

Recommendations on H.R. 695

Child Protection Improvements Act of 2017

March 21, 2017

Submitted by SEARCH, The National Consortium for Justice Information and Statistics¹

Background:

- The Child Protection Improvements 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 sponsors 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 sponsors' commitment to ensuring that child-serving organizations have access to national fingerprint-based background checks.
- Due to the considerable State role in operating and maintaining criminal history record systems and conducting National Child Protection Act (NCPA) checks, SEARCH appreciates that this legislation allows both States and the Federal Bureau of Investigation (FBI) to collect fees associated with their roles in conducting background checks.

SEARCH Recommendations:

- 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 states that the fees collected by authorized State agencies and the FBI may not exceed eighteen dollars, respectively, or the actual cost, whichever is less, of the background check conducted with fingerprints.
 - The information a State collects in support of public safety decision-making is that State's data and is collected and maintained at the State's expense. Being able to set their own fees allows the States to recoup their expenses and support their own infrastructure to manage, maintain, and protect the data and respond to requests for it. As such, SEARCH recommends that the sponsors remove the fee limit included in the legislation to enable the States to recover their cost to conduct a fingerprint-based background check
- The legislation requires the Attorney General to designate, and enter into an agreement with, one or more entities to make suitability determinations.
 - SEARCH recommends that criminal history records should be provided to the end user to make determinations regarding the suitability of applicants, 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).

¹ 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.