

ANALYSIS OF HOUSE BILL 2569

Protecting vulnerable adults.

SPONSORS: Representatives Edmonds and Pflug.

BACKGROUND: The Department of Social and Health Services (DSHS) is required to conduct a criminal background information check on any employee, or contracted individual, licensed agency or facility, who is directly responsible for the care, supervision, or treatment of children, developmentally disabled persons, or vulnerable adults. These include individuals who are paid by the state for the individual provider in-home services and who are hired for that program by individuals with physical disabilities, developmental disabilities, mental illness or mental impairment.

Background checks reveal convictions for crimes against children or other persons, financial exploitation of vulnerable persons, civil findings of child abuse, any protection orders against the applicant, disciplinary board final decisions, and criminal charges filed subsequent to a disciplinary board final decision. Individuals listed above who are found to have committed these offenses are permanently disqualified from employment. If individuals contract with providers who have criminal backgrounds, the DSHS is authorized to withhold payment.

The Washington State Patrol currently maintains a fingerprint database of felony arrests and the outcomes of those arrests for offenses committed in Washington State. Access to national conviction data from the Federal Bureau of Investigation (FBI) is regulated by federal law.

In 1999, the Legislature authorized the DSHS to establish by rule a registry of persons who serve as personal care aides— for people with functional disabilities under contract with the department. The department maintains a registry of nurse aids who work in nursing homes. Their qualifications and any negative history is registered there. There is not one registry that combines all care settings. The existing employee registry does not extend to in-home care, adult family homes and boarding homes.

Suggestions found in the Home Care Quality Improvement Report submitted to the Governor by Secretary Quasim on October 1, 1999, and suggestions by the Washington State Long-term Care Ombudsman to the Governor on December 15, 1999, are incorporated in this bill.

SUMMARY: The department is required to conduct federal and state background checks on any individual provider or home care agency provider who has lived in Washington State less than three years and whose employment allows for unsupervised access to vulnerable adults. It requires that these individuals be fingerprinted to check the conviction record.

The list of crimes that disqualify a person from being employed as an individual provider or a provider in a home care agency is expanded. Individuals whose conviction record shows that they have committed a

drug-related crime are disqualified from working with vulnerable persons. These include, a drug conviction related to the manufacture, delivery or possession with intent to manufacture or deliver a controlled substance.

The department is directed to establish a statewide registry with the names of anyone who has abandoned, abused, financially exploited or neglected vulnerable adults. Allows an officer in an adjudicative proceeding to base their decision upon a preponderance of the evidence for the finding of abandonment, abuse, financial exploitation, or neglect. Out-of-state findings of abandonment, abuse, financial exploitation, or neglect of vulnerable adults or minor children can be used to place an individual's name on the registry.

The DSHS, not just the Area Agency on Aging, is allowed to terminate a contract when the individual provider is not providing adequate care. It allows the department to reject a family member for good cause that indicates that the family member is unable to provide adequate care. The department is directed to develop rules to implement this new authority.

The department is authorized to adopt rules for the registry which specify the notice and appeal rights that are available to the individuals. Once the department has made a finding, the individual is entitled to an adjudicative proceeding. The registry also includes any relevant actions taken against an individual by an in-state or out-of-state agency, disciplining authority or court.

The personal aide registry for self directed care is repealed. The due process provisions for that registry are also repealed.

Appropriation: None.

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