

***In the Senate of the United States,***

*October 16, 2017.*

*Resolved*, That the bill from the House of Representatives (H.R. 695) entitled “An Act to amend the National Child Protection Act of 1993 to establish a national criminal history background check system and criminal history review program for certain individuals who, related to their employment, have access to children, the elderly, or individuals with disabilities, and for other purposes.”, do pass with the following

**AMENDMENTS:**

Strike all after the enacting clause and insert the following:

1 ***SECTION 1. SHORT TITLE.***

2       *This Act may be cited as the “Child Protection Im-*  
3 *provements Act of 2017”.*

1 **SEC. 2. NATIONAL CRIMINAL HISTORY BACKGROUND**  
2 **CHECK AND CRIMINAL HISTORY REVIEW PRO-**  
3 **GRAM.**

4 *The National Child Protection Act of 1993 (34 U.S.C.*  
5 *40101 et seq.) is amended—*

6 *(1) in section 3 (34 U.S.C. 40102)—*

7 *(A) by striking “provider” each place it ap-*  
8 *pears and inserting “covered individual”;*

9 *(B) by striking “provider’s” each place it*  
10 *appears and inserting “covered individual’s”;*

11 *(C) by amending subsection (a)(3) to read*  
12 *as follows:*

13 *“(3)(A) The Attorney General shall establish a*  
14 *program, in accordance with this section, to provide*  
15 *qualified entities located in States that do not have*  
16 *in effect procedures described in paragraph (1), or*  
17 *qualified entities located in States that do not pro-*  
18 *hibit the use of the program established under this*  
19 *paragraph, with access to national criminal history*  
20 *background checks on, and criminal history reviews*  
21 *of, covered individuals.*

22 *“(B) A qualified entity described in subpara-*  
23 *graph (A) may submit to the appropriate designated*  
24 *entity a request for a national criminal history back-*  
25 *ground check on, and a criminal history review of, a*  
26 *covered individual. Qualified entities making a re-*

1        *quest under this paragraph shall comply with the*  
2        *guidelines set forth in subsection (b), and with any*  
3        *additional applicable procedures set forth by the At-*  
4        *torney General or by the State in which the entity is*  
5        *located.”;*

6                *(D) in subsection (b)—*

7                        *(i) in paragraph (1)(E), by striking*

8                        *“unsupervised”;*

9                        *(ii) by striking paragraph (2) and in-*

10                       *serting the following:*

11                        *“(2)(A) that the State, or in a State that does*  
12                        *not have in effect procedures described in subsection*  
13                        *(a)(1), the designated entity, ensures that—*

14                                *“(i) each covered individual who is the sub-*  
15                                *ject of a background check under subsection (a)*  
16                                *is entitled to obtain a copy of any background*  
17                                *check report;*

18                                *“(ii) each covered individual who is the*  
19                                *subject of a background check under subsection*  
20                                *(a) is provided a process by which the covered*  
21                                *individual may appeal the results of the back-*  
22                                *ground check to challenge the accuracy or com-*  
23                                *pleteness of the information contained in the*  
24                                *background report of the covered individual; and*

1           “(iii)(I) each covered individual described  
2           in clause (ii) is given notice of the opportunity  
3           to appeal;

4           “(II) each covered individual described in  
5           clause (ii) will receive instructions on how to  
6           complete the appeals process if the covered indi-  
7           vidual wishes to challenge the accuracy or com-  
8           pleteness of the information contained in the  
9           background report of the covered individual; and

10           “(III) the appeals process is completed in a  
11           timely manner for each covered individual de-  
12           scribed in clause (ii); and

13           “(B) the State, or in a State that does not have  
14           in effect procedures described in subsection (a)(1), the  
15           designated entity, may allow for a review process—

16           “(i) through which the State or designated  
17           entity, as the case may be, may determine that  
18           a covered individual who is the subject of a back-  
19           ground check under subsection (a) is disqualified  
20           for a crime specified in subsection (f)(2)(C); and

21           “(ii) which shall be consistent with title VII  
22           of the Civil Rights Act of 1964 (42 U.S.C. 2000e  
23           et seq.);”;

1                   (iii) in paragraph (3), by inserting  
2                   after “authorized agency” the following: “or  
3                   designated entity, as applicable,”; and

4                   (iv) in paragraph (4), by inserting  
5                   after “authorized agency” the following: “or  
6                   designated entity, as applicable,”;

7                   (E) in subsection (d), by inserting after “of-  
8                   ficer or employee thereof,” the following: “, nor  
9                   shall any designated entity nor any officer or  
10                  employee thereof,”;

11                  (F) by amending subsection (e) to read as  
12                  follows:

13                  “(e) FEES.—

14                         “(1) STATE PROGRAM.—In the case of a back-  
15                         ground check conducted pursuant to a State require-  
16                         ment adopted after December 20, 1993, conducted  
17                         with fingerprints on a covered individual, the fees col-  
18                         lected by authorized State agencies and the Federal  
19                         Bureau of Investigation may not exceed the actual  
20                         cost of the background check conducted with finger-  
21                         prints.

22                         “(2) FEDERAL PROGRAM.—In the case of a na-  
23                         tional criminal history background check and crimi-  
24                         nal history review conducted pursuant to the proce-  
25                         dures established pursuant to subsection (a)(3), the

1 *fees collected by a designated entity shall be set at a*  
2 *level that will ensure the recovery of the full costs of*  
3 *providing all such services. The designated entity*  
4 *shall remit the appropriate portion of such fee to the*  
5 *Attorney General, which amount is in accordance*  
6 *with the amount published in the Federal Register to*  
7 *be collected for the provision of a criminal history*  
8 *background check by the Federal Bureau of Investiga-*  
9 *tion.*

10 *“(3) ENSURING FEES DO NOT DISCOURAGE VOL-*  
11 *UNTEERS.—A fee system under this subsection shall*  
12 *be established in a manner that ensures that fees to*  
13 *qualified entities for background checks do not dis-*  
14 *courage volunteers from participating in programs to*  
15 *care for children, the elderly, or individuals with dis-*  
16 *abilities. A fee charged to a qualified entity that is*  
17 *not organized under section 501(c)(3) of the Internal*  
18 *Revenue Code of 1986 may not be less than the total*  
19 *sum of the costs of the Federal Bureau of Investiga-*  
20 *tion and the designated entity.”; and*

21 *(G) by inserting after subsection (e) the fol-*  
22 *lowing:*

23 *“(f) NATIONAL CRIMINAL HISTORY BACKGROUND*  
24 *CHECK AND CRIMINAL HISTORY REVIEW PROGRAM.—*

1           “(1) *NATIONAL CRIMINAL HISTORY BACKGROUND*  
2 *CHECK.*—*Upon a designated entity receiving notice of*  
3 *a request submitted by a qualified entity pursuant to*  
4 *subsection (a)(3), the designated entity shall forward*  
5 *the request to the Attorney General, who shall, acting*  
6 *through the Director of the Federal Bureau of Inves-*  
7 *tigation, complete a fingerprint-based check of the na-*  
8 *tional criminal history background check system, and*  
9 *provide the information received in response to such*  
10 *national criminal history background check to the ap-*  
11 *propriate designated entity. The designated entity*  
12 *may, upon request from a qualified entity, complete*  
13 *a check of a State criminal history database.*

14           “(2) *CRIMINAL HISTORY REVIEW.*—

15           “(A) *DESIGNATED ENTITIES.*—*The Attorney*  
16 *General shall designate, and enter into an agree-*  
17 *ment with, one or more entities to make deter-*  
18 *minations described in paragraph (2). The At-*  
19 *torney General may not designate and enter into*  
20 *an agreement with a Federal agency under this*  
21 *subparagraph.*

22           “(B) *DETERMINATIONS.*—*A designated enti-*  
23 *ty shall, upon the receipt of the information de-*  
24 *scribed in paragraph (1), make a determination*

1           of fitness described in subsection (b)(4), using the  
2           criteria described in subparagraph (C).

3           “(C) *CRIMINAL HISTORY REVIEW CRI-*  
4           *TERIA.—A covered individual may be deter-*  
5           *mined to be unfit under subsection (b)(4) if the*  
6           *covered individual—*

7                   “(i) *refuses to consent to a criminal*  
8                   *background check under this section;*

9                   “(ii) *knowingly makes a materially*  
10                  *false statement in connection with a crimi-*  
11                  *nal background check under this section;*

12                  “(iii) *is registered, or is required to be*  
13                  *registered, on a State sex offender registry*  
14                  *or repository or the National Sex Offender*  
15                  *Registry established under the Adam Walsh*  
16                  *Child Protection and Safety Act of 2006 (34*  
17                  *U.S.C. 20901 et seq.);*

18                  “(iv) *has been convicted of a felony*  
19                  *consisting of—*

20                          “(I) *murder, as described in sec-*  
21                          *tion 1111 of title 18, United States*  
22                          *Code;*

23                          “(II) *child abuse or neglect;*

24                          “(III) *a crime against children,*  
25                          *including child pornography;*

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“(IV) spousal abuse;

“(V) a crime involving rape or sexual assault;

“(VI) kidnapping;

“(VII) arson;

“(VIII) physical assault or battery; or

“(IX) a drug-related offense committed during the preceding 5 years;

“(v) has been convicted of a violent misdemeanor committed as an adult against a child, including—

“(I) child abuse;

“(II) child endangerment;

“(III) sexual assault; or

“(IV) of a misdemeanor involving child pornography; or

“(vi) in the case of a covered individual who has, seeks to have, or may have access to the elderly or individuals with disabilities, has been convicted of any criminal offense relating to the abuse, exploitation, or neglect (as those terms are defined in section 2011 of the Social Security Act (42

1           *U.S.C. 1397j)) of an elder or an individual*  
2           *with disabilities.”; and*

3           *(2) in section 5 (34 U.S.C. 40104)—*

4           *(A) by amending paragraph (9) to read as*  
5           *follows:*

6           *“(9) the term ‘covered individual’ means an in-*  
7           *dividual—*

8           *“(A) who has, seeks to have, or may have*  
9           *access to children, the elderly, or individuals*  
10           *with disabilities, served by a qualified entity;*  
11           *and*

12           *“(B) who—*

13           *“(i) is employed by or volunteers with,*  
14           *or seeks to be employed by or volunteer*  
15           *with, a qualified entity; or*

16           *“(ii) owns or operates, or seeks to own*  
17           *or operate, a qualified entity;”;*

18           *(B) in paragraph (10), by striking “and”*  
19           *at the end;*

20           *(C) in paragraph (11), by striking the pe-*  
21           *riod at the end and inserting “; and”; and*

22           *(D) by inserting after paragraph (11) the*  
23           *following:*

1           “(12) the term ‘designated entity’ means an enti-  
2           ty designated by the Attorney General under section  
3           3(f)(2)(A).”.

4 **SEC. 3. EFFECTIVE DATE.**

5           *This Act and the amendments made by this Act shall*  
6 *be fully implemented by not later than 1 year after the date*  
7 *of enactment of this Act.*

Amend the title so as to read: “A bill to amend the National Child Protection Act of 1993 to establish a voluntary national criminal history background check system and criminal history review program for certain individuals who, related to their employment, have access to children, the elderly, or individuals with disabilities, and for other purposes.”.

Attest:

*Secretary.*

115<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H.R. 695**

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**AMENDMENTS**