

Recommendations on S. 2332

Child Protection Improvements and Electronic Life and Safety Security Systems Act

March 31, 2016

Submitted by SEARCH, The National Consortium for Justice Information and Statisticsⁱ

Background:

- The Child Protection Improvements and Electronic Life and Safety Security Systems Act is intended to facilitate widespread access to national criminal history background checks on individuals who seek or may have unsupervised access to vulnerable populations in cases where a State has not established procedures for such access.

SEARCH Position:

- SEARCH applauds any efforts to keep our nation's vulnerable populations safer. We thank the sponsor for the focus on protecting children and support the intent of this legislation.
- SEARCH supports fingerprint-based criminal history record checks of the State and national systems for noncriminal justice purposes, including employment and volunteer positions – particularly those that involve working with vulnerable populations. SEARCH supports the sponsor's commitment to ensuring that child-serving organizations have access to both State and national fingerprint-based background checks.

SEARCH Recommendations:

- Due to the considerable State role in operating and maintaining criminal history record systems and conducting National Child Protection Act (NCPA) checks, the legislation should provide adequate financial resources for the States to participate in a background check program. SEARCH recommends amending language under SEC. 5. Program for National Criminal History Background Checks, (c) Access to State and National Background Checks, (3) Fees, (B) to: “remit such fee to the Federal Bureau of Investigation and/or the State as appropriate.” (Page 8, line 9).
- NCPA background screening is for noncriminal justice purposes, and thus, should be subject to rules issued by the FBI's National Crime Prevention and Privacy Compact Council (Compact Council). The Compact Council was established by law in 1998 and is responsible for promulgating rules and procedures for the effective use of the Interstate Identification Index (III) System for noncriminal justice purposes. As such, SEARCH recommends the Compact Council should be involved in the development and approval of rules and regulations promulgated under NCPA.
- The legislation requires the Attorney General or criminal history review designee to make determinations regarding whether the criminal history records received in response to a national criminal history background check indicate that an applicant has a criminal history that may bear on his or her fitness to provide care to vulnerable populations, and to convey that information to the entity that requested the background check.
 - SEARCH recommends that criminal history records should be provided to the end user for the most precise determinations regarding suitability of the applicant for the position, thereby promoting a customized, fair, and accurate process. The requestor – with the appropriate privacy and security policies and controls in place – will more precisely determine suitability of the applicant to the position, and such review supports the broader goals of public safety, re-entry, and protecting individual rights.

For more information, please contact Melissa Nee (melissa@search.org).

ⁱ SEARCH, The National Consortium for Justice Information and Statistics, is a nonprofit organization governed by a Membership Group of governor appointees from the States and territories. SEARCH Members operate the State criminal history record systems, which are used to provide criminal history records information for criminal and civil background screening.