

107TH CONGRESS
2D SESSION

S. 1868

AN ACT

To amend the National Child Protection Act of 1993, and
for other purposes.

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 and Volunteers for Children Improvement Act of
6 2002”.

1 **SEC. 2. DEFINITIONS.**

2 Section 5 of the National Child Protection Act of
3 1993 (42 U.S.C. 5119c) is amended—

4 (1) in paragraph (10), by striking “and” at the
5 end; and

6 (2) by inserting after paragraph (10) the fol-
7 lowing:

8 “(10A) the term ‘qualified State program’
9 means the policies and procedures referred to in sec-
10 tion 3(a)(1) of a State that are in place in order to
11 implement this Act, including policies and proce-
12 dures that require—

13 “(A) requests for national criminal history
14 background checks to be routinely returned to
15 a qualified entity not later than 20 business
16 days after the date on which the request was
17 made;

18 “(B) authorized agencies to charge not
19 more than \$18 for State background checks;

20 “(C) the designation of the authorized
21 agencies that may receive national criminal his-
22 tory background check requests from qualified
23 entities; and

24 “(D) the designation of the qualified enti-
25 ties that shall submit background check re-
26 quests to an authorized agency;

1 “(10B) the term ‘routinely’ means—

2 “(A) instances where 85 percent or more
3 of nationwide background check requests are
4 returned to qualified entities within 20 business
5 days; or

6 “(B) instances where 90 percent or more
7 of nationwide background check requests are
8 returned to qualified entities within 30 business
9 days; and”.

10 **SEC. 3. STRENGTHENING AND ENFORCING THE NATIONAL**
11 **CHILD PROTECTION ACT AND THE VOLUN-**
12 **TEERS FOR CHILDREN ACT.**

13 Section 3 of the National Child Protection Act of
14 1993 (42 U.S.C. 5119a) is amended—

15 (1) in subsection (a)—

16 (A) in paragraph (1)—

17 (i) by striking “A State may” and in-
18 serting the following: “REQUEST.—A State
19 may”;

20 (ii) by inserting after “procedures”
21 the following: “meeting the guidelines set
22 forth in subsection (b)”;

23 (iii) by inserting after “regulation)”
24 the following: “or a qualified State pro-
25 gram”; and

1 (iv) by striking “convicted of” and all
2 that follows through the period and insert-
3 ing “convicted of, or is under pending ar-
4 rest or indictment for, a crime that renders
5 the provider unfit to provide care to chil-
6 dren, the elderly, or individuals with dis-
7 abilities.”;

8 (B) in paragraph (2)—

9 (i) by striking “The authorized agen-
10 cy” and inserting the following: “RE-
11 SPONSE.—The authorized agency”;

12 (ii) by striking “make reasonable ef-
13 forts to”;

14 (iii) by striking “15” and inserting
15 “20”; and

16 (iv) by adding at the end the fol-
17 lowing: “The Attorney General shall re-
18 spond to the inquiry of the State author-
19 ized agency within 15 business days of the
20 request. A State is not in violation of this
21 section if the Attorney General fails to re-
22 spond to the inquiry within 15 business
23 days of the request.”; and

24 (C) by striking paragraph (3), and insert-
25 ing the following:

1 “(3) ABSENCE OF QUALIFIED STATE PRO-
2 GRAM.—

3 “(A) REQUEST.—Not later than 12
4 months after the date of enactment of the Na-
5 tional Child Protection and Volunteers for Chil-
6 dren Improvement Act of 2002, a qualified enti-
7 ty doing business in a State that does not have
8 a qualified State program may request a na-
9 tional criminal background check from the At-
10 torney General for the purpose of determining
11 whether a provider has been convicted of, or is
12 under pending arrest or indictment for, a crime
13 that renders the provider unfit to provide care
14 to children, the elderly, or individuals with dis-
15 abilities.

16 “(B) REVIEW AND RESPONSE.—The Attor-
17 ney General shall respond to the request of a
18 qualified entity made under subparagraph (A)
19 not later than 20 business days after the re-
20 quest is made.”; and

21 (2) in subsection (b)—

22 (A) in paragraph (4), by striking “shall
23 make” and inserting “may make”; and

24 (B) in paragraph (5)—

1 (i) by inserting after “qualified enti-
 2 ty” the following: “or by a State author-
 3 ized agency that disseminates criminal his-
 4 tory records information directly to quali-
 5 fied entities”; and

6 (ii) by striking “pursuant to sub-
 7 section (a)(3)”.

8 **SEC. 4. DISSEMINATION OF INFORMATION.**

9 The National Child Protection Act of 1993 (42
 10 U.S.C. 5119 et seq.) is amended by adding at the end
 11 the following:

12 **“SEC. 6. DISSEMINATION OF INFORMATION.**

13 “Notwithstanding any other provision of law, the At-
 14 torney General and authorized agencies of States may dis-
 15 seminate criminal history background check record infor-
 16 mation to a qualified entity.

17 **“SEC. 7. OFFICE FOR VOLUNTEER AND PROVIDER SCREEN-
 18 ING.**

19 “(a) IN GENERAL.—The Attorney General shall es-
 20 tablish an Office for Volunteer and Provider Screening
 21 (referred to in this Act as the ‘Office’) which shall serve
 22 as a point of contact for qualified entities to request a
 23 national criminal background check pursuant to section
 24 3(a)(3).

1 “(b) MODEL GUIDELINES.—The Office shall provide
 2 model guidelines concerning standards to guide qualified
 3 entities in making fitness determinations regarding care
 4 providers based upon the criminal history record informa-
 5 tion of those providers.”.

6 **SEC. 5. FEES.**

7 Section 3(e) of the National Child Protection Act of
 8 1993 (42 U.S.C. 5119a(e)) is amended—

9 (1) by striking “In the case” and inserting the
 10 following:

11 “(1) IN GENERAL.—In the case”; and

12 (2) by adding at the end the following:

13 “(2) VOLUNTEER WITH QUALIFIED ENTITY.—

14 In the case of a national criminal fingerprint back-
 15 ground check conducted pursuant to section 3(a)(3)
 16 on a person who volunteers with a qualified entity,
 17 the fee collected by the Federal Bureau of Investiga-
 18 tion shall not exceed \$5.

19 “(3) PROVIDER.—In the case of a national
 20 criminal fingerprint background check on a provider
 21 who is employed by or applies for a position with a
 22 qualified entity, the fee collected by the Federal Bu-
 23 reau of Investigation shall not exceed \$18.”.

1 **SEC. 6. STRENGTHENING STATE FINGERPRINT TECH-**
2 **NOLOGY.**

3 (a) ESTABLISHMENT OF MODEL PROGRAM IN EACH
4 STATE TO STRENGTHEN CRIMINAL DATA REPOSITORIES
5 AND FINGERPRINT TECHNOLOGY.—The Attorney General
6 shall establish a model program in each State and the Dis-
7 trict of Columbia for the purpose of improving
8 fingerprinting technology which shall grant to each State
9 funds to either—

10 (1) purchase Live-Scan fingerprint technology
11 and a State-vehicle to make such technology mobile
12 and these mobile units shall be used to travel within
13 the State to assist in the processing of fingerprint
14 background checks; or

15 (2) purchase electric fingerprint imaging ma-
16 chines for use throughout the State to send finger-
17 print images to the Attorney General to conduct
18 background checks.

19 (b) ADDITIONAL FUNDS.—In addition to funds pro-
20 vided in subsection (a), funds shall be provided to each
21 State and the District of Columbia to hire personnel to
22 provide information and training to each county law en-
23 forcement agency within the State regarding all require-
24 ments for input of criminal and disposition data into the
25 national criminal history background check system under

1 the National Child Protection Act of 1993 (42 U.S.C.
2 5119 et seq.).

3 (c) FUNDING ELIGIBILITY.—States with a qualified
4 State program shall be eligible for not more than
5 \$2,000,000 under this section.

6 (d) AUTHORIZATION OF APPROPRIATIONS.—

7 (1) IN GENERAL.—There is authorized to be
8 appropriated to carry out this section sums suffi-
9 cient to improve fingerprint technology units and
10 hire data entry improvement personnel in each of
11 the 50 States and the District of Columbia for each
12 of fiscal years 2004 through 2008.

13 (2) AVAILABILITY.—Sums appropriated in ac-
14 cordance with this section shall remain available
15 until expended.

16 **SEC. 7. PRIVACY PROTECTIONS.**

17 (a) INFORMATION.—Information derived as a result
18 of a national criminal fingerprint background check re-
19 quest under section 3 of the National Child Protection Act
20 of 1993 (42 U.S.C. 5119a) shall not be adjusted, deleted,
21 or altered in any way except as required by law for na-
22 tional security purposes.

23 (b) DESIGNATED REPRESENTATIVE.—

24 (1) IN GENERAL.—Each qualified entity (as de-
25 fined in section 5 of the National Child Protection

1 Act of 1993 (42 U.S.C. 5119c)) shall assign a rep-
2 resentative in their respective organization to receive
3 and process information requested under section 3 of
4 the National Child Protection Act of 1993 (42
5 U.S.C. 5119a).

6 (2) DELETION OF INFORMATION.—Each rep-
7 resentative assigned under paragraph (1) shall re-
8 view the requested information and delete all infor-
9 mation that is not needed by the requesting entity
10 in making an employment decision.

11 (c) CRIMINAL PENALTIES.—Any person who know-
12 ingly releases information derived as a result of a national
13 criminal fingerprint background check to any person other
14 than the hiring authority or organizational leadership with
15 the qualified entity shall be—

16 (1) fined \$50,000 for each violation; or

17 (2) imprisoned not more than 1 year.

18 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

19 (a) IN GENERAL.—There is authorized to be appro-
20 priated to carry out this Act—

21 (1) \$100,000,000 for fiscal year 2004; and

22 (2) such sums as may be necessary for each of
23 fiscal years 2005 through 2008.

1 (b) AVAILABILITY OF FUNDS.—Sums appropriated in
2 accordance with this section shall remain available until
3 expended.

Passed the Senate October 17, 2002.

Attest:

Secretary.

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