

HOUSE BILL REPORT

HB 1946

As Reported By House Committee On:
Children & Family Services

Title: An act relating to increasing protections for vulnerable persons.

Brief Description: Increasing protections for vulnerable persons.

Sponsors: Representatives Kenney, Dyer, Cody, Van Luven, Chopp, Cooke, Keiser, Anderson, Cole, Cooper, Voloria, Hatfield, Constantine, Morris, O'Brien, Ogden, Blalock, Costa, Conway and Tokuda.

Brief History:

Committee Activity:

Children & Family Services: 2/25/97, 3/4/97 [DPS].

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Cooke, Chairman; Bush, Vice Chairman; Tokuda, Ranking Minority Member; Kastama, Assistant Ranking Minority Member; Ballasiotes; Carrell; Dickerson; Gombosky; McDonald and Wolfe.

Minority Report: Do not pass. Signed by 1 member: Representative Boldt, Vice Chairman.

Staff: Douglas Ruth (786-7134).

Background: The department investigates the background of any person applying for a license to operate an agency that cares for, supervises or treats vulnerable adults, children or the developmentally disabled. Background checks of applicants for employment with these agencies are also conducted. The checks are made 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 financial exploitation of a vulnerable adult,
- findings of child abuse in a civil action,
- issuance of a protection order for a vulnerable adult, and

- disciplinary board final decisions.

Background checks are conducted on employees or licensees of nursing homes, boarding homes, child care facilities, developmentally disabled care facilities, and facilities for the mentally ill. Checks are also conducted on providers of in-home services to the physically disabled, mentally ill, mentally impaired, and developmentally disabled. Vulnerable persons who employ service providers directly determine if the applicants' backgrounds makes them unsuitable for the work. Employees of both in-home services providers and facilities may be employed conditionally while a background check is pending.

Background checks are conducted by the department through a link with the WSP's database. The actual background check of an applicant by the department takes less than a week, but applications may be delayed at the regional licensing office for longer. If a background investigation involves checking the thumb print of an individual, a request must be made to the WSP, which may take much longer to respond.

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

Nursing pools are specifically regulated by statute. Nursing pools are required to be registered and to carry liability insurance. Background checks of nursing pool staff are not required by law.

Summary of Substitute Bill: Upon request of an entity that provides services to vulnerable adults and children, the WSP is required to disclose the criminal history record of any applicant for employment.

Applicants for employment or licensure that the state is required to investigate are expanded to cover applicants related to adult family homes, boarding homes, veterans' homes, nursing pools, long-term care personnel, all developmental disability services, and licensed home health, hospice, and home care agencies.

The requirements for conditional employment pending a criminal background check are tightened. Conditionally employed applicants must provide the department with three positive references, which the vulnerable person who is to be served by the applicant approves. If the vulnerable person chooses to employ an applicant whose background investigation disqualifies the applicant for employment, the state may not pay for the services.

The group of nurses in nursing pools that are required to have state credentials is expanded to include nursing pools serving adult family homes, group homes, boarding

homes, and all long-term care services. The department is directed to investigate the backgrounds of nursing pool staff.

The department is also required to adopt requirements for individuals who work independently with vulnerable adults, or with any agency or organization providing temporary, unsupervised services to vulnerable adults.

The state's liability for lawfully releasing criminal background information is limited.

Substitute Bill Compared to Original Bill: The original bill did not require the vulnerable persons to be served to approve the three references required for conditional employment.

The substitute bill removed provisions allowing a vulnerable person to hire a relative who has a disqualifying background if the person acknowledges the disqualifying results of the background check.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Nursing pools currently are within a loophole in the law. It is essential to conduct background checks on these providers. The bill improves the presently insufficient requirements for conditional employment. The home care industry needs to be added to the list of providers that are subject to background checks.

Testimony Against: The current statutes regarding background checks are unorganized and inconsistent. The bill adds one more layer to a system that is already made up of several layers of unrelated requirements. It is better policy to comprehensively clean up all the requirements for background checks than it is to add another layer of checks.

Testified: Representative Phyllis Kenney, prime sponsor; Representative Karen Keiser; Margaret Casey, WSCC (pro); Ron Weaver, Department of Health (pro); Ken Harden, Department of Social and Health Services (pro); and Robb Menaul, Washington State Hospital Association (pro).