

IN THE SENATE

SENATE BILL NO. 1256

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO CRIMINAL HISTORY AND BACKGROUND CHECKS; AMENDING SECTION
2 56-1004A, IDAHO CODE, TO REVISE PROVISIONS REGARDING SIGNATURE RE-
3 QUIREMENTS FOR CERTAIN APPLICATIONS AND TO MAKE TECHNICAL CORRECTIONS;
4 AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 56-1004A, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 56-1004A. CRIMINAL HISTORY AND BACKGROUND CHECKS. (1) To assist in the
10 protection of children and vulnerable adults, the legislature hereby autho-
11 rizes the department of health and welfare to conduct criminal history and
12 background checks of individuals who provide care or services to vulnera-
13 ble adults or children and are identified in rule as being required to have a
14 criminal history and background check.

15 (2) To further assist in the protection of vulnerable adults, the de-
16 partment of health and welfare may:

17 (a) Conduct criminal history and background checks of those seeking
18 guardianship or conservatorship and those who reside in an incapaci-
19 tated person's proposed residence;

20 (b) Make the findings of such criminal history and background checks
21 available to visitors, guardians ad litem and evaluation committees ap-
22 pointed pursuant to chapter 5, title 15 or chapter 4, title 66, Idaho
23 Code; and

24 (c) Promulgate such rules as are necessary to carry out the provisions
25 of this section.

26 The provisions of subsection (6) of this section shall not apply to criminal
27 history and background checks conducted pursuant to this subsection.

28 (3) Criminal history and background checks will be conducted by the de-
29 partment of health and welfare when:

30 (a) Required or ordered by the court pursuant to chapter 5, title 15 or
31 chapter 4, title 66, Idaho Code;

32 (b) Requested by those required to undergo such checks; and

33 (c) Paid for in full by those required to undergo such checks.

34 (4) The criminal history and background check will be a fingerprint-
35 based check of state and national records and may include information from
36 the following:

37 (a) Statewide criminal identification bureau;

38 (b) Federal bureau of investigation (FBI);

39 (c) Statewide sex offender registry;

40 (d) Idaho transportation department driving records;

41 (e) Adult and child protection registries;

42 (f) Nurse aide registry; and

1 (g) Department of health and human services office of the inspector
2 general list of excluded individuals and entities.

3 (5) The department of health and welfare shall promulgate rules to fur-
4 ther define those individuals who are required to have a criminal history
5 and background check and the effective date. Each individual shall com-
6 plete an application, which includes ~~a notarized~~ an electronic signature,
7 on forms provided by the department. The completed application authorizes
8 the department to obtain and release information in accordance with state
9 and federal law. The applicant must disclose all information requested,
10 including information on past convictions, driver's license revocations,
11 and known adult or child protection findings. Once an application has been
12 completed, the employer, at its discretion, may allow the individual to
13 provide care or services prior to the individual completing fingerprinting
14 and pending completion of the criminal history and background check by the
15 department. The department shall promulgate rules defining the time frame
16 for submitting the application. Under no circumstances may the individual
17 be allowed to provide care or services where the employer has reviewed the
18 completed application and the individual has disclosed a designated crime as
19 set forth in rule.

20 (6) The department shall review the information received from the crim-
21 inal history and background check and determine whether the applicant has
22 a criminal or other relevant record that would disqualify the individual.
23 The department shall determine which crimes disqualify the applicant and
24 for what period of time according to promulgated rules. The process for the
25 check and the issuance of a clearance or denial is set forth in department
26 rules. The applicant shall be provided an opportunity for a formal review
27 of a denial. The department shall communicate clearance or denial to the
28 applicant and the applicant's employer.

29 (7) Applicants are responsible for the cost of the criminal history and
30 background check except where otherwise provided by department rules.

31 (8) The department, or an employer of an applicant, ~~who~~ that acts in
32 reasonable reliance on the results of the criminal history and background
33 check in making an employment decision, is immune from liability for that de-
34 cision when it is based on such results.

35 (9) The department, its officers and employees are immune from liabil-
36 ity for the consequences of including or excluding classes of individuals in
37 the criminal history and background check process.

38 (10) Clearance through the criminal history and background check
39 process is not a determination of suitability for employment.

40 SECTION 2. An emergency existing therefor, which emergency is hereby
41 declared to exist, this act shall be in full force and effect on and after
42 July 1, 2022.