

HOUSE BILL REPORT

HB 1419

As Amended by the Senate

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.

Brief Summary of Bill

- Requires the Department of Social and Health Services and the Department of Early Learning to share federal fingerprint-based background check information results to fulfill their respective background check responsibilities.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

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:

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.

Prior to July 1, 2006, the Department of Early Learning (DEL) existed within the Department of Social and Health Services (DSHS) as the Division of Child Care and Early Learning (DCCEL). One function of the DCCEL was to perform background checks on applicants for child care licenses and early learning service. When the DEL became an independent agency, background check rules that applied to the DCCEL became obsolete for the purposes of regulating licensed child care and early learning services. Emergency rules were adopted to allow the DEL to perform background checks independently of the DSHS.

The DSHS is required to investigate the conviction records, pending charges, and disciplinary board final decisions of any person who will or may have unsupervised access to children or vulnerable adults. The investigation may include an examination of state and national criminal data. The DSHS conducts fingerprint-based background checks through the Washington State Patrol (WSP) and the Federal Bureau of Investigation (FBI). The DSHS may require fingerprint-based background checks on applicants or service providers through the WSP and the FBI *at any time*, but shall require a fingerprint-based background check when the applicant or service provider has resided in the state for less than three years.

The DEL, in consultation with law enforcement personnel, is required to investigate the conviction record or pending charges of each agency and its staff seeking re-licensure, and other persons having unsupervised access to children. When considering the character, suitability, and competence of applicants, the DEL is required to fingerprint applicants who have not resided in Washington for three years prior to application. Fingerprints shall be forwarded to the WSP and the FBI.

Summary of Bill:

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

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment (1) changes the definition of a crime against children by removing "patronizing a juvenile prostitute" and adding "commercial sexual abuse of a minor;" (2) provides that a peer counselor is not considered to have unsupervised contact with a child under the age of 16 when the contact is incidental and the contact occurs at the location where the peer counseling takes place; (3) defines incidental contact as minor or casual contact with a child in an area accessible to and within visual and auditory range of others; and (4) defines peer counselor, and provides that a peer counselor must be a counselor for a program that contracts with, or is otherwise approved by the DSHS, another state agency, or the court.

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.