

HOUSE BILL REPORT

ESSB 5774

As Passed House - Amended:

April 10, 2007

Title: An act relating to revising background check processes.

Brief Description: Revising background check processes.

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

Brief History:

Committee Activity:

Early Learning & Children's Services: 3/23/07, 3/29/07 [DPA];

Appropriations: 3/31/07, 4/2/07 [DPA(APP w/o ELCS)s].

Floor Activity:

Passed House - Amended: 4/10/07, 98-0.

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

- Requires the Department of Social and Health Services (DSHS) to conduct fingerprint background checks on all foster and adoptive parents and on kinship and kinship-like care givers.
- Authorizes the DSHS to conduct background checks as part of its investigations in response to allegations of child abuse and neglect.
- Authorizes the Department of Early Learning to conduct background checks through the Washington State Patrol for employment and child care licensing and approval processes.
- Makes employees of the Department of Early Learning mandatory reporters of child abuse and neglect.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- Directs the DSHS to convene a workgroup and make recommendations to the Legislature and the Governor regarding improving current processes for sharing of information and conducting background checks.

HOUSE COMMITTEE ON EARLY LEARNING & CHILDREN'S SERVICES

Majority Report: Do pass as amended. Signed by 4 members: Representatives Kagi, Chair; Appleton, Pettigrew and Roberts.

Minority Report: Do not pass. Signed by 2 members: Representatives Haler, Ranking Minority Member and Walsh, Assistant Ranking Minority Member.

Staff: Sydney Forrester (786-7120).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Early Learning & Children's Services. Signed by 34 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Buri, Chandler, Cody, Conway, Darneille, Dunn, Ericks, Fromhold, Grant, Haigh, Hinkle, Hunt, Hunter, Kagi, Kenney, Kessler, Kretz, Linville, McDermott, McDonald, McIntire, Morrell, Pettigrew, Priest, Schual-Berke, Seaquist, P. Sullivan and Walsh.

Staff: Amy Skei (786-7140).

Background:

In 2004, the Legislature created the Joint Task Force on Criminal Background Check Processes (Task Force) to review and make recommendations regarding improvements to the state's criminal background check processes. The Task Force was extended through December 2006. The Task Force reviewed multiple laws governing the background check processes used by the Department of Social and Health Services (DSHS).

Fourteen different state laws address the background check requirements for the DSHS employees and contracted service providers. Within these statutes are different program-specific rules, varying standards for denial of unsupervised access for vulnerable adults and children, and different recheck requirements.

In October 2006, the DSHS presented to the Task Force its proposal for the consolidation into one chapter of the various background check laws. This proposal also incorporated requirements for fingerprint-based background checks required by recently enacted federal law known as the Adam Walsh Act. After stakeholder input, the DSHS proposal was introduced as department-requested legislation.

The Department of Early Learning (DEL) was created by the Legislature in 2005. The DEL conducts background checks through the Washington State Patrol (WSP) as part of its licensing and approval processes for child care and early learning providers.

The concept of mandatory reporting of child abuse and neglect was first enacted in 1971 and required certain persons to report suspected abuse and neglect. Initially, medical professionals, teachers, social workers, clergy, pharmacists, and DSHS employees were designated as mandatory reporters. Since then, the group of mandatory reporters has been expanded. In response to the federal Child Abuse Prevention and Treatment Act of 1974, nearly every state established or expanded mandatory reporting.

Mandatory reporters include any practitioner, county coroner, medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, licensed or certified child care provider or their employees, employee of the DSHS, juvenile probation officer, placement and liaison specialist, Responsible Living Skills program staff, HOPE center staff, or State Family and Children's Ombudsman or any volunteer in the Ombudsman's office. Employees of the DEL are not within this list.

Summary of Amended Bill:

Department of Social and Health Services

The DSHS is directed to conduct fingerprint background checks for all persons seeking to be foster parents, adoptive parents, kinship and kinship-like care givers, and other adults living in these homes.

The DSHS also is authorized to conduct a background check as part of an investigation into allegations of child abuse or neglect.

Department of Early Learning

The WSP statutes are amended to accurately reflect sharing of information with the DEL for purposes of conducting background checks related to agency employment and licensing and approval of child care and early learning providers and other persons who will have unsupervised access to children in care.

Employees of the Department of Early Learning are added to the list of mandatory reporters of suspected child abuse and neglect.

Background Check Workgroup

The DSHS is directed to convene a workgroup to research state and federal laws regarding background checks. The workgroup will include representatives of the DSHS, the DEL, the Office of the Superintendent of Public Instruction, the Department of Licensing, the WSP, the Civil Rights Committee of the Washington State Bar Association, the Washington Association of Criminal Defense Attorneys, the Washington Association of Sheriffs and Police Chiefs, the Administrative Office of the Courts, and the Department of Information Services. The group must also include, as non-voting ex officio members, one representative from each of the two main caucuses in the House of Representatives and the Senate. The Secretary of the DSHS or

the Secretary's designee will serve as chair of the workgroup and staff support will be provided by the DSHS.

The workgroup is directed to undertake three specific tasks:

- (1) review the current federal and state laws and administrative rules and practices with respect to sharing confidential information;
- (2) analyze how state agencies use background check information to make employment decisions, including how such information may disqualify an individual for employment; and
- (3) examine the need for and feasibility of verifying citizenship or immigration status of persons for whom background checks are required.

By November 30, 2008, the workgroup must make recommendations to the Legislature and the Governor regarding improving processes for sharing confidential information, including an analysis of the feasibility of creating a clearinghouse of information. An interim report is required by November 1, 2007.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed. However, sections 6 and 7 of this act are null and void unless funded in the budget.

Staff Summary of Public Testimony: (Early Learning & Children's Services)

(In support) The DSHS supports the provisions to bring the state in compliance with the federal Adam Walsh Act, but has some concerns and is working with the sponsor to address these. The DSHS supports the House companion bill. The DSHS is concerned with some of the amendments that have developed on this bill as those amendments are not funded in the Governor's budget. The DSHS would be in agreement to pay for background checks for foster parents.

The DEL supports compliance with the Adam Walsh Act and the provisions supporting background checks for Working Connections Child Care providers receiving state subsidies. The DEL also supports the provisions of the bill that allow the DEL to conduct its own background checks on DEL staff who may have unsupervised access to children. The technical changes are necessary for the exchange of information with the WSP.

(Opposed) None.

Staff Summary of Public Testimony: (Appropriations)

(In support) We encourage passage of this bill so that the Department of Social and Health Services can implement the requirements of the federal Adam Walsh Act. We appreciate the funding in the House and Senate budgets.

(Opposed) None.

Persons Testifying: (Early Learning & Children's Services) Blake Chard, Department of Social and Health Services; and Peter Antolin, Department of Early Learning.

Persons Testifying: (Appropriations) Stan Marshburn, Department of Social and Health Services.

Persons Signed In To Testify But Not Testifying: (Early Learning & Children's Services) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.