

# SENATE BILL REPORT

## 2SHB 1903

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As of March 18, 2011

**Title:** An act relating to background checks for child care licensees and employees.

**Brief Description:** Requiring background checks for all child care licensees and employees.

**Sponsors:** House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Orwall, Goodman, Roberts, Reykdal, Kagi, Kenney and Kelley).

**Brief History:** Passed House: 3/02/11, 94-3.

**Committee Activity:** Human Services & Corrections: 3/18/11.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Staff:** Kevin Black (786-7747)

**Background:** The Department of Early Learning (DEL) conducts criminal background checks in cooperation with the Department of Social and Health Services and the Washington State Patrol on behalf of agencies and employees who apply to provide child care and early learning services to children. If the applicant has not resided in the state of Washington during the three-year period prior to the application, the check must be a fingerprint-based background check. The licensed child care provider must bear the cost of a fingerprint-based background check, and may not pass this cost on to the employee or prospective employee, unless the employee is later determined to be unsuitable based on his or her criminal record.

A license to operate a child care agency is issued for a period of three years and is not transferable to a different licensee or to a different location. An application for the renewal of a license must be submitted 90 days before the expiration of the current license. The fee charged for the license may not exceed DEL's cost for the licensure but may include the cost of necessary inspections.

**Summary of Bill:** DEL must establish a portable background check clearance registry by July 1, 2012. All new applicants for an agency license or for employment at a child care agency must undergo a fingerprint-based background check effective July 1, 2012. The fee for the fingerprint-based background check, the cost of the fingerprints, and a \$10 fee for the cost of administering the portable background check clearance registry must be paid by the applicant.

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*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.*

No later than July 1, 2013, all child care agency licensees and employees who were licensed before July 1, 2012, must submit a new background application to DEL, and pay an additional fee of \$10 to cover the cost of administering the portable background check clearance registry. DEL must issue a background clearance check card or certificate to the applicant if it concludes that the applicant is qualified for unsupervised access to children in care. The background clearance card or certificate is good for three years and is transferable to different jobs and locations. A potential employer must accept this card or certificate as proof that the applicant has completed a background check. An application for the renewal of a background clearance card or certificate must be submitted 120 days before the expiration of the current card or certificate.

Individuals who have been issued a background clearance card or certificate must provide conviction and non-conviction information to DEL within 24 hours of the event. Non-conviction information is defined as an arrest, founded allegations of child abuse or neglect, or any court order or judgment against the applicant in any state, federal, tribal, or foreign jurisdiction which relates to the character, suitability, or competence of the individual to care for or have unsupervised access to children in child care.

DEL must investigate and redetermine an individual's background clearance if it receives a complaint or information about the individual from a person, law enforcement agency, or government agency. If DEL determines that an individual lacks the appropriate character, suitability, or competence to provide child care it may invalidate the background clearance card or certificate and suspend, modify, or revoke the license of the individual.

An individual-based portable background check clearance account is created in the custody of the State Treasurer. Expenditures from this account may be used only for development, administration, and implementation of the portable background check clearance registry and must be authorized by the Director of DEL or the Director's designee. The \$10 background check fee must be deposited in this account.

Effective July 1, 2011, all DEL licensees must pay a one-time fee of \$50. The revenues of this fee must be deposited in the individual-based portable background check clearance account.

**Appropriation:** None.

**Fiscal Note:** Available.

[OFM requested ten-year cost projection pursuant to I-960.]

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains several effective dates. Please refer to the bill.

**Staff Summary of Public Testimony:** PRO: This bill is designed to make sure that every child care worker undergoes a fingerprint-based background check. Other states have had success with portable background checks. We support the bill but are concerned that the fees to be charged may be excessive. We should make sure that the background check cards are up to date.

CON: We oppose the idea of forcing the employee to pay for the background checks. Employees already face significant costs of employment for a low wage job and cannot afford the extra burden. We don't want to pass the cost of background checks onto our employees. We already require child care workers to be fingerprinted, but we want it to be done through the Office of the Superintendent of Public Instruction which is more efficient than DEL.

OTHER: The portable license could be a benefit to agencies, which have to utilize double staffing while background checks are being completed, and also a benefit to employees in changing jobs. We have tried to make the fiscal note as streamlined as possible.

**Persons Testifying:** PRO: Representative Orwall, prime sponsor; Lonnie Johns-Brown, Service Employees International Union.

CON: Bill Bauman, Children Northwest; Kristi Baker, Southwest Child Care Consortium.

OTHER: Amy Blondin, Bob McLellan, DEL.