

CHILD PROTECTION IMPROVEMENTS ACT OF 2017

MAY 22, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GOODLATTE, from the Committee on the Judiciary,  
submitted the following

R E P O R T

[To accompany H.R. 695]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 695) to amend the National Child Protection Act of 1993 to establish a national criminal history background check system and criminal history review program for certain individuals who, related to their employment, have access to children, the elderly, or individuals with disabilities, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

|   | Page |
|---|------|
| The Amendment .....   | 1    |
| Purpose and Summary .....                                   | 3    |
| Background and Need for the Legislation .....               | 4    |
| Hearings .....  | 4    |
| Committee Consideration .....                               | 5    |
| Committee Votes .....                                       | 5    |
| New Budget Authority and Tax Expenditures .....             | 5    |
| Congressional Budget Office Cost Estimate .....             | 5    |
| Duplication of Federal Programs .....                       | 6    |
| Disclosure of Directed Rule Makings .....                   | 6    |
| Performance Goals and Objectives .....                      | 6    |
| Advisory on Earmarks .....                                  | 6    |
| Section-by-Section Analysis .....                           | 7    |
| Changes in Existing Law Made by the Bill, as Reported ..... | 8    |

**The Amendment**

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Child Protection Improvements Act of 2017”.

**SEC. 2. NATIONAL CRIMINAL HISTORY BACKGROUND CHECK AND CRIMINAL HISTORY REVIEW PROGRAM.**

The National Child Protection Act of 1993 (42 U.S.C. 5119 et seq.) is amended—  
(1) in section 3—

(A) by amending subsection (a)(3) to read as follows:

“(3)(A) The Attorney General shall establish a program, in accordance with this section, to provide qualified entities located in States which do not have in effect procedures described in paragraph (1), or qualified entities located in States which do not prohibit the use of the program established under this paragraph, with access to national criminal history background checks on, and criminal history reviews of, covered individuals.

“(B) A qualified entity described in subparagraph (A) may submit to the appropriate designated entity a request for a national criminal history background check on, and a criminal history review of, a covered individual. Qualified entities making a request under this paragraph shall comply with the guidelines set forth in subsection (b), and with any additional applicable procedures set forth by the Attorney General or by the State in which the entity is located.”;

(B) in subsection (b)—

(i) in paragraph (1)(E), by striking “unsupervised”;

(ii) in paragraph (2)—

(I) by redesignating subparagraph (A) as clause (i);

(II) in subparagraph (B)—

(aa) by adding “and” at the end; and

(bb) by redesignating such subparagraph as clause (ii);

(III) by striking “that each provider who is the subject of a background check” and inserting “(A) that each covered individual who is the subject of a background check conducted pursuant to the procedures established pursuant to subsection (a)(1)”;

(IV) by adding at the end the following:

“(B) that each covered individual who is the subject of a national criminal history background check and criminal history review conducted pursuant to the procedures established pursuant to subsection (a)(3) is entitled to challenge the accuracy and completeness of any information in the criminal history record of the individual by contacting the Federal Bureau of Investigation under the procedure set forth in section 16.34 of title 28, Code of Federal Regulations, or any successor thereto.”;

(iii) in paragraph (3), by inserting after “authorized agency” the following: “or designated entity, as applicable”; and

(iv) in paragraph (4), by inserting after “authorized agency” the following: “or designated entity, as applicable.”;

(C) in subsection (d), by inserting after “officer or employee thereof,” the following: “nor shall any designated entity nor any officer or employee thereof.”;

(D) by amending subsection (e) to read as follows:

“(e) FEES.—

“(1) STATE PROGRAM.—In the case of a background check conducted pursuant to a State requirement adopted after December 20, 1993, conducted with fingerprints on a covered individual, the fees collected by authorized State agencies and the Federal Bureau of Investigation may not exceed eighteen dollars, respectively, or the actual cost, whichever is less, of the background check conducted with fingerprints.

“(2) FEDERAL PROGRAM.—In the case of a national criminal history background check and criminal history review conducted pursuant to the procedures established pursuant to subsection (a)(3), the fees collected by a designated entity shall be set at a level that will ensure the recovery of the full costs of providing all such services. The designated entity shall remit the appropriate portion of such fee to the Attorney General, which amount is in accordance with the amount published in the Federal Register to be collected for the provision of a criminal history background check by the Federal Bureau of Investigation.

“(3) ENSURING FEES DO NOT DISCOURAGE VOLUNTEERS.—A fee system under this subsection shall be established in a manner that ensures that fees to qualified entities for background checks do not discourage volunteers from participating in programs to care for children, the elderly, or individuals with disabilities.”;

(E) by inserting after subsection (e) the following:

“(f) NATIONAL CRIMINAL HISTORY BACKGROUND CHECK AND CRIMINAL HISTORY REVIEW PROGRAM.—

“(1) NATIONAL CRIMINAL HISTORY BACKGROUND CHECK.—Upon a designated entity receiving notice of a request submitted by a qualified entity pursuant to subsection (a)(3), the designated entity shall forward the request to the Attorney General, who shall, acting through the Director of the Federal Bureau of Investigation, complete a fingerprint-based check of the national criminal history background check system, and provide the information received in response to such national criminal history background check to the appropriate designated entity. The designated entity may, upon request from a qualified entity, complete a check of a State criminal history database.

“(2) CRIMINAL HISTORY REVIEW.—

“(A) DESIGNATED ENTITIES.—The Attorney General shall designate, and enter into an agreement with, one or more entities to make determinations described in paragraph (2). The Attorney General may not designate and enter into an agreement with a Federal agency under this subparagraph.

“(B) DETERMINATIONS.—A designated entity shall, upon the receipt of the information described in paragraph (1), make a determination of fitness described in subsection (b)(4), using the criteria described in subparagraph (C).

“(C) CRIMINAL HISTORY REVIEW CRITERIA.—The Attorney General shall, by rule, establish the criteria for use by designated entities in making a determination of fitness described in subsection (b)(4). Such criteria shall be based on the criteria established pursuant to section 108(a)(3)(G)(i) of the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (42 U.S.C. 5119a note).”; and

(F) by striking—

(i) “provider” each place it appears, and inserting “covered individual”; and

(ii) “provider’s” each place it appears, and inserting “covered individual’s”; and

(2) in section 5—

(A) by amending paragraph (9) to read as follows:

“(9) the term ‘covered individual’ means an individual—

“(A) who has, seeks to have, or may have access to children, the elderly, or individuals with disabilities, served by a qualified entity; and

“(B) who—

“(i) is employed by or volunteers with, or seeks to be employed by or volunteer with, a qualified entity; or

“(ii) owns or operates, or seeks to own or operate, a qualified entity.”;

(B) in paragraph (10), by striking “and” at the end;

(C) in paragraph (11), by striking the period at the end and inserting “; and”; and

(D) by inserting after paragraph (11) the following:

“(12) the term ‘designated entity’ means an entity designated by the Attorney General under section 3(f)(2)(A).”.

#### SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall be fully implemented by not later than 1 year after the date of enactment of this Act.

### Purpose and Summary

H.R. 695 amends the National Child Protection Act of 1993<sup>1</sup> to establish a national criminal history background check system and criminal history review program for certain individuals who, related to their employment, have access to children, the elderly, or individuals with disabilities. It allows youth-serving organizations to submit fingerprints of potential staff and volunteers to a designated entity, which, in turn, submits those fingerprints to the Federal Bureau of Investigation (“FBI”) to check against the FBI fingerprint database. The FBI then generates a criminal history report on the potential staff member or volunteer to the designated entity. Based on that criminal history report, the designated entity then makes a fitness determination about the individual, which it provides to the requesting organization. Individuals who have a

<sup>1</sup> Pub L. No. 103–209, 107 Stat. 2490 (1993).

background check run on them pursuant to this Act may challenge the accuracy or completeness of their records.

### **Background and Need for the Legislation**

The PROTECT Act of 2003<sup>2</sup> created a pilot program whereby selected youth-serving organizations would have access to timely, inexpensive FBI background checks on potential volunteers. This Child Safety Pilot ran from 2003 until 2011. It provided access to FBI fingerprint background checks for a variety of child-serving non-profits. The pilot conducted over 105,000 background checks and 6.2% of potential volunteers (more than 6,500 individuals) were found to have criminal records of concern. In addition, more than 40% of individuals with criminal records of concern had crimes in states other than where they were applying to volunteer, meaning that only a nationwide check would have flagged these individuals' criminal records. The criminal offenses committed by some of these applicants included convictions for criminal sexual conduct with a child, child endangerment, and manslaughter. Additionally, 26% of these individuals showed a different name on their record than the one they used on their job application.

The Child Protection Improvements Act ("CPIA)," introduced as H.R. 695 on January 24, 2017, makes the pilot program permanent and expands the program to include not only volunteers, but also staff in youth-serving programs. It closes a gaping hole in the federal law that prevents camps, children's groups, mentoring organizations, after-school programs and other organizations that work with children or vulnerable adults from gaining access to federal criminal background checks on employees and volunteers. The bill also seeks to improve the accessibility of the FBI criminal database and creates a system through which youth organizations could run FBI and state checks at the same time. Importantly, the bill does not mandate that youth-serving organizations use this process, it merely makes this process more accessible and more affordable if certain organizations wish to use this method. The program thus acts as a supplement for organizations that want to access the FBI database in addition to other public or private databases while fingerprint-based background checks are a useful tool when conducting background screening, they may not always provide a comprehensive history. The bill also protects privacy rights by ensuring that the specifics of a criminal record are never disclosed without explicit consent by the applicant and provides opportunity for individuals to correct errors in their records directly with the FBI. The bill does not require any new spending: the program will be supported by the fees assessed for background checks by the requesting nonprofit organizations.

### **Hearings**

The Committee on the Judiciary held no hearings on H.R. 695, but held a hearing on the subject of child exploitation generally on March 16, 2017.

---

<sup>2</sup>Pub. L. No. 108-21, 117 Stat. 650 (2003).

### Committee Consideration

On March 22, 2017, the Committee met in open session and ordered the bill H.R. 695 favorably reported, with an amendment, by voice vote, a quorum being present.

### Committee Votes

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were no recorded votes during the Committee's consideration of H.R. 695.

### New Budget Authority and Tax Expenditures

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

### Congressional Budget Office Cost Estimate

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 695, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, April 6, 2017.*

Hon. BOB GOODLATTE, CHAIRMAN,  
*Committee on the Judiciary,*  
*U.S. House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 695, the Child Protection Improvements Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

KEITH HALL.

Enclosure  
cc: Honorable John Conyers Jr.,  
Ranking Member

---

### H.R. 695—Child Protection Improvements Act of 2017

As ordered reported by the House Committee on the Judiciary on  
March 22, 2017

---

Under current law, organizations in certain states that provide services to youth, the elderly, and the disabled have limited access to information from national criminal background checks. (Those organizations typically review the backgrounds of prospective coaches, employees, and volunteers.) H.R. 695 would require the Department of Justice (DOJ) to establish a program to allow such

organizations to obtain information from criminal background checks in the Federal Bureau of Investigation (FBI) fingerprint database.

Based on an analysis of information from DOJ, CBO estimates that implementing the new program would cost less than \$500,000 annually; any such spending would be subject to the availability of appropriated funds. In addition, the bill would result in more background checks carried out by the FBI. The FBI collects fees to cover its costs for those checks; the fees are classified as offsetting collections and are credited to the agency's salaries and expenses appropriation. CBO estimates that the collection and spending of additional fees under H.R. 695 would have no significant net effect on discretionary spending in any year.

Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 695 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 695 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

### **Duplication of Federal Programs**

No provision of H.R. 695 establishes or reauthorizes a program of the Federal government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

### **Disclosure of Directed Rule Makings**

The Committee states that H.R. 695 specifically directs the Attorney General to conduct one rule making within the meaning of 5 U.S.C. § 551. The rulemaking directs the Attorney General to by rule establish criteria for making a determination of an individual's fitness to have responsibility for the safety and well-being of children.

### **Performance Goals and Objectives**

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 695, allows organizations serving vulnerable populations to conduct background checks on volunteers and employees through the FBI fingerprint database.

### **Advisory on Earmarks**

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 695 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI.

## Section-by-Section Analysis

### *Section 1—Short Title*

This section gives the short title of H.R. 695 as the “Child Protection Improvements Act of 2017.”

### *Section 2—Amending Section 3 of the National Child Protection Act of 1993*

This section takes the following steps:

(A) Provides uniformity to terms used in this Act.

#### *Key Terms—*

*Qualified Entity*—As defined in 42 U.S.C. § 5119c, this is a business or organization that provides care or care placement services for children, elderly, or individuals with disabilities.

*Designated Entity*—The organization that the Attorney General will be tasked with identifying under this Act. The designated entity will be responsible for serving as an intermediary between the FBI and qualified entities in states which currently do not have a process by which to access National Criminal History Background checks.

*Covered Individual*—An individual who is submitting their fingerprint information for a background check and is seeking to work with members of a vulnerable population.

(B) Directs the Attorney General to find a designated entity to act as an intermediary between the FBI and qualified entities. This designated entity will be available for organizations in any state in which state law does not direct qualified entities to deal directly with a state agency. The designated entity will collect the fingerprint information of the covered individual from the inquiring qualified entity and pass on the appropriate information to the FBI. The designated entity will then receive and process the background check from the FBI and remit a fitness determination to the inquiring qualified entity.

(C) Adds a provision allowing individuals who have a background check run on them pursuant to this Act to challenge the accuracy or completeness of their record. This section also makes technical and conforming changes.

(D) Grants the same immunity from damages to employees and agents of the Attorney General’s designated entity as is currently provided to state agencies or providers of the same service.

(E) Fees:

Subsection 1 retains the eighteen-dollar limit on the fee that may be collected by the FBI (same as current law) from authorized state agencies, or from entities providing the same service which the Attorney General’s designated entity will perform, in states which have already provided for such a process.

Subsection 2 provides that the Attorney General’s designated entity will collect a fee from the qualified entity and remit to the FBI an amount sufficient to cover the FBI’s costs.

Subsection 3 ensures that the overall cost charged (the FBI’s portion plus the designated entity’s portion) does not discourage or prevent qualified entities from utilizing the service.

(F) This section provides the guidelines for making “fitness determinations” which will be the information that is relayed from the Attorney General’s designated entity back to the qualified entity. The fitness determination will be made by the designated entity by checking the criminal history report against criterion offenses, to be set by the Attorney General, and will be nonbinding on the qualified entity.

This section also amends Section 5 of the Act to define a “covered individual” as someone who works with, volunteers with, or is applying to work or volunteer with an organization that provides services for children, elderly, or individuals with disabilities. This section also makes technical revisions to provide clarity in the Code due to the changes in this Act.

*Section 3. Effective Date.* This section requires that the amendments made by H.R. 695 be fully implemented by not later than 1 year after the date of enactment.

### **Changes in Existing Law Made by the Bill, as Reported**

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

### **NATIONAL CHILD PROTECTION ACT OF 1993**

\* \* \* \* \*

#### **SEC. 3. BACKGROUND CHECKS.**

(a) **IN GENERAL.**—(1) A State may have in effect procedures (established by State statute or regulation) that require qualified entities designated by the State to contact an authorized agency of the State to request a nationwide background check for the purpose of determining whether a [provider] *covered individual* has been convicted of a crime that bears upon the [provider’s] *covered individual’s* fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities.

(2) The authorized agency shall access and review State and Federal criminal history records through the national criminal history background check system and shall make reasonable efforts to respond to the inquiry within 15 business days.

[(3) In the absence of State procedures referred to in paragraph (1), a qualified entity designated under paragraph (1) may contact an authorized agency of the State to request national criminal fingerprint background checks. Qualified entities requesting background checks under this paragraph shall comply with the guidelines set forth in subsection (b) and with procedures for requesting national criminal fingerprint background checks, if any, established by the State.]

(3)(A) *The Attorney General shall establish a program, in accordance with this section, to provide qualified entities located in States which do not have in effect procedures described in paragraph (1), or qualified entities located in States which do not prohibit the use of the program established under this paragraph, with access to na-*

*tional criminal history background checks on, and criminal history reviews of, covered individuals.*

*(B) A qualified entity described in subparagraph (A) may submit to the appropriate designated entity a request for a national criminal history background check on, and a criminal history review of, a covered individual. Qualified entities making a request under this paragraph shall comply with the guidelines set forth in subsection (b), and with any additional applicable procedures set forth by the Attorney General or by the State in which the entity is located.*

(b) GUIDELINES.—The procedures established under subsection (a) shall require—

(1) that no qualified entity may request a background check of a **[provider]** *covered individual* under subsection (a) unless the **[provider]** *covered individual* first provides a set of fingerprints and completes and signs a statement that—

(A) contains the name, address, and date of birth appearing on a valid identification document (as defined in section 1028 of title 18, United States Code) of the **[provider]** *covered individual*;

(B) the **[provider]** *covered individual* has not been convicted of a crime and, if the **[provider]** *covered individual* has been convicted of a crime, contains a description of the crime and the particulars of the conviction;

(C) notifies the **[provider]** *covered individual* that the entity may request a background check under subsection (a);

(D) notifies the **[provider]** *covered individual* of the **[provider's]** *covered individual's* rights under paragraph (2); and

(E) notifies the **[provider]** *covered individual* that prior to the completion of the background check the qualified entity may choose to deny the **[provider]** *covered individual* **[unsupervised]** access to a person to whom the qualified entity provides care;

(2) **[that each provider who is the subject of a background check]** (A) *that each covered individual who is the subject of a background check conducted pursuant to the procedures established pursuant to subsection (a)(1) is entitled—*

**[(A)]** (i) to obtain a copy of any background check report; and

**[(B)]** (ii) to challenge the accuracy and completeness of any information contained in any such report and obtain a prompt determination as to the validity of such challenge before a final determination is made by the authorized agency; and

*(B) that each covered individual who is the subject of a national criminal history background check and criminal history review conducted pursuant to the procedures established pursuant to subsection (a)(3) is entitled to challenge the accuracy and completeness of any information in the criminal history record of the individual by contacting the Federal Bureau of Investigation under the procedure set forth in section 16.34 of title 28, Code of Federal Regulations, or any successor thereto.*

(3) that an authorized agency or *designated entity, as applicable*, upon receipt of a background check report lacking disposition data, shall conduct research in whatever State and local recordkeeping systems are available in order to obtain complete data;

(4) that the authorized agency or *designated entity, as applicable*, shall make a determination whether the **【provider】 covered individual** has been convicted of, or is under pending indictment for, a crime that bears upon the **【provider’s】 covered individual’s** fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities and shall convey that determination to the qualified entity; and

(5) that any background check under subsection (a) and the results thereof shall be handled in accordance with the requirements of Public Law 92–544, except that this paragraph does not apply to any request by a qualified entity for a national criminal fingerprint background check pursuant to subsection (a)(3).

(c) REGULATIONS.—(1) The Attorney General may by regulation prescribe such other measures as may be required to carry out the purposes of this Act, including measures relating to the security, confidentiality, accuracy, use, misuse, and dissemination of information, and audits and recordkeeping.

(2) The Attorney General shall, to the maximum extent possible, encourage the use of the best technology available in conducting background checks.

(d) LIABILITY.—A qualified entity shall not be liable in an action for damages solely for failure to conduct a criminal background check on a **【provider】 covered individual**, nor shall a State or political subdivision thereof nor any agency, officer or employee thereof, *nor shall any designated entity nor any officer or employee thereof*, be liable in an action for damages for the failure of a qualified entity (other than itself) to take action adverse to a **【provider】 covered individual** who was the subject of a background check.

**【(e) FEES.—**In the case of a background check pursuant to a State requirement adopted after the date of the enactment of this Act conducted with fingerprints on a person who volunteers with a qualified entity, the fees collected by authorized State agencies and the Federal Bureau of Investigation may not exceed eighteen dollars, respectively, or the actual cost, whichever is less, of the background check conducted with fingerprints. The States shall establish fee systems that insure that fees to non-profit entities for background checks do not discourage volunteers from participating in child care programs.**】**

(e) FEES.—

(1) STATE PROGRAM.—*In the case of a background check conducted pursuant to a State requirement adopted after December 20, 1993, conducted with fingerprints on a covered individual, the fees collected by authorized State agencies and the Federal Bureau of Investigation may not exceed eighteen dollars, respectively, or the actual cost, whichever is less, of the background check conducted with fingerprints.*

(2) FEDERAL PROGRAM.—*In the case of a national criminal history background check and criminal history review con-*

ducted pursuant to the procedures established pursuant to subsection (a)(3), the fees collected by a designated entity shall be set at a level that will ensure the recovery of the full costs of providing all such services. The designated entity shall remit the appropriate portion of such fee to the Attorney General, which amount is in accordance with the amount published in the Federal Register to be collected for the provision of a criminal history background check by the Federal Bureau of Investigation.

(3) *ENSURING FEES DO NOT DISCOURAGE VOLUNTEERS.*—A fee system under this subsection shall be established in a manner that ensures that fees to qualified entities for background checks do not discourage volunteers from participating in programs to care for children, the elderly, or individuals with disabilities.

(f) *NATIONAL CRIMINAL HISTORY BACKGROUND CHECK AND CRIMINAL HISTORY REVIEW PROGRAM.*—

(1) *NATIONAL CRIMINAL HISTORY BACKGROUND CHECK.*—Upon a designated entity receiving notice of a request submitted by a qualified entity pursuant to subsection (a)(3), the designated entity shall forward the request to the Attorney General, who shall, acting through the Director of the Federal Bureau of Investigation, complete a fingerprint-based check of the national criminal history background check system, and provide the information received in response to such national criminal history background check to the appropriate designated entity. The designated entity may, upon request from a qualified entity, complete a check of a State criminal history database.

(2) *CRIMINAL HISTORY REVIEW.*—

(A) *DESIGNATED ENTITIES.*—The Attorney General shall designate, and enter into an agreement with, one or more entities to make determinations described in paragraph (2). The Attorney General may not designate and enter into an agreement with a Federal agency under this subparagraph.

(B) *DETERMINATIONS.*—A designated entity shall, upon the receipt of the information described in paragraph (1), make a determination of fitness described in subsection (b)(4), using the criteria described in subparagraph (C).

(C) *CRIMINAL HISTORY REVIEW CRITERIA.*—The Attorney General shall, by rule, establish the criteria for use by designated entities in making a determination of fitness described in subsection (b)(4). Such criteria shall be based on the criteria established pursuant to section 108(a)(3)(G)(i) of the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (42 U.S.C. 5119a note).

\* \* \* \* \*

**SEC. 5. DEFINITIONS.**

For the purposes of this Act—

(1) the term “authorized agency” means a division or office of a State designated by a State to report, receive, or disseminate information under this Act;

(2) the term “child” means a person who is a child for purposes of the criminal child abuse law of a State;

(3) the term “child abuse crime” means a crime committed under any law of a State that involves the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child by any person;

(4) the term “child abuse crime information” means the following facts concerning a person who has been arrested for, or has been convicted of, a child abuse crime: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the child abuse crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that the Attorney General determines may be useful in identifying persons arrested for, or convicted of, a child abuse crime;

(5) the term “care” means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities;

(6) the term “identifiable child abuse crime case” means a case that can be identified by the authorized criminal justice agency of the State as involving a child abuse crime by reference to the statutory citation or descriptive label of the crime as it appears in the criminal history record;

(7) the term “individuals with disabilities” means persons with a mental or physical impairment who require assistance to perform one or more daily living tasks;

(8) the term “national criminal history background check system” means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification;

[(9) the term “provider” means—

[(A) a person who—

[(i) is employed by or volunteers with a qualified entity (including an individual who is employed by a school in any capacity, including as a child care provider, a teacher, or another member of school personnel);

[(ii) who owns or operates a qualified entity; or

[(iii) who has or may have unsupervised access to a child to whom the qualified entity provides child care; and

[(B) a person who—

[(i) seeks to be employed by or volunteer with a qualified entity (including an individual who seeks to be employed by a school in any capacity, including as a child care provider, a teacher, or another member of school personnel);

[(ii) seeks to own or operate a qualified entity; or

[(iii) seeks to have or may have unsupervised access to a child to whom the qualified entity provides child care;]

(9) the term “covered individual” means an individual—

(A) who has, seeks to have, or may have access to children, the elderly, or individuals with disabilities, served by a qualified entity; and

(B) who—

*(i) is employed by or volunteers with, or seeks to be employed by or volunteer with, a qualified entity; or*

*(ii) owns or operates, or seeks to own or operate, a qualified entity.*

(10) the term “qualified entity” means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services; **[and]**

(11) the term “State” means a State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific**[.]; and**

*(12) the term “designated entity” means an entity designated by the Attorney General under section 3(f)(2)(A).*

