
Early Learning & Human Services Committee

HB 2621

Brief Description: Concerning the department of early learning's access to records and personal information for purposes of determining character and suitability of child care workers.

Sponsors: Representatives Kagi, Walsh, Senn, Stokesbary, Lytton, Magendanz, Muri and Goodman; by request of Department of Early Learning.

Brief Summary of Bill

- Directs the Department of Early Learning (DEL) to obtain records, reports, and personal information concerning child abuse or neglect from the Department of Social and Health Services (DSHS) for the purposes of conducting federally required background checks on all individuals who have unsupervised access to children in child care.
- Eliminates the requirement that the DSHS destroy records concerning screened out, unfounded, and inconclusive reports of child abuse and neglect.
- Expands the definition of juvenile justice or care agency to include the DEL for the purposes of conducting investigations and backgrounds checks to determine the character and suitability of child care workers.

Hearing Date: 1/26/16

Staff: Ashley Paintner (786-7120).

Background:

Background Check Requirements for Child Care Providers.

The Department of Early Learning (DEL) oversees and regulates child care licensing in Washington. In this capacity, the DEL conducts background checks to find and evaluate any history of arrests, convictions, negative actions, or other information that raises concern about an

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individual's character, suitability, or competence to care for or have unsupervised access to children in care.

The Department of Early Learning's Federal Background Check Requirements. In 2014, the President signed the Child Care and Development Block Grant Act into law. The law reauthorized the Child Care and Development Fund (CCDF) program and made expansive changes to protect the health and safety of children in child care. In order to receive CCDF funds, a state must establish background check requirements for individuals who have unsupervised access to children in child care. A comprehensive background check must be conducted at least once every 5 years. The criminal background check process must include a search of state-based child abuse and neglect registries and databases. A child care provider is ineligible to provide care if such individual:

- refuses to consent to the criminal background check;
- knowingly makes a materially false statement in connection with such criminal background check;
- is registered, or is required to be registered, as a sex offender;
- has been convicted of a felony consisting of murder; child abuse or neglect; a crime against children; spousal abuse; a crime involving rape or sexual assault; kidnapping; arson; physical assault; or a drug-related offense committed during the preceding 5 years; or
- has been convicted of a violent misdemeanor committed as an adult against a child, including child abuse, child endangerment, sexual assault, or a misdemeanor involving child pornography.

The DEL is required to provide the results of background checks to child care providers in a statement that indicates whether the provider is eligible or ineligible. The DEL may not publicly release the results of individual background checks.

Records of Child Abuse or Neglect.

The Children's Administration (CA) of the Department of Social and Health Services (DSHS) investigates allegations of child abuse and neglect. After receiving a child abuse or neglect report, the CA must determine whether to investigate the allegation. Screened out reports of child abuse or neglect are those that the CA determines to be not credible and are not referred for investigation.

Results of Child Abuse and Neglect Investigations. The CA investigates all reports that do not screen out. After an investigation is complete, the CA will make a founded or unfounded determination. A founded determination means that based on available information, it is more likely than not that child abuse or neglect did occur. An unfounded determination means that more likely than not, child abuse or neglect did not occur, or that there is insufficient evidence to determine whether the alleged child abuse occurred. Until 2008 the CA also made inconclusive determinations. This meant that a child abuse or neglect decision could not be made on a more likely than not basis.

Screened Out, Unfounded, and Inconclusive Investigation Records. In 2007 the Legislature enacted Substitute Senate Bill 5321, which requires the CA to destroy all records relating to the following child abuse and neglect referrals:

- for screened out referrals within three years from receipt of the report; and

- for unfounded and inconclusive referrals within six years of completion of the investigation, unless a prior or subsequent founded referral has been received regarding the child who is the subject of the report, a sibling or half-sibling of the child, or a parent, guardian, or legal custodian of the child.

Disclosing Family Assessment Response Records. In 2012 the Legislature created the Family Assessment Response (FAR) program. The FAR program is a method of responding to certain reports of child abuse or neglect that does not involve an investigation and where voluntary services are provided. No information about a family's participation in the FAR program may be disclosed to a child-placing agency or any other agency receiving children without consent of the subject of the report, unless:

- the individual seeks to become a licensed foster parent or adoptive parent; or
- the individual is the parent or legal guardian of a child being served by one of the agencies.

Summary of Bill:

Background Check Requirements for Child Care Providers.

To satisfy the DEL's background check requirements for child care providers and other persons having unsupervised access to children in care, the DEL is directed to obtain records, reports, and personal information concerning child abuse or neglect from the DSHS. The records must include civil adjudication proceeding records, and investigative records and files held by the DSHS that pertain to founded findings of abuse or neglect, unfounded allegations of abuse or neglect, allegations of abuse or neglect for which there is not a finding, and ongoing investigations of abuse or neglect. A person's physical or mental health medical reports and drug and alcohol evaluations must not be disclosed to the DEL without the person's consent. Additionally, a person's adoption records must not be shared with the DEL. The Director of the DEL is directed to adopt rules and investigate records, reports and personal information concerning child abuse or neglect for the purposes of carrying out the DEL's background check requirements.

Records of Child Abuse or Neglect.

The following requirements are eliminated:

- The DSHS must destroy all records concerning screened out reports of child abuse and neglect within three years.
- The DSHS must destroy all records of unfounded or inconclusive reports within six years of completing an investigation, unless a prior or subsequent founded report has been received regarding the child who is the subject of the report, a sibling or half-sibling of the child, or a parent, guardian, or legal custodian of the child.

Exceptions to the rule that no unfounded, screened-out, or inconclusive report or information about a family's participation in the FAR program may be disclosed to a child-placing agency, private adoption agency, or any other agency receiving children, expectant mothers, or developmentally disabled persons for supervision or care are eliminated.

Appropriation: None.

Fiscal Note: Available.

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