

111TH CONGRESS  
1ST SESSION

# H. R. 3287

To require a criminal background check for a child care staff member of any child care provider in a State that receives funds from the Child Care and Development Block Grant Program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 22, 2009

Ms. MOORE of Wisconsin (for herself, Ms. GRANGER, and Ms. SCHAKOWSKY) introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

To require a criminal background check for a child care staff member of any child care provider in a State that receives funds from the Child Care and Development Block Grant Program, 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 “Childcare Account-  
5 ability and Responsibility Act of 2009” or the “CARE for  
6 Kids Act of 2009”.

1 **SEC. 2. REQUIREMENT OF A CRIMINAL BACKGROUND**  
2 **CHECK.**

3 The Child Care and Development Block Grant Act  
4 of 1990 (42 U.S.C. 9858 et seq.) is amended by inserting  
5 after section 658G the following new section:

6 **“SEC. 658H. REQUIREMENT OF A CRIMINAL BACKGROUND**  
7 **CHECK FOR A CHILD CARE STAFF MEMBER**  
8 **OF ANY CHILD CARE PROVIDER IN A STATE**  
9 **THAT RECEIVES FUNDS FROM THE CHILD**  
10 **CARE AND DEVELOPMENT BLOCK GRANT**  
11 **PROGRAM.**

12 **“(a) CRIMINAL BACKGROUND CHECK.—**

13 **“(1) REQUIREMENT OF A CRIMINAL BACK-**  
14 **GROUND CHECK.—**A State and national criminal  
15 background check for a child care staff member of  
16 a child care provider is required in any State that  
17 receives funds under this subchapter. The criminal  
18 background check shall include—

19 **“(A) a search of the National Sex Offender**  
20 **Registry established pursuant to the Adam**  
21 **Walsh Child Protection and Safety Act of 2006**  
22 **(42 U.S.C. 16901 et seq.);**

23 **“(B) a search of the National Crime Infor-**  
24 **mation Center;**

25 **“(C) a search of the State criminal reg-**  
26 **istry or repository in the State in which the**

1 child care staff member resides and each State  
2 where such staff member previously resided;

3 “(D) a search of State-based abuse and  
4 neglect registries and databases, including the  
5 abuse and neglect registries and databases of  
6 each State where the child care staff member  
7 previously resided; and

8 “(E) a Federal Bureau of Investigation  
9 fingerprint check using the Integrated Auto-  
10 mated Fingerprint Identification System.

11 “(2) SUBMITTAL OF REQUESTS.—Subject to  
12 paragraph (3), a child care provider shall submit a  
13 request for a State and national criminal back-  
14 ground check to the appropriate State agency des-  
15 ignated by the State—

16 “(A) for each child care staff member prior  
17 to its submission of an application for a State  
18 child care license, except that this subparagraph  
19 shall not apply to any additional applications  
20 submitted within a 5-year period after such re-  
21 quest for a criminal background check under  
22 paragraph (2) and such submission of an appli-  
23 cation under this subparagraph is made by the  
24 child care provider;

25 “(B) for each child care staff member;

1           “(C) for each prospective child care staff  
2           member prior to their beginning date of em-  
3           ployment; and

4           “(D) in each 5-year period after the date  
5           of the child care provider’s first request for a  
6           criminal background check for the child care  
7           staff member.

8           “(3) LIMITATION ON REQUESTS.—Not more  
9           than 1 request for a State and national criminal  
10          background check under paragraph (2) is required  
11          for any child care staff member for each 5-year pe-  
12          riod after such request for the criminal background  
13          check for such staff member.

14          “(4) RESULTS.—Not later than 10 business  
15          days after the date of which a request by a child  
16          care provider is made for a State and national crimi-  
17          nal background check and is received by the appro-  
18          priate State agency, such agency shall provide the  
19          results of the criminal background check to such  
20          provider.

21          “(5) INELIGIBILITY.—A child care provider  
22          shall be ineligible for receipt of a child care certifi-  
23          cate as payment for child care services, and a child  
24          care staff member shall be ineligible for employment  
25          by any child care provider in a State, if any such

1 criminal background check of the child care staff  
2 member of the provider reveals a felony conviction  
3 for—

4 “(A) child abuse or neglect;

5 “(B) spousal abuse;

6 “(C) a crime against children (including  
7 child pornography);

8 “(D) a violent crime, including—

9 “(i) physical assault or battery;

10 “(ii) rape;

11 “(iii) sexual assault; or

12 “(iv) homicide; or

13 “(E) a drug-related offense committed  
14 within 5 years prior to submission to a criminal  
15 background check.

16 “(6) APPEALS.—Not later than 30 days after  
17 receipt of the results of a criminal background  
18 check, a child care provider may appeal such results  
19 to the appropriate State agency designated by the  
20 State.

21 “(7) FEES.—To defray the costs of carrying  
22 out the duties described in this subsection, a State  
23 may collect 1 fee per criminal background check  
24 from a child care provider in an amount not to ex-  
25 ceed the actual costs to the State for the administra-

1       tion of all required criminal background checks, and  
2       such fee for all required criminal background checks  
3       may not exceed a total of \$36.

4       “(b) STATE COMPLIANCE.—

5               “(1) NONCOMPLIANCE.—

6                       “(A) PENALTY.—A State that fails to sat-  
7                       isfy the requirements of this section shall not  
8                       receive 2 percent of the grant funds that it  
9                       would otherwise be allocated for that fiscal  
10                      year.

11                     “(B) UNALLOCATED GRANT FUNDS.—

12                     Grant funds not allocated under subparagraph  
13                     (A) shall be distributed in the first fiscal year  
14                     that the State meets the requirements.

15                     “(2) TIME LIMITATION.—A State shall have 3  
16                     years to implement the requirements of this section.

17                     “(3) EXTENSION OF TIME.—The Secretary may  
18                     grant an extension, no longer than 2 years, to a  
19                     State that makes a good faith effort to satisfy the  
20                     requirements of this section.

21                     “(c) DEFINITION.—The term ‘child care staff mem-  
22                     ber’ means an individual that provides child care services  
23                     for compensation and on a regular basis (other than an  
24                     individual who is related to the child or children for whom  
25                     services are provided), regardless of whether the services

1 are provided for a child care provider or a family child  
2 care provider.

3 “(d) AUTHORIZATION OF APPROPRIATIONS TO CON-  
4 DUCT CRIMINAL BACKGROUND CHECKS.—There are au-  
5 thorized to be appropriated such sums as necessary to off-  
6 set the administrative costs to conduct State and national  
7 criminal background checks under this section.”.

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