

112TH CONGRESS
2D SESSION

H. R. 3829

To require a criminal background check for employees of child care providers, family child care providers, and adults who reside in the private residences of family child care providers in States that receive funds from the Child Care and Development Block Grant Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 2012

Ms. MOORE (for herself, Mr. ELLISON, Mr. PAYNE, Ms. SLAUGHTER, and Ms. SCHAKOWSKY) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To require a criminal background check for employees of child care providers, family child care providers, and adults who reside in the private residences of family child care providers in States that receive 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Childcare Account-
3 ability and Responsibility Act of 2012” or the “CARE for
4 Kids Act of 2012”.

5 **SEC. 2. REQUIREMENT OF A CRIMINAL BACKGROUND**
6 **CHECK.**

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

10 **“SEC. 658H. REQUIREMENT OF A CRIMINAL BACKGROUND**
11 **CHECK.**

12 “(a) CRIMINAL BACKGROUND CHECK.—

13 “(1) REQUIREMENT OF A CRIMINAL BACK-
14 GROUND CHECK.—A State and national criminal
15 background check for an individual who is a child
16 care staff member, a family child care provider, or
17 an adult who resides in the home of a family child
18 care provider is required in any State that receives
19 funds under this subchapter. The criminal back-
20 ground check of such individual shall include—

21 “(A) a search of the National Sex Offender
22 Registry established pursuant to the Adam
23 Walsh Child Protection and Safety Act of 2006
24 (42 U.S.C. 16901 et seq.);

25 “(B) a search of the National Crime Infor-
26 mation Center;

1 “(C) a search of the State criminal reg-
2 istry or repository in the State in which the in-
3 dividual resides and each State where such indi-
4 vidual previously resided;

5 “(D) a search of State-based abuse and
6 neglect registries and databases, including the
7 abuse and neglect registries and databases of
8 each State where the individual previously re-
9 sided; and

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

13 “(2) INELIGIBILITY.—A child care provider or
14 family child care provider shall be ineligible for
15 funds provided under this subchapter if a criminal
16 background check of a child care staff member, a
17 family child care provider, or an adult permitted to
18 reside in such a family child care provider’s private
19 residence reveals an adult felony conviction for—

20 “(A) child abuse or neglect;

21 “(B) spousal abuse;

22 “(C) a crime against children (including
23 child pornography);

24 “(D) a violent crime, including—

25 “(i) physical assault or battery;

1 “(ii) rape;

2 “(iii) sexual assault; or

3 “(iv) homicide; or

4 “(E) distribution of, possession with intent
5 to distribute, or importation of a controlled sub-
6 stance committed within 5 years prior to sub-
7 mission to a criminal background check.

8 “(3) SUBMITTAL OF REQUESTS.—Subject to
9 paragraph (4), a child care provider or a family
10 child care provider shall submit a request for a State
11 and national criminal background check to the ap-
12 propriate State agency designated by the State—

13 “(A) with respect to an individual who be-
14 came a child care staff member or family child
15 care provider, or an adult who began to reside
16 in the private residence of such a provider, be-
17 fore the date of the enactment of the Child
18 Care Accountability and Responsibility Act of
19 2012—

20 “(i) not later than the date under
21 subsection (b) in which a State implements
22 the requirements of this section; and

23 “(ii) during each 5-year period fol-
24 lowing the first submission date under this

1 subparagraph for such staff member, fam-
2 ily provider, or adult; and

3 “(B) with respect to an individual who is
4 a prospective child care staff member or family
5 child care provider, or an adult who begins to
6 reside in the private residence of such a pro-
7 vider, on or after the date of the enactment of
8 such Act—

9 “(i) prior to the date the individual
10 becomes a child care staff member, a fam-
11 ily child care provider, or such adult begins
12 to reside in such residence; and

13 “(ii) during each 5-year period fol-
14 lowing the first submission date under this
15 subparagraph for such staff member, fam-
16 ily provider, or adult.

17 “(4) LIMITATION ON REQUESTS.—Not more
18 than 1 request for a State and national criminal
19 background check under paragraph (3) is required
20 for any child care staff member, family child care
21 provider, or adult who resides in the private resi-
22 dence of such provider, for each 5-year period de-
23 scribed in such paragraph.

24 “(5) RESULTS.—

1 “(A) IN GENERAL.—Not later than 10
2 business days after the date on which a request
3 under this section is made for a State and na-
4 tional criminal background check and is re-
5 ceived by the appropriate State agency, such
6 agency shall provide the results of the criminal
7 background check to the individual or entity
8 that made such a request.

9 “(B) COPY OF BACKGROUND CHECK.—A
10 State shall provide to a child care provider or
11 an individual subject to a background check
12 under this section, upon request, a copy of the
13 criminal background check conducted pursuant
14 to this section.

15 “(6) ACCURACY OF INFORMATION.—A State
16 shall reasonably attempt to insure that the informa-
17 tion included in the background check conducted
18 pursuant to this section is accurate and complete
19 by—

20 “(A) obtaining dispositions of arrests that
21 occurred more than 1 year prior to the date
22 that such background check was requested;

23 “(B) correcting information included that
24 it knows, or reasonably should know, is inac-
25 curate;

1 “(C) completing incomplete entries, if pos-
2 sible; and

3 “(D) taking any other steps that would im-
4 prove upon the accuracy or such information.

5 “(7) APPEALS.—

6 “(A) IN GENERAL.—Not later than 30
7 days after receipt of the results of a criminal
8 background check conducted pursuant to this
9 section, a child care provider or an individual
10 subject to a background check under this sec-
11 tion may appeal such results to the appropriate
12 State agency designated by the State.

13 “(B) FINAL RULING BY A STATE.—Not
14 later than 30 days after an appeal is made
15 under subparagraph (A), a State shall—

16 “(i) make a determination on the eli-
17 gibility or ineligibility of the individual;

18 “(ii) provide the individual with spe-
19 cific findings with respect to the appeal;

20 “(iii) if possible, promptly make any
21 changes to the individual’s criminal record,
22 if any information was inaccurate or in-
23 complete; and

24 “(iv) report those changes to the indi-
25 vidual who requested such appeal.

1 “(8) FEES.—To defray the costs of carrying
2 out the duties described in this subsection, a State
3 may collect one fee per criminal background check
4 from a child care provider or family child care pro-
5 vider in an amount not to exceed the actual costs to
6 the State for the administration of all required
7 criminal background checks, and such fee for all re-
8 quired criminal background checks may not exceed
9 a total of \$36.

10 “(b) STATE COMPLIANCE.—

11 “(1) TIME LIMITATION.—A State shall imple-
12 ment the requirements of this section not later than
13 3 years after the date of the enactment of the
14 Childcare Accountability and Responsibility Act of
15 2012.

16 “(2) EXTENSION OF TIME.—The Secretary may
17 grant an extension to the date described in para-
18 graph (1), not longer than 2 years, to a State that
19 makes a good faith effort to satisfy the requirements
20 of this section.

21 “(c) DEFINITIONS.—In this section:

22 “(1) ADULT.—The term ‘adult’ means a person
23 who has attained 18 years of age.

24 “(2) CHILD CARE PROVIDER.—The term ‘child
25 care provider’ means a center-based child care pro-

1 vider, a group home child care provider, or other
2 provider of child care services for compensation and
3 on a regular basis (other than a family child care
4 provider) that—

5 “(A) is not an individual who is related to
6 all children for whom child care services are
7 provided; and

8 “(B) is licensed, regulated, or registered
9 under State law or receives funds provided
10 under this subchapter.

11 “(3) CHILD CARE STAFF MEMBER.—The term
12 ‘child care staff member’ means an individual that
13 provides child care services for compensation and on
14 a regular basis (other than an individual who is re-
15 lated to the child or children for whom services are
16 provided), regardless of whether the services are pro-
17 vided for a child care provider or a family child care
18 provider.

19 “(4) FAMILY CHILD CARE PROVIDER.—The
20 term ‘family child care provider’ means one indi-
21 vidual who—

22 “(A) provides child care services for fewer
23 than 24 hours per day, as the sole caregiver, in
24 a private residence;

1 “(B) is not an individual who is related to
2 all children for whom child care services are
3 provided; and

4 “(C) is licensed, regulated, or registered
5 under State law or receives funds provided
6 under this subchapter.

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

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