

SENATE BILL REPORT

ESHB 2535

As Reported by Senate Committee On:
Human Services & Corrections, February 27, 2014

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: House Committee on Early Learning & Human Services (originally sponsored by Representatives Freeman, Goodman, Walsh, Kochmar, S. Hunt, Wylie, Stonier, Haler, Scott, Sawyer, Kagi, Green and Haigh).

Brief History: Passed House: 2/14/14, 97-0.

Committee Activity: Human Services & Corrections: 2/25/14, 2/27/14 [DPA, w/oRec].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

Signed by Senators O'Ban, Chair; Pearson, Vice Chair; Darneille, Ranking Member; Hargrove.

Minority Report: That it be referred without recommendation.

Signed by Senator Padden.

Staff: Kevin Black (786-7747)

Background: The Children's Administration (CA) of the Department of Social and Health Services (DSHS) obtains background information through background checks for persons seeking a license or employment allowing unsupervised access to children. Information obtained through background checks includes both criminal history and a history of negative actions, such as findings of abuse, neglect, abandonment, or exploitation. CA obtains background information for agencies and facilities which are operated directly by the state, and for agencies which operate independently under state contract.

According to published CA policy, CA staff must disqualify a person from employment or licensure requiring unsupervised access to children based upon a document called the DSHS Secretary's List of Disqualifying Crimes & Negative Actions (Secretary's List). The

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Secretary's List identifies crimes and negative actions, such as a finding of child abuse or neglect, that may trigger a disqualification. The crimes and negative actions on the Secretary's List may be identified as permanent disqualifiers or five-year disqualifiers. When CA staff identifies crimes or negative actions which either do not appear as a permanent disqualifier or do not appear as a five-year disqualifier while the person is still within the five-year disqualification period, CA staff must perform an administrative review of the character and suitability of the person to obtain the requested license or employment with reference to an enumerated list of factors. CA policy states that in rare circumstances an administrative approval or waiver may be granted to authorize an exception for a person with a disqualifying crime or negative action. This waiver must be requested by a social worker, licensur, or contract manager and submitted to the CA Assistant Secretary or, in some circumstances, a regional administrator or area administrator.

The Adoption and Safe Families Act of 1997 (ASFA) is an act of Congress. ASFA provides that no federal Title IV-E funds or adoption support funds may be used to support placements of children with persons who have a history of certain crimes. In some instances, the list of crimes provided by ASFA is less extensive than the Secretary's List in that a crime listed as a permanent disqualifier by the Secretary's List is listed as a five-year disqualifier by ASFA, or a crime listed as a permanent or five-year disqualifier by the Secretary's List does not appear on the ASFA list. The negative action of a finding of child abuse or neglect is not listed as a permanent or five-year disqualifier by ASFA.

Summary of Bill (Recommended Amendments): If an agency operating under contract with CA chooses to hire a person who would be precluded from employment with DSHS based on a disqualifying crime or negative action, DSHS and its officers and employees are not liable for harm to a child or DSHS client attributable to such person.

CA must not deny or delay a license or approval of unsupervised access to children based solely on a crime or infraction that is not disqualifying under AFSA, or does not relate directly to child safety, permanence, or wellbeing.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Amendments): The amendments are technical and do not change the substance of the underlying bill.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Substitute House Bill: PRO: There are not adequate numbers of providers able to work with dependent children. This bill would allow persons who have had a negative event in their history to work with children if the agency who sponsors them is willing to assume the liability. This is important, because parents have a very short timeframe to participate in services in order to get their children

back. The ASFA list is a better list for child safety than the Secretary's List. Our agency does its own background checks and we would never hire a person who we think could be a danger to the children we serve. There are not uniform guidelines about what crimes or negative actions make a person unsuitable; people are sometimes denied for reasons unrelated to child safety. We support the liability limitation, and look forward to making our own staff selection decisions. Based on my history of inconsistent approvals and denials from CA, I believe CA should not have the final say over who agencies hire. This bill will help allow people move beyond the circumstance they were involved with when things have been remedied, their past is behind them, and they have moved on. This bill will allow them to take on new responsibilities while keeping children safe. Persons with lived experience of the child welfare system can be a great help to parents who are currently struggling if their background check does not prevent their employment. Current background check policies should be reformed, because now that I have changed my life I would like to be able to volunteer at my granddaughter's school and to adopt my daughter's little sister who is in a dangerous situation.

Persons Testifying: PRO: Representative Freeman, prime sponsor; Mary Fischer, Sarah England, Institute for Family Development; Laurie Lippold, Partners for Our Children; Tonia Morrison, William Knight, veteran parents.