

# HOUSE BILL REPORT

## HB 3002

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### As Reported By House Committee On:

Children & Family Services

**Title:** An act relating to background checks for persons being authorized to care for children.

**Brief Description:** Requiring additional background checking for persons caring for children.

**Sponsors:** Representatives Cooke, Tokuda, Costa, Cody and Thompson; by request of Department of Social and Health Services.

### Brief History:

#### Committee Activity:

Children & Family Services: 2/5/98, 2/6/98 [DPS].

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### HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Cooke, Chairman; Boldt, Vice Chairman; Tokuda, Ranking Minority Member; Kastama, Assistant Ranking Minority Member; Ballasiotes; Dickerson; Gombosky; McDonald and Wolfe.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Bush, Vice Chairman; and Carrell.

**Staff:** Douglas Ruth (786-7134).

**Background:** The Department of Social and Health Services (DSHS) performs background checks on applicants for licenses to care for children. DSHS is specifically authorized to conduct background checks under several statutes. These statutes only authorize DSHS to ask for some of the information that the Washington State Patrol (WSP) is permitted to disclose. Non-conviction data is information not included in the authorizing statute. When DSHS requests a background check, the State Patrol removes all non-conviction data. Non-conviction data includes arrests, detentions, and formal criminal charges which have not led to convictions and which are no longer actively pending. Cases more than one year old are presumed to be inactive if there has been no disposition.

Under current law, DSHS must perform the background check through WSP and the Federal Bureau of Investigation (FBI) and cannot rely on an equivalent FBI check from another government agency. In some cases this means that DSHS is duplicating very recent national conviction records checks performed by other agencies, states, or the military.

Fingerprint checks are paid for by the license applicant, except in the case of a foster home applicant. If the cost of the check would be a hardship on the foster care applicant, the department pays the expense.

**Summary of Substitute Bill:** DSHS must request non-conviction data on the subject of a background check. DSHS may not use non-conviction data as the sole basis for any decision regarding character, suitability, or competence to care for children. DSHS must share non-conviction data with the agency that is responsible for certifying the licensee or applicant.

DSHS may accept a recent FBI conviction records check requested by another government agency or military branch. A recent check is a check that is less than one year-old.

DSHS will pay the cost of the fingerprint background check for foster family homes, and for family day care homes and child day care centers which receive state subsidies for at least 20 percent of the children they serve. For all other providers, the provider may pass the cost of the background check on to the employee. After six months, if the employee is still employed by the provider, the provider may reimburse the employee for the cost of the check.

**Substitute Bill Compared to Original Bill:** The department's obligation to pay the cost of fingerprint background checks is expanded. In addition to foster family homes, the department must pay the costs of a fingerprint background check for family day care homes and child day care centers that serve families receiving child care subsidies.

Child care providers are given the option to pass on to the employee the cost of a fingerprint background check. The providers are also given the option to reimburse employees for the cost of the background check if the employee has remained employed with the provider for at least six months.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** For day cares that review prospective employees carefully, conducting numerous background checks can be expensive. Day cares normally see quite a bit of turnover, which increases the cost even more. As a result, the cost of background checks makes it all that much harder for day cares to serve low-income populations. Accepting the fingerprint records held by other government agencies will save providers some money. A better improvement is to relieve all child care providers caring for state subsidized children from the cost of performing background checks. Examining non-conviction data will give the department a better indication when more extensive checks are needed. Non-conviction data is needed to identify those individuals who have a pattern of dangerous behavior, but whose actions never rise to a level that justify a conviction (e.g. a string of arrests for domestic violence).

**Testimony Against:** None.

**Testified:** Jennifer Strus, Director, Division for Program & Policy (pro); Lynn B. Wirta, Small Child Development Center (pro with adjustment); Dawn Larsen, Olympia Child Care Center (pro with adjustment); and Chris Malm, (concerns).