
Early Learning & Human Services Committee

SSB 6095

Brief Description: Addressing background checks for persons who will have access to children or vulnerable adults.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Kline and Roach).

Brief Summary of Substitute Bill

- Allows Department of Social and Health Services (DSHS) to place a child in the home of a relative or other suitable person before a fingerprint-based background check is completed after a dependency fact-finding.
- Allows individuals to be considered for employment in positions providing care and treatment to vulnerable adults even if they have criminal convictions, if those convictions were reviewed by DSHS in 2002 and DSHS determined that the conviction would not prevent their employment or were the subject of a pardon, annulment or similar procedure.
- Prevents disqualification of individuals applying for positions regulated by DSHS based on criminal history if that criminal history was reviewed by DSHS in 2002 and DSHS determined that the criminal history would not prevent employment or was the subject of a pardon, annulment or similar procedure.

Hearing Date: 2/20/14

Staff: Luke Wickham (786-7146).

Background:

Child Placement in Dependency Proceedings.

When a child is removed from his or her parents after a shelter care hearing, if the court places the child with a relative or suitable person, a background check does not need to be completed

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before placement, but should be completed as soon as possible after placement, if the individual appears otherwise suitable and competent to provide care and treatment.

Secretary's Lists.

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
- a 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.

Adoption and Safe Families Act of 1997 Disqualifying Crimes.

The Adoption and Safe Families Act of 1997 (ASFA) requires that a procedure exist for providing criminal record checks, including fingerprint-based checks of national crime databases, for any prospective foster or adoptive parent before final placement approval. The ASFA also designates certain crimes for which final approval cannot be granted, including felony convictions for child abuse or neglect, spousal abuse, a crime against children, or crimes involving violence including rape, sexual assault, or homicide, but not including physical assault or battery. The ASFA designates certain crimes for which final placement approval cannot be granted if those crimes were committed within the last five years, including felony convictions for physical assault, battery, or drug related offenses.

Exemptions for Employees Providing Care and Treatment to Vulnerable Adults with Criminal History.

An agency, facility, or individual that provides care and treatment to vulnerable adults must meet certain licensure requirements through the DSHS and the Department of Health. One of these requirements is that persons associated with these agencies or facilities having unsupervised access to vulnerable adults are not convicted of certain crimes against persons. However, there are exceptions to this requirement, including:

- if the offense was assault in the fourth degree and three years have passed;
- if the offense was prostitution and three years have passed;
- if the offense was theft in the third degree and three years have passed;
- if the offense was theft in the second degree and five years have passed; or

- if the offense was forgery and five years have passed.

Summary of Bill:

After a court finding that a child is dependent, DSHS may place a child in the home of a relative or other suitable person even if the fingerprint-based background check does is not completed before placement, if the individual appears otherwise suitable and competent to provide care and treatment. The DSHS cannot automatically disqualify a relative or other suitable person in these circumstances based on standards that are more extensive than the guidelines provided in the ASFA. The state may not be held liable for a relative or other suitable person placement decision unless the state acted with reckless disregard.

Individuals whose criminal history would otherwise disqualify them from employment in a position that involves unsupervised access to children, vulnerable adults, or persons with mental illness or developmental disabilities cannot be disqualified if the DSHS reviewed that individual's criminal history through a background assessment review team process in 2002 and determined that the individual could remain in a similar position, or if the disqualifying conviction was the subject of a pardon, annulment, or other equivalent procedure.

Appropriation: None.

Fiscal Note: Available.

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