

HOUSE BILL REPORT

ESSB 5606

As Reported by House Committee On:
Children & Family Services

Title: An act relating to making the background check requirements for employees consistent with background check requirements for service providers, agencies, and entities serving vulnerable adults and children.

Brief Description: Regarding background checks.

Sponsors: By Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles and Long; by request of Department of Social and Health Services).

Brief History:

Committee Activity:

Children & Family Services: 3/26/01, 3/28/01 [DPA].

Brief Summary of Engrossed Substitute Bill (As Amended by House Committee)

- Requires a background check investigation be conducted on all current Department of Social and Health Services (DSHS) employees and applicants for state positions who will or may have unsupervised access to children, vulnerable adults, or individuals with mental illness or developmental disabilities.
- Allows the DSHS to disqualify applicants for employment based on a felony conviction, even if it is over 10 years old, so long as the position being sought involves unsupervised access to persons under the age of 18, persons under 21 years under confinement by the Juvenile Rehabilitation Administration, or a vulnerable person.
- Authorizes the State School for the Deaf and the State School for the Blind to conduct pre-employment, fingerprint-based Washington State Patrol (WSP) and a Federal Bureau of Investigation (FBI) records check for positions involving regularly scheduled unsupervised access to children.

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: Do pass as amended. Signed by 8 members: Representatives Boldt, Republican Co-Chair; Tokuda, Democratic Co-Chair; Kagi, Democratic Vice Chair; Morell, Republican Vice Chair; Campbell, Darneille, Dickerson and Miloscia.

Minority Report: Do not pass. Signed by 2 members: Representatives Ballasiotes and Pflug.

Staff: Tracey Taylor (786-7196).

Background:

Criminal history checks for felony convictions are required for many state employees who have direct supervision of a vulnerable population as well as for state agency contractors and their employees, and state agency licensees and their employees if there will be unsupervised access to a vulnerable population. This population includes children, the elderly, and the developmentally disabled. Usually the criminal history check is performed on an applicant prior to hiring or licensing. The criminal history check is performed by the Washington State Patrol and, in some instances, through the Federal Bureau of Investigation.

Currently, employees of the Department of Social and Health Services (DSHS) who have unsupervised access to a vulnerable population may not be required to have a background check. Last year, the Legislature required service providers outside of the department to undergo such a check if there was the possibility for unsupervised access to a vulnerable adult, child, or person with a developmental disability. Only persons being considered for department positions that will be directly responsible for the supervision, care, or treatment of children and the developmentally disabled undergo a background investigation.

Additionally, current law prevents a felony conviction more than 10 years old from being the sole basis for disqualifying a person from employment by the state, one of its subdivisions, or agencies, such as the DSHS. However, in 1993 the Legislature provided an exception to this rule in the issuance of teaching certificates and in employment by school districts, educational service districts, and their contractors. Teaching certificates and employment by schools districts, educational services districts, and their contractors may be denied if an applicant has a guilty plea or conviction involving the sexual exploitation of a minor, a sexual offense involving a minor, or promoting the prostitution of a minor, even if the conviction is over 10 years old.

Summary of Amended Bill:

The DSHS is authorized to investigate current and future employees seeking or being considered for any position with the department who will or may have unsupervised

access to children, vulnerable adults, or individuals with mental illness or developmental disabilities.

The Washington Personnel Resources Board must work with the DSHS to amend any existing state civil service laws and develop and adopt any additional rules necessary to implement this act.

Any background check on current DSHS employees shall not occur until one year after the effective date of this act.

The DSHS is allowed to disqualify applicants for employment based on any felony conviction, even if it is over 10 years old, so long as the position being sought involves unsupervised access to persons under the age of 18, persons under 21 years under confinement by the Juvenile Rehabilitation Administration, or a vulnerable person.

The State School for the Deaf and the State School for the Blind must conduct a pre-employment, fingerprint-based WSP and FBI records check for positions involving regularly scheduled unsupervised access to children. The school may employ an applicant on a conditional basis pending the completion of the check. The requirement may be waived by the school for persons who have had a check within the previous 2 years.

Amended Bill Compared to Engrossed Substitute Bill:

The language authorizing the criminal history checks on current employees and applicants for positions involving unsupervised access to children, vulnerable adults, and individuals with mental illness or developmental disabilities. The Washington Personnel Board is authorized to adopt or amend with the assistance of the DSHS the necessary rules to implement this act. The State School for the Deaf and the State School for the Blind may request the criminal history checks through the Office of the Superintendent for Public Instruction.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: The DSHS has kept the employees' union in the loop through the development of this legislation. The amendments offered help clarify the actual authority for the DSHS to conduct the checks. Adding the State School for the Deaf and the State School for the Blind to the public schools statutes authorizing criminal history checks

makes sense and will only add minimally to the workload of the Office of the Superintendent of Public Instruction.

Testimony Against: None.

Testified: Senator Kohl-Welles, prime sponsor; Bev Hermanson, Washington Federation of State Employees; Sherry McNamara, Department of Social and Health Services; and Ken Kanikeberg, Office of Superintendent of Public Instruction.