

SENATE BILL REPORT

SB 5246

As of February 1, 2017

Title: An act relating to the department of early learning's access to records and personal information for purposes of determining character and suitability of child care workers and individuals who have unsupervised access to children in child care settings.

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 and individuals who have unsupervised access to children in child care settings.

Sponsors: Senators Zeiger, Billig, Fain, Mullet, Chase and Kuderer; by request of Department of Early Learning.

Brief History:

Committee Activity: Early Learning & K-12 Education: 2/02/17.

Brief Summary of Bill

- Requires that Department of Early Learning conduct background checks for child care and early learning providers and include records held by the Department of Social and Health Services that pertain to abuse or neglect allegations and investigations.
- Specifies who must receive a background check and when they must be completed.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Staff: Ailey Kato (786-7434)

Background: Background Check Requirements for Child Care and Early Learning Providers. Current law requires the Department of Early Learning (DEL) director to adopt rules and investigate conviction records, pending charges, and other information including civil adjudication proceeding records when:

- licensing or certifying agencies with individuals in positions who will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood education services;
- authorizing individuals who will or may have unsupervised access to children;

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- contracting with any business or organization for activities that will or may have unsupervised access to children; and
- establishing the eligibility criteria for individual providers to receive state paid subsidies to provide child day care or early learning services who will or may involve unsupervised access to children.

A civil adjudication proceeding is a judicial or administrative proceeding that results in a finding of, or upholds an agency finding of, domestic violence, abuse, sexual abuse, neglect, abandonment, violation of a professional licensing standard regarding a child or vulnerable adult, or exploitation or financial exploitation of a child or vulnerable adult under any provision of law.

Child Abuse and Neglect Allegations and Investigations. The Children's Administration of the Department of Social and Health Services (DSHS) investigates allegations of child abuse and neglect. Abuse or neglect means sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, excluding certain conduct; or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child.

When DSHS completes an investigation of a child abuse or neglect report, DSHS must notify the subject of the report of the findings and that founded reports of child abuse and neglect may be considered in determining whether the person is disqualified from being licensed to provide child care, employed by a licensed child care agency, or authorized by DSHS to care for children.

DEL must determine whether an individual is of appropriate character, suitability, and competence to provide child care and early learning services to children. In making this determination, DEL may consider the history of past involvement of child protective services or law enforcement agencies with the individual for the purpose of establishing a pattern of conduct, behavior, or inaction with regard to the health, safety, or welfare of a child. No report of child abuse or neglect that has been destroyed or expunged may be used for such purposes.

Sharing of Records. To satisfy shared background check requirements, DEL and DSHS must share federal fingerprint-based background check results as permitted under the law. Neither department may share the federal background check results with any other state agency or person.

Juvenile Justice or Care Agency Records. Records retained or produced by any juvenile justice or care agency are confidential unless state law allows them to be released. Juvenile justice or care agency means any of the following: police, diversion units, court, prosecuting attorney, defense attorney, detention center, Attorney General, the legislative Children's Oversight Committee, the Office of the Family and Children's Ombuds, DSHS and its contracting agencies, schools, persons or public or private agencies having children committed to their custody, and any placement oversight committee. No unfounded allegation of child abuse or neglect may be disclosed to a child-placing agency, private adoption agency, or any other licensed provider.

Summary of Bill: To satisfy DEL's background check requirements, DEL must adopt rules and conduct background checks for the following:

- the applicant for a license issued by DEL;
- a licensee who is licensed by DEL;
- a person seeking to be employed by a person or entity licensed by DEL;
- a current agency staff person seeking to renew their background clearance card or certificate;
- an intern or person seeking to volunteer for a person or entity licensed by the department;
- a current agency intern or volunteer seeking to renew their background clearance card or certificate;
- a person who resides in or is moving into a licensed in-home child care agency who is 16 years of age or older; and
- a person who is exempt from licensing and who receives or is seeking subsidy payments for the care of a child.

The provisions describing when DEL must complete background checks are repeated in the sections related to juvenile justice or care agency records and DEL's character, suitability, and competence determination.

Background checks must include the investigation of records and files held by DSHS that pertain to:

- abuse or neglect allegations;
- abuse or neglect investigations; and
- the results of investigations of abuse or neglect.

Upon request, DEL must be given access to records and information collected and retained by a juvenile justice or care agency that pertain to these allegations and investigations. This information may come from confidential child welfare records maintained by DSHS, and it may be shared only with other state agencies or persons as allowed under state law.

The provision that no unfounded allegation of child abuse or neglect may be disclosed to a child-placing agency does not apply to DEL for purposes of conducting investigations and background checks. DEL must expunge unsubstantiated or false allegations received by DEL 60 days after the individual or provider has waived or exhausted all the individual's or provider's appeal rights involving an agency decision for which the investigation of the allegations were obtained. Founded reports of child abuse and neglect may be considered in determining whether the person is disqualified from being authorized by DEL to care for children.

A person's physical or mental health medical reports and drug and alcohol evaluations must not be disclosed to DEL without the consent of the person who is the subject of the report or evaluation. DEL must not be given access to a person's adoption records. No findings dated on or before October 1, 1998, may be disclosed to DEL. DEL may only have access to the records held by DSHS that pertain solely to the individuals who have or may have unsupervised access to children in child care facilities.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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