

HOUSE BILL REPORT

HB 1776

As Reported by House Committee On:
Children & Family Services

Title: An act relating to making the background check requirements for department of social and health services' employees consistent with background check requirements for service providers, agencies, and entities serving vulnerable adults and children.

Brief Description: Regarding background checks.

Sponsors: Representatives Miloscia, Boldt, Kagi, Conway, Darneille and Dickerson; by request of Department of Social and Health Services.

Brief History:

Committee Activity:

Children & Family Services: 2/14/01, 2/22/01 [DP].

Brief Summary of Bill

- Requires a background check investigation be conducted on all current Department of Social and Health Services' (DSHS) employees and applicants for a state position who will or may have unsupervised access to children, juveniles, vulnerable adults, or individuals with developmental disabilities or mental illness.

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: Do pass. Signed by 10 members: Representatives Boldt, Republican Co-Chair; Tokuda, Democratic Co-Chair; Kagi, Democratic Vice Chair; Morell, Republican Vice Chair; Ballasiotes, Campbell, Darneille, Dickerson, Miloscia and Pflug.

Staff: Tracey Taylor (786-7196).

Background:

Criminal history checks for felony convictions are required for many state employees who have direct supervision of a vulnerable population as well as for state agency contractors and their employees, and state agency licensees and their employees if there will be unsupervised access to a vulnerable population. This population includes

children, the elderly, and the developmentally disabled. Usually the criminal history check is performed on an applicant prior to hiring or licensing. The criminal history check is performed by the Washington State Patrol and, in some instances, through the Federal Bureau of Investigation.

Currently, employees of DSHS who have unsupervised access to a vulnerable population may not be required to have a background check. Last year, the Legislature required service providers outside of the department to undergo such a check if there was the possibility for unsupervised access to a vulnerable adult, child, or person with a developmental disability. Only persons being considered for department positions that will be directly responsible for the supervision, care, or treatment of children and the developmentally disabled, undergo a background investigation.

Additionally, current law prevents a felony conviction more than 10 years old from being the sole basis for disqualifying a person from employment by the state, one of its subdivisions or agencies, such as DSHS. However, in 1993 the Legislature provided an exception to this rule in the issuance of teaching certificates and in employment by school districts, educational service districts, and their contractors. Teaching certificates and employment by schools districts, educational services districts, and their contractors may be denied if an applicant has a guilty plea or conviction involving the sexual exploitation of a minor, a sexual offense involving a minor, or promoting the prostitution of a minor, even if the conviction is over 10 years old.

Summary of Bill:

The DSHS is allowed to disqualify applicants for employment based on a felony conviction, even if it is over 10 years old, so long as the position being sought involves unsupervised access to children, juveniles, vulnerable adults, or individuals with developmental disabilities or mental illness.

The Washington Personnel Resources Board, in cooperation with the Secretary of DSHS, must adopt rules requiring the background checks of current employees or applicants seeking or being considered for any position that will or may allow unsupervised access to children, juveniles, vulnerable adults, or individuals with developmental disabilities or mental illness. The investigation and disqualification criteria for these positions must be the equivalent to what is required of outside service providers and other entities. A one year grace period is authorized prior to this act taking effect. This will allow the department to develop the necessary policies, including how to handle a failed background investigation of a current employee. This grace period also allows current employees, who know they will fail a check, to make alternative employment arrangements.

Definitions for applicant–, background investigation–, department finding–,

disciplinary board final decisions–, juvenile–, license status–, and vulnerable adult or an individual with developmental disabilities or mental illness,– are adopted and placed in statute. These terms are used often in the many statutes governing background investigations.

The DSHS and the Washington Personnel Board must adopt emergency rules to implement this act.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: This bill clears up an inconsistency in laws and standards. In some cases, the current law requires more checks of employees in outside agencies than employees of DSHS having the same kind of access to vulnerable persons. This has a very real implication and application in providing safe, quality services to vulnerable persons. The language update reflects putting the person before the disability and that is appreciated.

(Concerns) The department approached the union in getting the bill started. The union supports the concept and appreciates the one year rulemaking process. There are some concerns regarding protection orders and due process.

Testimony Against: None.

Testified: (In support) Representative Miloscia, prime sponsor; Bev Hermanson, Washington Federation of State Employees; Sherry McNamara, Department of Social and Health Services; Laurie Lippold, Children’s Home Society; Lonnie Johns-Brown, Early Childhood Collaborative and Washington Association for the Education of Young Children; Tory Henderson, Developmental Disabilities Council; and Bill Anderson, Frances Haddon Morgan Center parent.

(In support with concerns) Ellie Menzies, Service Employees International Union.