

HOUSE BILL REPORT

HB 2535

As Reported by House Committee On: Early Learning & Human Services

Title: An act relating to review of licensing and employment decisions by the children's administration.

Brief Description: Concerning review of licensing, unsupervised access to children, and employment decisions by the children's administration.

Sponsors: Representatives Freeman, Goodman, Walsh, Kochmar, S. Hunt, Wylie, Stonier, Haler, Scott, Sawyer, Kagi, Green and Haigh.

Brief History:

Committee Activity:

Early Learning & Human Services: 1/29/14, 2/5/14 [DPS].

Brief Summary of Substitute Bill

- Requires the Department of Social and Health Services (DSHS) to share background check information regarding a potential employee of an agency contracting with the Children's Administration (CA).
- Allows an agency contracting with the CA to hire an employee that would be precluded from employment with the DSHS based on results of a background check, but if they do, they assume all liability for the employment decision.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Kagi, Chair; Freeman, Vice Chair; Walsh, Ranking Minority Member; Goodman, Ortiz-Self, Roberts, Sawyer, Senn and Zeiger.

Minority Report: Do not pass. Signed by 4 members: Representatives Scott, Assistant Ranking Minority Member; Fagan, MacEwen and Young.

Staff: Luke Wickham (786-7146).

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.

The Secretary of the Department of Social and Health Services (DSHS) maintains different lists of crimes and negative actions that would prevent an individual from working or serving with unsupervised access to vulnerable adults, juveniles, and children. The crimes included on this list are designated either as permanent disqualifiers or disqualifiers for five years, after which an overall assessment of the persons character, competence, and suitability to have unsupervised access will determine denial. Individuals with pending charges contained on the list are denied unsupervised access until a determination is made by a court.

Negative actions on the DSHS Secretary's list include:

- a finding that an individual abused, neglected, exploited, or abandoned a vulnerable adult, juvenile, or child issued by an agency, Administrative Law Judge, or court of law;
- termination, revocation, suspension, or denial of a license, certification, and/or state or federal contract;
- relinquishment of a license, certification, or contract in lieu of an agency negative action;
- revocation, suspension, denial, or restriction placed on a professional license; and
- Department of Health disciplinary authority finding.

The DSHS may grant an administrative waiver for a person with a disqualifying crime or negative action. This process is initiated by a DSHS social worker, licenser, or contract manager, who may determine that allowing an individual with a listed crime or negative action would not jeopardize the child's health or safety.

The Children's Administration (CA) contracts with various individuals and agencies to provide services. The services provided through these contracting agencies and individuals include child placement, family preservation services, behavior rehabilitation, and incredible years parent training, among others.

The DSHS is required to provide notice, the right to an adjudicative proceeding, and evidentiary standards to individuals or agencies whose licenses are suspended, revoked, modified, or not renewed. These adjudicative proceedings are subject to the Administrative Procedures Act.

Summary of Substitute Bill:

The DSHS is required to share background check information of a potential employee with an agency contracting with the CA after that employee provides written permission. If a contracting agency is provided that information and chooses to hire an individual that would be precluded from employment with the DSHS based on a disqualifying crime or negative action, the contracting agency assumes all liability for the employment decision.

Substitute Bill Compared to Original Bill:

The substitute bill does the following:

- removes the ability of individuals denied licensure, employment, or unsupervised access to children by the CA based on the results of a background check to request an internal review;
- removes the ability for individuals denied employment with a contracting agency of the CA based on the results of a background check to access an adjudicative proceeding; and
- requires the DSHS to share background check information of a potential employee with a contracting agency after that employee provides written permission. If a contracting agency is provided that information and chooses to hire an individual that would be precluded from employment with the DSHS based on a disqualifying crime or negative action, the contracting agency assumes all liability for the employment decision.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 7, 2014.

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

Staff Summary of Public Testimony:

(In support) This bill gives individuals who seek employment with a private agency recourse to appeal an employment denial that is based on the results of a background check. Private agencies already use background checks. Right now there is no appeal for individuals who are denied employment with a contracted agency. These background check requirements often prevent contracted agencies from employing persons of color. It would be helpful for the state to match the Secretary's list with the Adoption and Safe Families Act (Act) requirements, because right now the Secretary's list contains more crimes and negative actions than are required under the Act. There are discrepancies between those who are getting a license, working for a licensed agency, or working for a contracted agency.

(Opposed) If you are denied a license by the DSHS, there is already an administrative process. The fiscal impact is \$2.1 million this biennium and \$4.2 million next biennium. There is discussion regarding an amendment to the bill to provide contracted agencies with background check information and then let them determine whether to hire those individuals.

Persons Testifying: (In support) Representative Freeman, prime sponsor; Mary Fischer and Sarah England, Institute for Family Development; Laurie Lippold, Partners for Our Children; Stacy Gehringer; and William Knight.

(Opposed) Jennifer Strus, Department of Social and Health Services.

Persons Signed In To Testify But Not Testifying: None.