

114TH CONGRESS
1ST SESSION

H. R. 4073

To amend the National Child Protection Act of 1993 to establish a permanent background check system.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2015

Mr. SCHIFF (for himself, Mr. BISHOP of Michigan, Mr. CARTWRIGHT, Mr. COHEN, Mr. CONNOLLY, Mr. DOLD, Mr. HONDA, Mr. ISRAEL, Ms. KUSTER, Mrs. CAROLYN B. MALONEY of New York, Mr. RANGEL, and Mr. WELCH) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the National Child Protection Act of 1993 to establish a permanent background check system.

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 “Child Protection Im-
5 provements Act of 2015”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The Next Generation Identification System
9 of the Federal Bureau of Investigation maintains

1 fingerprints and criminal history records on more
2 than 71,000,000 individuals.

3 (2) Congress has worked with the States to
4 make criminal history background checks available
5 to organizations seeking to screen employees and
6 volunteers who work with children, the elderly, and
7 individuals with disabilities, through the National
8 Child Protection Act of 1993 (42 U.S.C. 5119 et
9 seq.), the Volunteers for Children Act (Public Law
10 105–251; 112 Stat. 1885), the Serve America Act
11 (Public Law 111–13; 123 Stat. 1460), the Adam
12 Walsh Child Protection and Safety Act of 2006
13 (Public Law 109–248; 120 Stat. 587), and statutes
14 enacted by 48 States in compliance with Public Law
15 92–544. However, there may still be persons pro-
16 viding care and services to vulnerable populations
17 who fall outside these numerous and broad cat-
18 egories of criminal history background checks au-
19 thorized by Federal and State law.

20 **SEC. 3. BACKGROUND CHECKS.**

21 The National Child Protection Act of 1993 (42
22 U.S.C. 5119 et seq.) is amended—

- 23 (1) by redesignating section 5 as section 6; and
24 (2) by inserting after section 4 the following:

1 **“SEC. 5. PROGRAM FOR NATIONAL CRIMINAL HISTORY**

2 **BACKGROUND CHECKS.**

3 “(a) DEFINITIONS.—In this section—

4 “(1) the term ‘background check designee’
5 means the entity designated by the Attorney General
6 under subsection (b)(3) to carry out the duties de-
7 scribed in subsection (c);

8 “(2) the term ‘covered entity’ means any busi-
9 ness or organization that provides, or licenses, cer-
10 tifies, or coordinates individuals or organizations to
11 provide, care, care placement, supervision, treat-
12 ment, education, training, instruction, or recreation
13 to vulnerable populations;

14 “(3) the term ‘covered individual’ means an in-
15 dividual—

16 “(A) who has, seeks to have, or may have
17 unsupervised access to vulnerable populations
18 served by a covered entity; or

19 “(B) who—

20 “(i) is employed by or volunteers with,
21 or seeks to be employed by or volunteer
22 with, a covered entity; or

23 “(ii) owns or operates, or seeks to
24 own or operate, a covered entity;

25 “(4) the term ‘criminal history review designee’
26 means an entity designated by the Attorney General

1 under subsection (b)(3) to carry out the criminal
2 history review program;

3 “(5) the term ‘criminal history review program’
4 means the program established under subsection (d);

5 “(6) the term ‘qualified State program’ means
6 a program approved by a State authorized agency
7 that provides access to national criminal history
8 background checks, as authorized by Federal or
9 State law;

10 “(7) the term ‘State’ means a State of the
11 United States, the District of Columbia, the Com-
12 monwealth of Puerto Rico, American Samoa, the
13 Virgin Islands, Guam, the Commonwealth of the
14 Northern Mariana Islands, the Federated States of
15 Micronesia, the Republic of the Marshall Islands,
16 and the Republic of Palau; and

17 “(8) the term ‘vulnerable populations’ shall in-
18 clude elderly persons, disabled persons, and children.

19 “(b) ESTABLISHMENT OF PROGRAM.—

20 “(1) PURPOSE.—The purpose of this subsection
21 is to facilitate widespread access to national criminal
22 history background checks on covered individuals, in
23 cases where a State has not established procedures
24 for such access pursuant to Federal or State law.

1 “(2) IN GENERAL.—Not later than 1 year after
2 the date of enactment of the Child Protection Im-
3 provements Act of 2015, the Attorney General shall
4 establish—

5 “(A) policies and procedures to carry out
6 the duties described in subsection (c); and

7 “(B) a national criminal history review
8 program in accordance with subsection (d).

9 “(3) DESIGNEES.—The Attorney General may
10 designate 1 or more Federal Government agencies or
11 enter into agreement with another entity or organi-
12 zation to carry out the duties described in sub-
13 sections (c) and (d).

14 “(c) ACCESS TO STATE AND NATIONAL BACK-
15 GROUND CHECKS.—

16 “(1) DUTIES.—The Attorney General or back-
17 ground check designee shall—

18 “(A) inform covered entities and covered
19 individuals located in a State without a quali-
20 fied State program about how to request State
21 and national background checks;

22 “(B) inform covered entities and covered
23 individuals located in a State with a qualified
24 State program about how to request national

1 background checks through the State author-
2 ized agency;

3 “(C) complete a check of the national
4 criminal history background check system; and

5 “(D) provide information received in re-
6 sponse to such national criminal history back-
7 ground check to the criminal history review des-
8 ignee.

9 “(2) REQUIRED INFORMATION.—A request for
10 a national criminal history background check shall
11 include—

12 “(A) the fingerprints of the covered indi-
13 vidual; and

14 “(B) the appropriate fee.

15 “(3) FEES.—The Attorney General shall, in ad-
16 dition to the fee for the noncriminal justice national
17 criminal history background check authorized under
18 section 534 of title 28, United States Code—

19 “(A) collect a fee to offset the costs of car-
20 rying out the duties described in subsection (d),
21 in an amount equal to the cost of conducting
22 the criminal history review; and

23 “(B) remit such fee to the Federal Bureau
24 of Investigation or the State, as appropriate.

25 “(d) CRIMINAL HISTORY REVIEW PROGRAM.—

1 “(1) PURPOSE.—The purpose of this subsection
2 is to provide covered entities with reliable and accu-
3 rate information regarding the fitness of the covered
4 individuals to have responsibility for the safety and
5 well-being of vulnerable populations in their care.

6 “(2) REQUIREMENTS.—The Attorney General
7 or criminal history review designee shall—

8 “(A) establish procedures to securely re-
9 ceive criminal history records;

10 “(B) make determinations regarding
11 whether the criminal history records received in
12 response to a national criminal history back-
13 ground check conducted under this section indi-
14 cate that the covered individual has a criminal
15 history that may bear on the covered individ-
16 ual’s fitness to provide care to vulnerable popu-
17 lations;

18 “(C) convey to the covered entity that sub-
19 mitted the request for a national criminal his-
20 tory background check—

21 “(i) the fitness and suitability of the
22 covered individual based solely on the cri-
23 teria described in paragraph (3); and

24 “(ii) instructions and guidance that
25 the covered entity should consult the Equal

1 Employment Opportunity Commission En-
2 forcement Guidance #915.002, dated April
3 25, 2012, ‘Consideration of Arrest and
4 Conviction Records in Employment Deci-
5 sions under Title VII of the Civil Rights
6 Act of 1964’, or any successor thereto,
7 issued by the United States Equal Employ-
8 ment Opportunity Commission.

9 “(3) CRIMINAL HISTORY REVIEW CRITERIA.—In
10 determining whether a criminal history record indi-
11 cates that a covered individual has a criminal history
12 that may bear on the fitness of the covered indi-
13 vidual to provide care to vulnerable populations, the
14 Attorney General or designee shall employ the cri-
15 teria used to evaluate individuals under other Fed-
16 eral laws, such as the Volunteers for Children Act
17 (Public Law 105–251; 112 Stat. 1885), the Serve
18 America Act (Public Law 111–13; 123 Stat. 1460),
19 and the Adam Walsh Child Protection and Safety
20 Act of 2006 (Public Law 109–248; 120 Stat. 587).

21 “(4) APPLICATION PROCESSING.—

22 “(A) IN GENERAL.—The Attorney General
23 shall establish the process by which a covered
24 entity or a covered individual in a State without

1 a qualified State program may obtain a na-
2 tional criminal history background check.

3 “(B) CHALLENGE TO COMPLETENESS OF
4 RECORD.—A covered individual may challenge
5 the completeness of any information in the
6 criminal history record of the individual by con-
7 tacting the Federal Bureau of Investigations
8 under the procedure set out in section 16.34 of
9 title 28, Code of Federal Regulations, or any
10 successor thereto.

11 “(5) PARTICIPATION IN PROGRAM.—The Attor-
12 ney General or designee shall determine whether an
13 entity is a covered entity.

14 “(6) PRIVACY OF INFORMATION.—

15 “(A) IN GENERAL.—Any entity authorized
16 to receive or transmit fingerprints or criminal
17 history records under this section—

18 “(i) shall use the fingerprints, crimi-
19 nal history records, or information in the
20 criminal history records only for the pur-
21 poses specifically set forth in this section;
22 and

23 “(ii) shall maintain adequate security
24 measures to ensure the confidentiality of
25 the fingerprints, the criminal history

1 records, and the information in the crimi-
2 nal history records.

3 “(B) RETENTION OF FINGERPRINTS BY
4 THE FBI.—In accordance with State or Federal
5 procedures, for the purpose of providing finger-
6 print verification, criminal investigation or sub-
7 sequent hit notification services, or for the re-
8 tention of criminal history, the Federal Bureau
9 of Investigation may retain any fingerprints
10 submitted to the Federal Bureau of Investiga-
11 tion under this section.

12 “(7) RULE OF CONSTRUCTION.—Nothing in
13 this subsection shall be construed to change or re-
14 place any background check program authorized by
15 Federal or State law on the day before the date of
16 enactment of the Child Protection Improvements Act
17 of 2015.”.

○