

HOUSE BILL REPORT

HB 1419

As Passed Legislature

Title: An act relating to allowing the department of early learning and the department of social and health services to share background check information.

Brief Description: Allowing the department of early learning and the department of social and health services to share background check information.

Sponsors: Representatives Kagi, Roberts and Dickerson; by request of Department of Early Learning.

Brief History:

Committee Activity:

Early Learning & Human Services: 2/1/11, 2/17/11 [DP].

Floor Activity:

Passed House: 2/28/11, 95-0.

Senate Amended.

Passed Senate: 4/12/11, 46-1.

House Concurred.

Passed House: 4/15/11, 96-0.

Passed Legislature.

Brief Summary of Bill

- Requires the Department of Social and Health Services and the Department of Early Learning to share fingerprint-based background check results regarding individuals who may have unsupervised access to vulnerable children or adults in licensed care.
- Defines unsupervised versus incidental contact with respect to peer counselors; defines peer counselor.
- Removes "patronizing a juvenile prostitute" and adds "commercial sexual abuse of a minor" to the list of crimes against children.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

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.

Majority Report: Do pass. Signed by 9 members: Representatives Kagi, Chair; Roberts, Vice Chair; Walsh, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Dickerson, Goodman, Johnson, Orwall and Overstreet.

Staff: Megan Palchak (786-7120).

Background:

Criminal History Background Checks.

The Department of Social and Health Services (DSHS) and the Department of Early Learning (DEL) are both authorized to examine state and national criminal information regarding any person who may have unsupervised access to children or vulnerable adults in licensed care. National criminal history information is obtained through the Federal Bureau of Investigation (FBI) via fingerprints. The DEL is required to obtain a fingerprint-based background check on applicants who have not resided in Washington for three years. Background checks conducted on behalf of the DSHS and the DEL are completed in coordination with the DSHS Background Check Central Unit (BCCU), which processes and stores the information. Background check results requested by one agency are not shared with another.

Commercial Sexual Abuse of Minor.

The term "patronizing a juvenile prostitute" was changed to "commercial sexual abuse of a minor" in 2007. Commercial sexual abuse of a minor is a class B felony.

Summary of Bill:

Criminal History Background Checks.

The DSHS's authorization to examine state and national criminal identification data is changed to a requirement to complete fingerprint-based background checks through both the Washington State Patrol and the FBI. The DEL and the DSHS are required to share federal fingerprint-based background check results in order to fulfill their joint responsibility to check the background of any individual who may have unsupervised access to vulnerable children or adults.

A peer counselor is not considered to have unsupervised contact with a child under the age of 16 when the contact is incidental contact and the contact occurs at the location where the peer counseling takes place. With regard to peer counselors, incidental contact is defined as minor or casual contact with a child in an area accessible to and within visual and auditory range of others. Incidental contact could include passing a child while walking down a hallway but would not include being alone with a child for any period of time in a closed room or office. A peer counselor is defined as a nonprofessional person who has equal standing with another person and provides advice on a topic about which the nonprofessional person is more experienced or knowledgeable; a peer counselor must be a counselor for a peer counseling program that contracts with or is otherwise approved by the DSHS, another state or local agency, or the court.

Commercial Sexual Abuse of a Minor.

Patronizing a juvenile prostitute is deleted from the list of crimes against children and commercial sexual abuse of a minor is added.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Statute does not allow the DEL and the DSHS to share the results to fulfill their requirements. This is an efficiency measure. The FBI has reviewed and approved the language. The DEL is interested in portable background check clearance.

(In support with concerns) "In a timely manner" is missing from this bill. There was a time when some providers were getting background checks in a timely manner (seven days). It can take months to get the background check back now. Providers pay two staff members for the same work that one person could do until the background check clears. Subsidized centers do not have funds to do this. Background clearances do not cover staff when they go to different centers to be eligible to work in any of those centers. One center that is 98 percent state subsidized just does not have the funds to keep up with these rules. Someone can go to their child's school and get a background check done in days, yet for a child care center it takes months. There is a need for language in the bill regarding a timeline.

(Information only) For a basic background check without fingerprints, it costs about \$1. It costs about \$85 for a full fingerprint background check. The new process for a fingerprint background check (electronic scans) is around \$35 (which includes state and FBI fees). Providers pay for background check costs. The error rate was about 30 percent rejected fingerprints, but the error rate will go down and results will come back more quickly. The FBI has stated that the DEL and the DSHS could share the results if the two agencies have it stated in statute. Otherwise, the results go to the requester. It does not take more than 14 days to get background checks done if there is nothing more to look into. If there is something to look into, it takes staff time to review the situation.

(Opposed) None.

Persons Testifying: (In support) Representative Kagi, prime sponsor; and Amy Blondin, Department of Early Learning.

(In support with concerns) Marcine McLaughlin, American Teachers Association and Washington Educators in Early Learning.

(Information only) Judy Jaramillo, Department of Early Learning.

Persons Signed In To Testify But Not Testifying: None.