

PUBLIC CHAPTER NO. 922

SENATE BILL NO. 2708

By Harper, Berke, Marrero, Burks, Raymond Finney

Substituted for: House Bill No. 3264

By Moore, Maggart, Lynn, Hardaway

AN ACT to amend Tennessee Code Annotated, Title 71, Chapter 2, Part 4 and Title 71, Chapter 3, Part 5, relative to criminal background checks.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 71-3-507, is amended by deleting subdivision (a)(2)(B) in its entirety and by substituting instead the following:

(2)(B) All persons subject to the requirements of subdivision (a)(1), and all persons applying to work with the department in any position in which any significant contact with children is likely in the course of the person's employment with the department, shall have a criminal background check, including available juvenile records, completed as required by this section prior to assuming any role described in subdivision (a)(1) or prior to employment with the department; and, if the person is fifteen (15) years of age or older; and

(i) the person is a resident of a child care agency, the person must have the criminal background check, including available juvenile records, completed prior to the granting of any license that is not the renewal of an existing license to the child care agency in which the person resides at the time of initial application; or

(ii) if such person is to become a resident of the child care agency, the person must have the criminal background check, including available juvenile records, completed prior to the person's becoming a resident of the child care agency.

(C) The individual or entity with whom or which a person subject to subdivision (a)(1) will be, or is, associated shall be responsible for obtaining, and submitting to the department the fingerprint sample and any information necessary to process the criminal history review required by this section prior to such person's assumption of any role described in subdivision (a)(1).

SECTION 2. Tennessee Code Annotated, Section 71-3-507, is amended by deleting subsection (d) in its entirety and by substituting instead the following:

(d) The child care agency or the department shall not permit a person to assume any role described in subdivision (a)(1) prior to the completion of the criminal history review, including available juvenile records, the fingerprint background check and the review of the Department of Health's vulnerable person's registry that demonstrate that the person is not subject to a criminal history or a history on such registry that would, as described in this part, disqualify or otherwise exclude such person from any role described in subdivision (a)(1).

SECTION 3. Tennessee Code Annotated, Section 71-3-507 (g)(4)(C), is amended by re-numbering existing subdivision (ii) as subdivision (iv) and by deleting subdivision (g)(4)(C)(i) in its entirety and by substituting instead the following:

(C)(i) For a person who was not subject to a criminal or vulnerable persons registry screening prior to assuming a role described in subdivision (g)(1)(A), such person's existing status in such role shall be conditional upon the satisfactory outcome of any requested criminal history disclosure, including available juvenile records, or fingerprint record background check, and any requested Department of Health vulnerable person's registry check, that may be conducted pursuant to this section; provided, however, if a person is initially applying to assume any type of role described in subdivision (g)(1)(B), and an entity described in subdivision (g)(1)(A) utilizes this subsection (g) as a pre-employment screening procedure, such person may not assume such role until satisfactory completion of the criminal history disclosure, including available juvenile records, or fingerprint-based criminal background check or any requested review of the Department of Health's vulnerable person's registry.

(ii) In either circumstance in subdivision (g)(4)(C)(i), the criminal history disclosure, juvenile records review, and fingerprint-based criminal history and vulnerable person's registry background check must demonstrate that the person is not subject to a criminal history or a history on such registry that would, as described in this part, disqualify or otherwise exclude such person from any role described in subdivision (g)(1)(B). If the background check or any other information from any source confirms that subsection (e) is applicable, that person shall not be permitted to have further contact with children in such role, except as otherwise permitted by this section.

(iii) A person's employment or contract status shall not remain in a conditional status for a position with any state agency for which federal law or regulations do not permit the state agency to license or approve the position until all necessary licensing requirements are met, unless specifically authorized by state or federal law or regulation to the contrary.

SECTION 4. This act shall take effect July 1, 2008, the public welfare requiring it.

PASSED: April 24, 2008



RON RAMSEY
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 15th day of May 2008



PHIL BREDESEN, GOVERNOR