

SENATE BILL REPORT

SHB 1946

As Reported By Senate Committee On:
Human Services & Corrections, April 3, 1997

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

Brief Description: Increasing protections for vulnerable persons.

Sponsors: House Committee on Children & Family Services (originally sponsored by 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: Human Services & Corrections: 3/27/97, 4/3/97 [DPA].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

Signed by Senators Long, Chair; Zarelli, Vice Chair; Franklin, Hargrove, Kohl, Schow and Stevens.

Staff: Andrea McNamara (786-7483)

Background: Current law requires the Department of Social and Health Services (DSHS) to investigate the background of applicants seeking state positions directly responsible for the supervision, care, or treatment of children or vulnerable adults and individual providers who are paid by the state for in-home services but hired by the vulnerable adults receiving the services.

When DSHS conducts a background check on an in-home service provider, current law requires that the hiring decision must be made by the client. This arrangement has led to concerns about the state's potential liability when a client wants to hire a person with a disqualifying conviction and have the state pay for that person's services.

Current law also requires that DSHS and the Department of Health (DOH) investigate the background of all individuals working in agencies and facilities licensed by DSHS or DOH to provide care and treatment to vulnerable adults. DSHS and DOH are directed to ensure that the individuals associated with the licensed agencies or facilities have not been convicted of a disqualifying crime as specified in statute.

Conditional employment is currently authorized pending completion of a background check when the check is required for involvement with DSHS as an employee or in-home service provider.

Nursing pools are registered referral agencies that provide temporary health care personnel to both public and private health care facilities and agencies. Many, but not all, of the employees and independent contractors of nursing pools are licensed health professionals.

Current law does not require nursing pools to conduct background checks on the employees and independent contractors they refer out to health care facilities or agencies.

Summary of Amended Bill: The authority to hire an employee or engage a volunteer is clarified and expanded to cover national conviction record checks. Whenever a state or national conviction record check is required by state law, an individual, business, or organization may make a conditional hire pending completion of the state or national check.

If a person elects to hire or retain an individual provider after receiving notice from the Department of Social and Health Services (DSHS) that the applicant has a conviction for an offense that would disqualify the applicant from employment with DSHS, then the secretary may deny payment for any subsequent services rendered by the disqualified individual provider.

Registered nursing pools are explicitly added to the list of agencies for which the Department of Health (DOH) is directed to adopt additional requirements for licensing or relicensing. This requirement includes conducting, or causing to be conducted, background checks on all staff associated with the nursing pools.

Nursing pools must conduct background checks on all employees and independent contractors before referring them out to health care facilities or agencies. Long-term care facilities and services are included in the list of health care facilities and agencies to which nursing pools may refer temporary employees or independent contractors.

The DSHS requirement to investigate the backgrounds of applicants working with children and vulnerable adults is expanded to explicitly cover applicants for positions in additional types of facilities licensed by DSHS and for additional service positions contracted by DSHS.

WSP is required to disclose records upon request. The state's liability is limited for any lawful dissemination of information.

Amended Bill Compared to Substitute Bill: The amendment eliminates the requirement that three positive references must be verified before a person may be conditionally hired. It also expands conditional hiring to required national checks.

The amendment requires DSHS to provide notice to a client that the client's individual provider has a disqualifying conviction before denying payment for the services. It does not affect payment for services rendered during the conditional hiring period.

The amendment clarifies that it is the responsibility of the nursing pools, not DOH, to conduct the background checks on nursing pool staff.

The amendment corrects cross references and separates the list of facilities licensed by DSHS from the list of services contracted by DSHS.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The increasing use of long-term care and in-home care providers brings with it an increasing need to address the issue of background checks. Background checks for long-term care and in-home care providers are essential to ensure adequate safety, especially when many of the providers are not otherwise licensed or regulated by the state. Temporary workers referred out through nursing pools also need to be cleared before being referred. As the movement continues to expand background checks in the direction of national checks--which take several months to complete--there is a growing need to clarify the conditions under which people can be provisionally hired.

Testimony Against: None.

Testified: Phyllis Kenney, prime sponsor; Ken Harden, Assistant Secretary, DSHS (pro); Margaret Casey, CHORE and Home Care Association (pro).