

SENATE BILL REPORT

SB 6168

As Reported by Senate Committee On:
Human Services & Corrections, February 5, 2014

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

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

Sponsors: Senators Rivers, Eide, Hargrove, Padden, Fraser, Honeyford and Rolfes.

Brief History:

Committee Activity: Human Services & Corrections: 1/20/14, 2/05/14 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6168 be substituted therefor, and the substitute bill do pass.

Signed by Senators O'Ban, Chair; Pearson, Vice Chair; Darneille, Ranking Member; Hargrove and 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. Background checks include both criminal history and a history of negative actions, such as findings of abuse, neglect, abandonment, or exploitation. CA obtains background checks for employees and potential employees of agencies and facilities that are both operated directly by the state, and those which are operated by state contractors and applicants for state contracts.

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 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

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disqualifier or do not appear as a five-year disqualifier while the person is still within the five-year disqualification window, 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, licenser, or contract manager and submitted to the CA Assistant Secretary or, in some circumstances, a regional administrator or area administrator.

A person or agency that is denied a license or renewal of a license by CA or another subdivision of DSHS may appeal the denial of a license at an adjudicative hearing before an administrative law judge.

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 Substitute): DSHS must provide background check information to an agency operating under contract with CA concerning an employee or potential employee upon receipt of written permission from the employee or potential employee. The agency may use the background check information to determine whether or not to hire the person. If the agency chooses to hire a person who would be precluded from employment with DSHS based on a disqualifying crime or negative action, DSHS is not liable for harm to a child or DSHS client attributable to such person.

CA may not deny or delay a license or approval of unsupervised access to children based on a crime that does not fall within AFSA, or does not relate directly to child safety, permanence, or wellbeing.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute): DSHS must provide background check information to an agency operating under contract with CA concerning an employee or potential employee upon receipt of written permission from the employee or potential employee. The agency may use the background check information to determine whether or not to hire the person. If the agency chooses to hire a person who would be precluded from employment with DSHS based on a disqualifying crime or negative action, DSHS is not liable for harm to a child or DSHS client attributable to such person.

CA may not deny or delay a license or approval of unsupervised access to children based on a crime that does not fall within ASFA, or does not relate directly to child safety, permanence, or wellbeing.

Provisions concerning access to an internal administrative review or external administrative hearing based on a denial of license or opportunity for employment are removed.

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 Original Bill: PRO: We share the state's mission to protect children. Applicants for employment should have the same access to an appeal as applicants for licenses. The current process disproportionately affects minority populations and restricts our ability to hire a diverse workforce. I was affected by an error that caused me to fail a background check, and no one could provide me with information on how to rectify this error. I was cleared after six months because of my connections, which new applicants to the system would not have. This bill would give me an avenue to be able to work with vulnerable street kids after I receive my degree. We need to provide people with pathways to get beyond the problems that led them to be involved with the system. Some of our most effective staff members are people with lived experience of the system, whose experience helps them reach out effectively to troubled families. The waiver process for crimes and negative actions fails our community in the way it is currently constituted.

CON: We oppose this bill because of its enormous fiscal impact. If the Legislature authorizes private agencies to determine whether someone should be employed in positions in which they will have unsupervised access to children, DSHS should be absolved from liability.

Persons Testifying: PRO: Mary Fischer, Jill Salak, Institute for Family Development; Heather Njarkvik-Shreckengost, SnoPac; Seth Dawson, WA Assn. for Children & Families; Laurie Lippold, Partners for Our Children; Mary Stone-Smith, Catholic Community Services Western WA; Kimberly Mays, Shayne Rochester, citizens.

CON: Jennifer Strus, DSHS.

Signed in, Unable to Testify & Submitted Written Testimony: OTHER: Patrick Dowd, Office of the Family & Children's Ombuds.