

FINAL BILL REPORT

ESSB 5774

PARTIAL VETO

C 387 L 07

Synopsis as Enacted

Brief Description: Revising background check processes.

Sponsors: 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).

Senate Committee on Human Services & Corrections

Senate Committee on Ways & Means

House Committee on Early Learning & Children's Services

House Committee on Appropriations

Background: Background checks are conducted for employment and licensing decisions and many other purposes related to the security of persons and property. In recent years, reports of abuse of children and vulnerable adults have led to increased requirements for background checks for anyone who works with children or vulnerable adults. Background checks conducted through the Washington State Patrol include information regarding criminal adjudications. Background checks are also available through private data mining companies. The reports provided by private entities have come to include information regarding civil adjudications as well as criminal history record information.

The Joint Task Force on Criminal Background Check Processes was established in 2004 by ESHB 2556 (Chapter 41 of the Laws of 2004). This task force met for three years and considered how to improve the state's criminal background check processes. The task force discovered that there is variance in how authorized agencies, such as the Department of Social and Health Services (DSHS), the Department of Health, and the Department of Licensing, obtain criminal background records on their employees or on persons who contract or are licensed by them. The members of the task force received information regarding the federal and state laws regarding sharing confidential information of prospective employees of public and private entities which work with vulnerable adults or children. The task force recommended the establishment of a work group to explore ways which would ensure consistent and equivalent access to information for all background checks for noncriminal justice purposes.

DSHS requests background check information from the Washington State Patrol to aid in the investigation and litigation of cases of abuse and neglect that may have involved a child, persons with developmental disabilities, or a vulnerable adult. In addition, DSHS requests criminal background record information on prospective applicants who will have unsupervised access to individuals with a developmental disability, persons with mental illnesses, vulnerable adults, or children. Conviction history record information obtained through the Washington State Patrol includes all available convictions, arrests under one year old without

disposition, and sex and kidnapping offender registrations. DSHS is authorized by the Legislature to conduct national fingerprint-based background checks on individuals who have resided outside of the state of Washington in the past three years and will be providing services to people with disabilities, children, or vulnerable adults receiving in-home services.

In June 2006, the federal government enacted the Adam Walsh Act, which requires the state, prior to placing a child in a home, to conduct the following background checks on any prospective foster parent, adoptive parent, kinship care provider, and any other adult living in the home: (1) fingerprint criminal background check against the national crime information database; or (2) search in the state's child abuse and neglect registry, or if the adult resided in a different state(s) in the preceding five years, any other state's child abuse and neglect registry.

Summary: The state, prior to placing a child in a home, must conduct the following background checks on any prospective foster parent, adoptive parent, kinship care provider, and any other adult living in the home: (1) fingerprint criminal background check against the national crime information database; (2) search in the state's child abuse and neglect registry; and (3) if the adult resided in a different state in the preceding five years, that state's child abuse and neglect registry. DSHS is required to convene a work group to research state and federal laws regarding background checks. The work group is to include representatives of DSHS, the Department of Early Learning, the Office of the Superintendent of Public Instruction, the Department of Licensing, the Washington State Patrol, 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 nonvoting ex officio members, representatives from the two largest caucuses in the House of Representatives and the Senate. The group is required to make recommendations to the Legislature and the Governor regarding improving processes for sharing confidential information. These recommendations will also include an analysis of the feasibility of creating a clearinghouse of information, and will analyze the need for and feasibility of verifying the citizenship or immigration status of persons for whom background checks are required, and analyze the way background check information is used in employment decisions. The report of the work group is due to the Legislature by November 30, 2008.

Votes on Final Passage:

Senate	45	0	
House	98	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: July 22, 2007

Partial Veto Summary: The requirement for DSHS to convene a work group and report to the Legislature is removed.