indictment for, or has
12 been convicted of, a child abuse crime: full name,
13 race, sex, date of birth, height, weight, fingerprints, a
14 brief description of the child abuse crime or offenses
15 for which the person has been arrested or is under in-
16 dictment or has been convicted, the disposition of the
17 charge, and any other information that the Attorney
18 General determines may be useful in identifying per-
19 sons arrested for, under indictment for, or convicted
20 of, a child abuse crime;

21 (5) the term “child care” means the provision of
22 care, treatment, education, training, instruction, su-
23 pervision, or recreation to children by persons having
24 unsupervised access to a child;

1 (6) the term “national criminal history back-
2 ground check system” means the criminal history
3 record system maintained by the Federal Bureau of
4 Investigation based on fingerprint identification or
5 any other method of positive identification;

6 (7) the term “provider” means

7 (A) a person who—

8 (i) is employed by or volunteers with a
9 qualified entity;

10 (ii) who owns or operates a qualified
11 entity; or

12 (iii) who has or may have unsuper-
13 vised access to a child to whom the qualified
14 entity provides child care; and

15 (B) a person who—

16 (i) seeks to be employed by or volunteer
17 with a qualified entity;

18 (ii) seeks to own or operate a qualified
19 entity; or

20 (iii) seeks to have or may have unsu-
21 pervised access to a child to whom the
22 qualified entity provides child care;

23 (8) the term “qualified entity” means a business
24 or organization, whether public, private, for-profit,
25 not-for-profit, or voluntary, that provides child care

1 *or child care placement services, including a business*
2 *or organization that licenses or certifies others to pro-*
3 *vide child care or child care placement services; and*

4 *(9) the term “State” means a State, the District*
5 *of Columbia, the Commonwealth of Puerto Rico,*
6 *American Samoa, the Virgin Islands, Guam, and the*
7 *Trust Territories of the Pacific.*