

SENATE BILL REPORT

SB 6391

As Reported by Senate Committee On:
Human Services, Mental Health & Housing, February 4, 2016

Title: An act relating to background checks in emergency placement situations requested by tribes.

Brief Description: Concerning background checks in emergency placement situations requested by tribes.

Sponsors: Senators Braun, Fraser, McCoy, Hasegawa and Chase.

Brief History:

Committee Activity: Human Services, Mental Health & Housing: 1/25/16, 2/01/16, 2/02/16, 2/04/16 [DPS-WM].

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Majority Report: That Substitute Senate Bill No. 6391 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators O'Ban, Chair; Miloscia, Vice Chair; Darneille, Ranking Minority Member; Hargrove and Padden.

Staff: Kevin Black (786-7747)

Background: A child may be taken into custody and placed into emergency out-of-home care by a court order, obtained through the dependency process, alleging reasonable grounds that a child's health, safety, or welfare may be seriously endangered and at risk of imminent harm; or by a law enforcement officer without a court order, when there is probable cause to believe that the child is abused or neglected and would be injured, or could not subsequently be taken into custody, if it were necessary to first obtain a court order. When a child is placed in emergency out-of-home care, the Department of Social and Health Services (DSHS) must perform a federal name-based criminal history check for each adult residing in the home of the potential placement resource. Once these results are received, DSHS must provide a complete set of fingerprints to the Washington State Patrol (WSP) to submit to the Federal Bureau of Investigation (FBI) within 14 days. The child must be removed from the placement if the fingerprints and written permission to perform the check are not provided within the 14-day timeframe.

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.

DSHS may request name-based criminal history checks directly from the FBI by special arrangement enabled pursuant to the federal Adam Walsh Child Protection and Safety Act of 2006. The agreement between DSHS and the FBI places limitations on the circumstances under which the name-based criminal history checks may be performed. For a period of time, DSHS provided no-cost name-based criminal history checks to Tribal agencies under this agreement, but were forced to stop this practice by directive of the FBI in 2014.

Summary of Bill (Recommended Substitute): An authorized agency of a federally recognized tribe, instead of the Department, may request a federal name-based criminal history check when a child is placed in emergency out-of-home care. Thereafter the authorized agency of a federally recognized tribe may submit follow up fingerprint-based background checks to the WSP for submission to the FBI within 15 calendar days.

EFFECT OF CHANGES MADE BY HUMAN SERVICES, MENTAL HEALTH & HOUSING COMMITTEE (Recommended Substitute): The time available to submit a follow-up fingerprint-based background check to the WSP is increased from 14 to 15 calendar days.

Appropriation: None.

Fiscal Note: Requested on January 22.

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: This bill is imperative for our tribe which exercises exclusive jurisdiction over children in tribal court. Our children should have the opportunity to have the same safeguards as children under the care and authority of the state. The emergency placement of children is critical and time sensitive. Not being able to conduct a name-based background check places children at risk. We have to tap into resources that aren't official to try to determine safety. We get very limited information from the state--just a thumbs up or thumbs down. In some cases, homes may not be approved by the state simply because of an expired driver's license. Such cases are easily resolvable if we have access to the underlying information. We are sovereign nations, and it is appropriate to have this authority. I checked with the FBI and it has approved the proposed language. Our children are our most valuable resource and greatest investment in the future. Lack of access to these background checks means that we are out of compliance with federal laws requiring background checks for emergency placements.

Persons Testifying on Original Bill: PRO: Nancy Dufraine, Confederated Tribes of the Chehalis Reservation; Charles Woodruff, Quileute Tribe Chairman; Michelle Demmert, Tulalip Tribes/Reservation Attorney.

Persons Signed In To Testify But Not Testifying on Original Bill: No one.