

HOUSE BILL ANALYSIS

E2SSB 6152

Title: An act relating to the care, supervision, and treatment of children, developmentally disabled persons, and vulnerable adults.

Brief Description: Changing provisions relating to the care, supervision, and treatment of children, developmentally disabled persons, and vulnerable adults.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Stevens, Hochstatter, Swecker and Kohl-Welles).

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Meeting Date: February 23, 2000.

Bill Analysis Prepared by: Tracey Taylor (786-7196).

Background: The Department of Social and Health Services licenses facilities to provide care to children, expectant mothers, vulnerable adults, and the developmentally disabled. The department must consider the size and suitability of the facility as well as the suitability, character, and competence of any persons associated with the agency who will be directly responsible for the care and supervision of children, expectant mothers, or the developmentally disabled.

In order to determine the suitability of an agency or person, the department performs background checks on applicants for licenses to care for children, expectant mothers, and the developmentally disabled. Background checks are also required for persons or organizations:

- applying for a license to operate an agency that cares for, supervises or treats vulnerable adults, children, or the developmentally disabled;
- providing care, supervision or treatment of vulnerable adults, children, and the developmentally disabled under a state contract; and
- those persons who will come into direct contact with vulnerable adults, children, and the developmentally disabled as part of their employment at an agency.

However, an "agency" does not include:

- any blood relative and the relative's current or former spouse;
- a stepparent or step sibling; adoptive family;
- legal guardians; neighbors or friends who care for the child;
- parents who, on a mutually cooperative basis, care for one another's children; and

- other statutory exemptions.

Therefore, under current law, these non-agencies– are exempt from the background check requirement.

The background checks are conducted by the department through the Washington State Patrol's (WSP) database. Investigations examine the individual's history for convictions for offenses against children or other persons, convictions for crimes relating to the financial exploitation of a vulnerable adult, findings of child abuse in a civil action, issuance of a protective order for a vulnerable adult, and disciplinary boards' final decisions.

The actual background check of an applicant by the department should take less than a week, but applications may be delayed at the regional licensing office longer. If a background investigation involves checking the thumb print of an individual, it may take even longer.

The WSP also performs background checks directly. It may disclose to any business, organization, or individual who provides services to vulnerable adults and children, the relevant background of persons applying for employment.

Summary of Bill: Background checks shall be required when authorizing payment for the care, supervision, or treatment of children, developmentally disabled persons, or vulnerable adults. The department shall, in consultation with the Children's Service Advisory Committee, adopt and publish minimum requirements for authorizing payment of exempt child care providers. Such exempt child care providers include: any blood relative and the relative's current or former spouse; a stepparent or step sibling; adoptive family; legal guardians; neighbors or friends who care for the child; parents who, on a mutually cooperative basis, care for one another's children; and other statutory exemptions.

Before authorizing payment, the department, in consultation with law enforcement, shall investigate the providers' conviction record or pending charges and other records; however, unfounded child abuse and neglect allegations shall not be considered.

In order to determine the suitability, character and competence of applicants and providers who have unsupervised access to a child, the department shall investigate only the conviction record or pending charges, not records of unfounded child abuse allegations.

Some applicants and providers are exempted from the fingerprint requirement, even though they have not resided in Washington for the past three years. Such applicants and providers include adult family homes, boarding homes, and other statutorily exempted individuals and organizations.

The department may rely on a criminal history check of the WSP criminal identification system. If a Federal Bureau of Investigation check is required, the department may rely on a federal check by another agency or the U.S. military, if the check is less than one year old. A state background check must be completed within one month. If a federal check is required and the state background check does not disqualify an applicant, the department may grant provisional approval to the licensee to hire the applicant as a temporary employee for up to 120 days pending the results of the federal check. If the federal check disqualifies the applicant, the department shall notify the licensee that provisional approval is withdrawn and the applicant is disqualified.

A waiver process is implemented for exempt child care providers whose background check would otherwise preclude the department from authorizing payment for services. If an applicant is denied authorization to be a provider, he may request an administrative hearing regarding the disqualification determination.

The department shall share the results of the criminal history check, except for unfounded allegations of child abuse or neglect, with the child-placing agency that is responsible for certifying the licensee or applicant.

The department, and its employees, is granted civil and criminal immunity when acting in good faith regarding the background check process for exempt providers.

There is a null and void clause.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect ninety days after adjournment of session in which bill is passed, except sections 1 and 2, which take effect August 1, 2000. However, the bill is null and void unless funded in the budget.