

107TH CONGRESS
1ST SESSION

S. 1868

To establish a national center on volunteer and provider screening to reduce sexual and other abuse of children, the elderly, and individuals with disabilities.

IN THE SENATE OF THE UNITED STATES

DECEMBER 20 (legislative day, DECEMBER 18), 2001

Mr. BIDEN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To establish a national center on volunteer and provider screening to reduce sexual and other abuse of children, the elderly, and individuals with disabilities.

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 Improvement Act”.

1 **SEC. 2. ESTABLISHMENT OF A NATIONAL CENTER ON VOL-**
 2 **UNTEER AND PROVIDER SCREENING.**

3 The Juvenile Justice and Delinquency Prevention Act
 4 of 1974 (42 U.S.C. 5601 et seq.) is amended by adding
 5 at the end the following:

6 **“TITLE VI—NATIONAL CENTER**
 7 **ON VOLUNTEER AND PRO-**
 8 **VIDER SCREENING**

9 **“SEC. 601. SHORT TITLE.**

10 “This title may be cited as the ‘National Child Pro-
 11 tection Improvement Act’.

12 **“SEC. 602. FINDINGS.**

13 “Congress finds the following:

14 “(1) More than 87,000,000 children are in-
 15 volved each year in activities provided by child and
 16 youth organizations which depend heavily on volun-
 17 teers to deliver their services.

18 “(2) Millions more adults, both the elderly and
 19 individuals with disabilities, are served by public and
 20 private voluntary organizations.

21 “(3) The vast majority of activities provided to
 22 children, the elderly, and individuals with disabilities
 23 by public and private nonprofit agencies and organi-
 24 zations result in the delivery of much needed services
 25 in safe environments that could not be provided

1 without the assistance of virtually millions of volun-
2 teers, but abuses do occur.

3 “(4) Estimates of the incidence of child sexual
4 abuse in child care settings, foster care homes, and
5 schools, range from 1 to 7 percent.

6 “(5) Abuse traumatizes the victims and shakes
7 public trust in care providers and organizations serv-
8 ing vulnerable populations.

9 “(6) Congress has acted to address concerns
10 about this type of abuse through the National Child
11 Protection Act of 1993 and the Violent Crime Con-
12 trol Act of 1994 to set forth a framework for screen-
13 ing through criminal record checks of care providers,
14 including volunteers who work with children, the el-
15 derly, and individuals with disabilities. Unfortu-
16 nately, problems regarding the safety of these vul-
17 nerable groups still remain.

18 “(7) While State screening is sometimes ade-
19 quate to conduct volunteer background checks, more
20 extensive national criminal history checks using fin-
21 gerprints or other means of positive identification
22 are often advisable, as a prospective volunteer or
23 nonvolunteer provider may have lived in more than
24 one State.

1 “(8) The high cost of fingerprint background
 2 checks is unaffordable for organizations that use a
 3 large number of volunteers and, if passed on to vol-
 4 unteers, often discourages their participation.

5 “(9) The current system of retrieving national
 6 criminal background information on volunteers
 7 through an authorized agency of the State is cum-
 8 bersome and often requires months before vital re-
 9 sults are returned.

10 “(10) In order to protect children, volunteer
 11 agencies must currently depend on a convoluted, dis-
 12 connected, and sometimes duplicative series of
 13 checks that leave children at risk.

14 “(11) A national volunteer and provider screen-
 15 ing center is needed to protect vulnerable groups by
 16 providing effective, efficient national criminal history
 17 background checks of volunteer providers at no-cost,
 18 and at minimal-cost for employed care providers.

19 **“SEC. 603. DEFINITIONS.**

20 “In this Act—

21 “(1) the term ‘qualified entity’ means a busi-
 22 ness or organization, whether public, private, for-
 23 profit, not-for-profit, or voluntary, that provides care
 24 or care placement services, including a business or
 25 organization that licenses or certifies others to pro-

1 vide care or care placement services designated by
2 the National Task Force;

3 “(2) the term ‘volunteer provider’ means a per-
4 son who volunteers or seeks to volunteer with a
5 qualified entity;

6 “(3) the term ‘provider’ means a person who is
7 employed by or volunteers or who seeks to be em-
8 ployed by or volunteer with a qualified entity, who
9 owns or operates a qualified entity, or who has or
10 may have unsupervised access to a child to whom
11 the qualified entity provides care;

12 “(4) the term ‘national criminal background
13 check system’ means the criminal history record sys-
14 tem maintained by the Federal Bureau of Investiga-
15 tion based on fingerprint identification or any other
16 method of positive identification;

17 “(5) the term ‘child’ means a person who is
18 under the age of 18;

19 “(6) the term ‘individuals with disabilities’ has
20 the same meaning as that provided in section 5(7)
21 of the National Child Protection Act of 1993;

22 “(7) the term ‘State’ has the same meaning as
23 that provided in section 5(11) of the National Child
24 Protection Act of 1993; and

1 “(8) the term ‘care’ means the provision of
 2 care, treatment, education, training, instruction, su-
 3 pervision, or recreation to children, the elderly, or
 4 individuals with disabilities.

5 **“SEC. 604. ESTABLISHMENT OF A NATIONAL CENTER FOR**
 6 **VOLUNTEER AND PROVIDER SCREENING.**

7 “(a) IN GENERAL.—The Attorney General, by agree-
 8 ment with a national nonprofit organization or by desig-
 9 nating an agency within the Department of Justice,
 10 shall—

11 “(1) establish a national center for volunteer
 12 and provider screening designed—

13 “(A) to serve as a point of contact for
 14 qualified entities to request a nationwide back-
 15 ground check for the purpose of determining
 16 whether a volunteer provider or provider has
 17 been arrested for or convicted of a crime that
 18 renders the provider unfit to have responsibil-
 19 ities for the safety and well-being of children,
 20 the elderly, or individuals with disabilities;

21 “(B) to promptly access and review Fed-
 22 eral and State criminal history records and reg-
 23 istries through the national criminal history
 24 background check system—

1 “(i) at no cost to a qualified entity for
2 checks on volunteer providers; and

3 “(ii) at minimal cost to qualified enti-
4 ties for checks on non-volunteer providers;
5 with cost for screening non-volunteer providers
6 will be determined by the National Task Force;

7 “(C) to provide the determination of the
8 criminal background check to the qualified enti-
9 ty requesting a nationwide background check
10 after not more than 15 business days after the
11 request;

12 “(D) to serve as a national resource center
13 and clearinghouse to provide State and local
14 governments, public and private nonprofit agen-
15 cies and individuals with information regarding
16 volunteer screening; and

17 “(2) establish a National Volunteer Screening
18 Task Force (referred to in this title as the ‘Task
19 Force’) to be chaired by the Attorney General which
20 shall—

21 “(A) include—

22 “(i) 2 members each of—

23 “(I) the Federal Bureau of Inves-
24 tigation;

25 “(II) the Department of Justice;

1 “(III) the Department of Health
2 and Human Services;

3 “(IV) representatives of State
4 Law Enforcement organizations;

5 “(V) national organizations rep-
6 resenting private nonprofit qualified
7 entities using volunteers to serve the
8 elderly; and

9 “(VI) national organizations rep-
10 resenting private nonprofit qualified
11 entities using volunteers to serve indi-
12 viduals with disabilities; and

13 “(ii) 4 members of national organiza-
14 tions representing private nonprofit quali-
15 fied entities using volunteers to serve chil-
16 dren;

17 to be appointed by the Attorney General; and

18 “(B) oversee the work of the Center and
19 report at least annually to the President and
20 Congress with regard to the work of the Center
21 and the progress of the States in complying
22 with the provisions of the National Child Pro-
23 tection Act of 1993.

1 **“SEC. 605. AUTHORIZATION OF APPROPRIATIONS.**

2 “(a) IN GENERAL.—To carry out the provisions of
3 this title, there are authorized to be appropriated
4 \$80,000,000 for fiscal year 2003 and \$25,000,000 for
5 each of the fiscal years 2004, 2005, 2006, and 2007, suffi-
6 cient to provide no-cost background checks of volunteers
7 working with children, the elderly, and individuals with
8 disabilities.

9 “(b) AVAILABILITY.—Sums appropriated under this
10 section shall remain available until expended.”.

11 **SEC. 3. STRENGTHENING AND ENFORCING THE NATIONAL**
12 **CHILD PROTECTION ACT OF 1993.**

13 Section 3 of the National Child Protection Act of
14 1993 (42 U.S.C. 5119 et seq.) is amended to read as fol-
15 lows:

16 **“SEC. 3. NATIONAL BACKGROUND CHECKS.**

17 “(a) IN GENERAL.—Requests for national back-
18 ground checks under this section shall be submitted to the
19 National Center for Volunteer Screening which shall con-
20 duct a search using the Integrated Automated Fingerprint
21 Identification System, or other criminal record checks
22 using reliable means of positive identification subject to
23 the following conditions:

24 “(1) A qualified entity requesting a national
25 criminal history background check under this section
26 shall forward to the National Center the provider’s

1 fingerprints or other identifying information, and
2 shall obtain a statement completed and signed by
3 the provider that—

4 “(A) sets out the provider or volunteer’s
5 name, address, date of birth appearing on a
6 valid identification document as defined in sec-
7 tion 1028 of title 18, United States Code, and
8 a photocopy of the valid identifying document;

9 “(B) states whether the provider or volun-
10 teer has a criminal record, and, if so, sets out
11 the particulars of such record;

12 “(C) notifies the provider or volunteer that
13 the National Center for Volunteer Screening
14 may perform a criminal history background
15 check and that the provider’s signature to the
16 statement constitutes an acknowledgement that
17 such a check may be conducted;

18 “(D) notifies the provider or volunteer that
19 prior to and after the completion of the back-
20 ground check, the qualified entity may choose
21 to deny the provider access to children or elder-
22 ly or persons with disabilities; and

23 “(E) notifies the provider or volunteer of
24 his right to correct an erroneous record held by
25 the FBI or the National Center.

1 “(2) Statements obtained pursuant to para-
2 graph (1) and forwarded to the National Center
3 shall be retained by the qualified entity or the Na-
4 tional Center for at least 2 years.

5 “(3) Each provider or volunteer who is the sub-
6 ject of a criminal history background check under
7 this section is entitled to contact the National Cen-
8 ter to initiate procedures to—

9 “(A) obtain a copy of their criminal history
10 record report; and

11 “(B) challenge the accuracy and complete-
12 ness of the criminal history record information
13 in the report.

14 “(4) The National Center receiving a criminal
15 history record information that lacks disposition in-
16 formation shall, to the extent possible, contact State
17 and local recordkeeping systems to obtain complete
18 information.

19 “(5) The National Center shall make a deter-
20 mination whether the criminal history record infor-
21 mation received in response to the national back-
22 ground check indicates that the provider has a
23 criminal history record that renders the provider
24 unfit to provide care to children, the elderly, or indi-
25 viduals with disabilities based upon criteria estab-

1 lished by the National Task Force on Volunteer
 2 Screening, and will convey that determination to the
 3 qualified entity.

4 “(b) GUIDANCE BY THE NATIONAL TASK FORCE.—
 5 The National Task Force, chaired by the Attorney General
 6 shall—

7 “(1) encourage the use, to the maximum extent
 8 possible, of the best technology available in con-
 9 ducting criminal background checks; and

10 “(2) provide guidelines concerning standards to
 11 guide the National Center in making fitness deter-
 12 minations concerning care providers based upon
 13 criminal history record information.

14 “(c) LIMITATIONS OF LIABILITY.—

15 “(1) IN GENERAL.—A qualified entity shall not
 16 be liable in an action for damages solely for failure
 17 to request a criminal history background check on a
 18 provider, nor shall a State or political subdivision
 19 thereof nor any agency, officer or employee thereof,
 20 be liable in an action for damages for the failure of
 21 a qualified entity (other than itself) to take action
 22 adverse to a provider who was the subject of a crimi-
 23 nal background check.

24 “(2) RELIANCE.—The National Center or a
 25 qualified entity that reasonably relies on criminal

1 history record information received in response to a
 2 background check pursuant to this section shall not
 3 be liable in an action for damages based upon the
 4 inaccuracy or incompleteness of the information.

5 “(d) FEES.—In the case of a background check pur-
 6 suant to a State requirement adopted after December 20,
 7 1993, conducted through the National Center using the
 8 fingerprints or other identifying information of a person
 9 who volunteers with a qualified entity shall be free of
 10 charge. This subsection shall not affect the authority of
 11 the FBI, the National Center, or the States to collect rea-
 12 sonable fees for conducting criminal history background
 13 checks of providers who are employed as or apply for posi-
 14 tions as paid employees.”.

15 **SEC. 4. ESTABLISHMENT OF A MODEL PROGRAM IN EACH**
 16 **STATE TO STRENGTHEN CRIMINAL DATA RE-**
 17 **POSITORIES AND FINGERPRINT TECH-**
 18 **NOLOGY.**

19 (a) ESTABLISHMENT.—A model program shall be es-
 20 tablished in each State and the District of Columbia for
 21 the purpose of improving fingerprinting technology which
 22 shall grant to each State \$50,000 to either—

23 (1) purchase Live-Scan fingerprint technology
 24 and a State-vehicle to make such technology mobile
 25 and these mobile units shall be used to travel within

1 the State to assist in the processing of fingerprint
2 background checks; or

3 (2) purchase electric fingerprint imaging ma-
4 chines for use throughout the State to send finger-
5 print images to the National Center to conduct
6 background checks.

7 (b) ADDITIONAL FUNDS.—In addition to funds pro-
8 vided in subsection (a), \$50,000 shall be provided to each
9 State and the District of Columbia to hire personnel to—

10 (1) provide information and training to each
11 county law enforcement agency within the State re-
12 garding all National Child Protection Act require-
13 ments for input of criminal and disposition data into
14 the national criminal history background check sys-
15 tem; and

16 (2) provide an annual summary to the National
17 Task Force of the State's progress in complying
18 with the criminal data entry provisions of the Na-
19 tional Child Protection Act of 1993 which shall in-
20 clude information about the input of criminal data,
21 child abuse crime information, domestic violence ar-
22 rests and stay-away orders of protection.

23 (c) AUTHORIZATION OF APPROPRIATIONS.—

24 (1) IN GENERAL.—To carry out the provisions
25 of this section, there are authorized to be appro-

1 priated a total of \$5,100,000 for fiscal year 2003
2 and such sums as may be necessary for each of the
3 fiscal years 2004, 2005, 2006, and 2007, sufficient
4 to improve fingerprint technology units and hire
5 data entry improvement personnel in each of the 50
6 States and the District of Columbia.

7 (2) AVAILABILITY.—Sums appropriated under
8 this section shall remain available until expended.

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