

HOUSE BILL REPORT

2SHB 1903

As Amended by the Senate

Title: An act relating to background checks for child care licensees and employees.

Brief Description: Requiring background checks for all child care licensees and employees.

Sponsors: House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Orwall, Goodman, Roberts, Reykdal, Kagi, Kenney and Kelley).

Brief History:

Committee Activity:

Early Learning & Human Services: 2/15/11, 2/17/11 [DPS];

Education Appropriations & Oversight: 2/18/11, 2/21/11 [DP2S(w/o sub ELHS)].

Floor Activity:

Passed House: 3/2/11, 94-3.

Senate Amended.

Passed Senate: 4/12/11, 46-0.

Brief Summary of Second Substitute Bill

- Requires the Department of Early Learning (DEL) to establish and maintain an individual-based background check clearance registry.
- Requires all first-time applicants to obtain fingerprints and a criminal history background check.
- Requires applicants to pay for the cost of obtaining the fingerprints and criminal history background checks.
- Requires the DEL to issue a background check clearance card, or certificate, to successful applicants.
- Validates clearance cards, or certificates, for three years, unless the DEL determines the applicant lacks the appropriate character, suitability, or competence to provide child care or early learning services.
- Creates fees to support the development and maintenance of the individual-background check registry.
- Directs all fees to be paid into a new non-appropriated account to support the development and maintenance of the individual-base/portable background check registry.

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.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Kagi, Chair; Roberts, Vice Chair; Walsh, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Dickerson, Goodman, Johnson and Orwall.

Minority Report: Do not pass. Signed by 1 member: Representative Overstreet.

Staff: Megan Palchak (786-7120).

HOUSE COMMITTEE ON EDUCATION APPROPRIATIONS & OVERSIGHT

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Early Learning & Human Services. Signed by 17 members: Representatives Haigh, Chair; Probst, Vice Chair; Anderson, Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Dahlquist, Frockt, Hargrove, Maxwell, Nealey, Orwall, Reykdal, Rolfes, Santos, Seaquist, Sells, Short and Stanford.

Staff: Wendy Polzin (786-7137).

Background:

The Department of Early Learning (DEL) oversees and regulates child care licensing in Washington. In consultation with law enforcement, the DEL investigates the conviction record or pending charges of any person having unsupervised access to children. Fingerprint-based background checks are required of applicants who have not resided in Washington for three years prior to the date of application.

Fingerprint-based criminal history record checks are conducted at the expense of the licensed child care provider, or licensee. The licensee is not authorized to pass this cost on to employees or prospective employees, unless the employee is determined to be unsuitable based on his or her criminal history.

Summary of Second Substitute Bill:

The Department of Early Learning (DEL) is required to establish and maintain an individual-based, or portable, background check clearance registry by July 1, 2012. All first-time agency applicants are required to obtain fingerprints and a background check. Applicants are required to pay for the fingerprints and background check. If the applicant passes the background check, the DEL is required to issue a background check clearance card or certificate to the applicant. This clearance card, or certificate, is valid for three years and must be accepted by potential employers. A copy of the background check clearance card or certificate must be kept on-site.

Background check clearance card or certificate holders are required to report non-conviction and conviction information to the DEL within 24 hours of the event. The DEL shall investigate and redetermine an applicant or licensee's background clearance if the DEL receives a complaint or information from individuals, law enforcement, or other government agencies. If that individual lacks the appropriate character, suitability, or competence to provide child care or early learning services, the DEL is authorized to invalidate the background card or certificate or suspend, modify, or revoke any license.

Existing licensees and their employees who have been qualified by the DEL to have unsupervised access to children must submit a new background check application within one year following the creation of the portable background check registry.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment (1) authorizes the Department of Early Learning (DEL) to set fees to establish and maintain the registry; (2) allows applicants, agencies, or a combination of both, to pay for the cost of the background check; (3) requires child care agencies to report specific criminal charges, convictions, and negative actions to the DEL; and (4) requires the DEL, the Office of the Superintendent of Public Instruction, and the Educational Service Districts to develop and submit a proposal to coordinate their common background check activities.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony (Early Learning & Human Services):

(In support) The background check process can be difficult for child care providers and their employees under the current process. The Department of Early Learning (DEL) has devised a good solution in this bill.

(Neutral) From the DEL's perspective, shifting to an individual-based model can provide benefits for applicants and the agency. Moving to this approach will not change the scrutiny the DEL applies. However, this does change fingerprint requirements; Washington has received criticism for not fingerprinting every applicant. The DEL asks for the implementation date to be set for July 1, 2012, in case any project development issues arise. The DEL anticipates some reduction in duplicate counts. The DEL believes the financial cost-benefit will ultimately be a wash.

(Opposed) None.

Staff Summary of Public Testimony (Education Appropriations & Oversight):

(In support) Washington is one of the few states without a fingerprint background check. This bill is about having a good pool of background checks. The bill would allow for

less duplication and redundancy of background checks, since individuals will have their clearance card or certificate for three years.

(Neutral) This legislation allows child care centers and licensed family home child care to get substitute staff much more easily. This legislation will also increase employability of child care staff. Repeated background checks creates lots of paperwork.

(Opposed) None.

Persons Testifying (Early Learning & Human Services): (In support) Representative Orwall, prime sponsor.

(Neutral) Bob McClellan, Department of Early Learning.

Persons Testifying (Education Appropriations & Oversight): (In support) Representative Orwall, prime sponsor.

(Neutral) Bob McLellan, Department of Early Learning.

Persons Signed In To Testify But Not Testifying (Early Learning & Human Services): None.

Persons Signed In To Testify But Not Testifying (Education Appropriations & Oversight): None.