

SENATE BILL REPORT

SB 5568

As Reported by Senate Committee On:
Human Services, Reentry & Rehabilitation, February 12, 2019

Title: An act relating to certain providers sharing background checks.

Brief Description: Concerning certain providers sharing background checks.

Sponsors: Senators Wilson, C., Darneille and Nguyen; by request of Department of Social and Health Services.

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 2/06/19, 2/12/19 [DPS].

Brief Summary of First Substitute Bill

- Permits specified providers to share copies of criminal background checks with each other.
- Allows the Department of Social and Health Services to maintain a criminal background check database.
- Adds definitions for completed criminal background check information, background check database, and provider.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: That Substitute Senate Bill No. 5568 be substituted therefor, and the substitute bill do pass.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Walsh, Ranking Member; O'Ban, Wilson, C. and Zeiger.

Staff: Keri Waterland (786-7490)

Background: The Background Check Central Unit (BCCU) in the Department of Social and Health Services (DSHS) uses a centralized database to conduct over 330,000 background checks annually, including approximately 100,000 fingerprint-based checks for programs and authorized service providers who serve vulnerable adults, juveniles, and children. DSHS authorized service providers include, but are not limited to:

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- adult in-home care providers;
- long-term residential care for adults;
- services for people with developmental disabilities; and
- residential programs for children and youth.

Health care facility means a licensed nursing home, a licensed assisted living facility, or a licensed adult family home.

In-home services agency means a person licensed to administer or provide home health, home care, hospice services, or hospice care center services directly or through a contract arrangement to individuals in a place of temporary or permanent residence.

Community residential service business means a business that is certified by DSHS to provide to individuals who have a developmental disability:

- group home services;
- group training home services;
- supported living services; or
- voluntary placement services provided in a licensed staff residential facility for children.

A community residential service business has a contract with the developmental disabilities administration to provide services, and all of the business's long-term care workers are subject to statutory or regulatory training requirements required to provide the services.

Consumer directed employer is a private entity contracting with DSHS to be the legal employer of individual providers for purposes of performing administrative functions. The consumer directed employer is patterned after the agency with choice model, recognized by the federal centers for Medicare and Medicaid services for financial management in consumer directed programs. The consumer directed employer is a social service agency and its employees are mandated reporters. The entity's responsibilities are:

- coordination with the consumer, who is the individual provider's managing employer;
- withholding, filing, and paying income and employment taxes, including workers' compensation premiums and unemployment taxes, for individual providers;
- verifying an individual provider's qualifications; and
- providing other administrative and employment-related supports.

Long-term care workers include all persons who provide paid, hands-on personal care services for the elderly or persons with disabilities, including but not limited to:

- individual providers of home care services;
- direct care workers employed by home care agencies or a consumer directed employer;
- providers of home care services to persons with developmental disabilities;
- all direct care workers in state-licensed assisted living facilities, enhanced services facilities, and adult family homes;
- respite care providers;
- direct care workers employed by community residential service businesses; and
- any other direct care worker providing home or community-based services to the elderly or persons with functional disabilities or developmental disabilities.

Long-term care workers do not include:

- persons employed by nursing homes, hospitals or other acute care settings, residential habilitation centers, certified facilities, hospice agencies, adult day care centers, and adult day health care centers; or
- persons who are not paid by the state or by a private agency or facility licensed or certified by the state to provide personal care services.

Enhanced services facility means a facility that provides treatment and services to persons for whom acute inpatient treatment is not medically necessary and who have been determined by DSHS to be inappropriate for placement in other licensed facilities due to the complex needs that result in behavioral and security issues.

Summary of Bill (First Substitute): The definition of health care facility is updated to include enhanced services facilities.

The following providers may share copies of completed criminal background checks:

- health care facilities;
- in-home services agencies;
- community residential services businesses; and
- consumer directed employers.

DSHS may maintain a criminal background check database.

Businesses or organizations may use the background check database in accordance with rules adopted by DSHS, if they are required to complete background checks for long-term care workers.

The definition of background check database is a web-based background check system maintained by DSHS and used by authorized internal and external entities to submit background check requests; receive results based on name and date of birth, fingerprint identification, or any other method of positive identification; review state and federal criminal history records; and process the results of background checks—criminal background inquiry information.

The definition of completed criminal background check information is the results only from a processed background check and does not include any criminal records, commercial records, or financial records of an individual.

The definition of provider is any one of the following types of entities: a health care facility; an in-home services agency; a community residential service business; a consumer-directed employer; or an enhanced services facility.

EFFECT OF CHANGES MADE BY HUMAN SERVICES, REENTRY & REHABILITATION COMMITTEE (First Substitute):

- Adds definitions of completed criminal background check information, background check database, and provider.

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.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Many employees in this field switch employers regularly. This bill eliminates redundant background checks and gaps in the system so people can get to work faster. We anticipate an amendment that clarifies definitions in the bill, after review of other stakeholders.

Persons Testifying: PRO: Senator Claire Wilson, Prime Sponsor; Deborah Roberts, DSHS —Developmental Disabilities Administration.

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