

HOUSE BILL REPORT

2SHB 2637

As Passed Legislature

Title: An act relating to background checks on persons in contact with vulnerable adults.

Brief Description: Requiring background checks on persons who will be in contact with vulnerable adults.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Tokuda, Conway, Cody, Schual-Berke, McIntire, Campbell, Rockefeller, Kenney, Haigh, O'Brien, Kagi, Hurst, Anderson and Van Luven; by request of Department of Social and Health Services).

Brief History:

Committee Activity:

Children & Family Services: 1/27/00, 2/3/00 [DPS];
Appropriations: 2/5/00, 2/7/00 [DP2S].

Floor Activity:

Passed House: 2/10/00, 97-0.
Senate Amended.
Passed Senate: 3/1/00, 43-0.
House Concurred.
Passed Legislature.

Brief Summary of Second Substitute Bill

- Amends the background check statutes relating to children, vulnerable adults, the developmentally disabled, the mentally ill, and expectant mothers.
- Mandates that the Department of Social and Health Services complete all state background checks in one month and allows for provisional approval to hire an applicant based on the state background check, when a federal bureau of investigation check is also required but still pending.
- Eliminates the state registry for personal aides providing long-term care under Chapter 74.39A RCW.

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives D. Sommers, Republican Co-Chair; Tokuda, Democratic Co-Chair; Boldt, Republican Vice Chair; Kagi, Democratic Vice Chair; Campbell; Carrell; Dickerson; Eickmeyer; Kastama and Pflug.

Staff: Tracey Taylor (786-7196).

HOUSE COMMITTEE ON APPROPRIATIONS

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 Health Care. Signed by 32 members: Representatives Huff, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Barlean, Republican Vice Chair; Doumit, Democratic Vice Chair; D. Schmidt, Republican Vice Chair; Alexander; Benson; Boldt; Clements; Cody; Crouse; Gombosky; Grant; Kagi; Keiser; Kenney; Kessler; Lambert; Linville; Lisk; Mastin; McIntire; McMorris; Mulliken; Parlette; Regala; Rockefeller; Ruderman; Sullivan; Sump; Tokuda and Wensman.

Staff: Dave Johnson (786-7154).

Background:

The department investigates the background of most people coming in contact with vulnerable adults, children, and the developmentally disabled. This includes persons applying for a license to operate an agency that cares for, supervises, or treats vulnerable adults, children, or the developmentally disabled. Background checks of applicants for employment with these agencies, who come in direct contact with children and the developmentally disabled, are also conducted. In addition, individuals or businesses that provide care, supervision, or treatment of vulnerable adults, children, and the developmentally disabled under a state contract, must undergo a background check.

The background checks are conducted by the department through the Washington State Patrol's (WSP) database. Investigations examine the individual's history for convictions for offenses against children or other persons, convictions for crimes relating to the financial exploitation of a vulnerable adult, findings of child abuse in a civil action, issuance of a protective order for a vulnerable adult, and disciplinary boards' final decisions.

The actual background check of an applicant by the department should take less than a week, but applications may be delayed at the regional licensing office for longer. If a background investigation involves checking the thumbprint of an individual, it may take even longer.

The WSP also performs background checks directly. It may disclose to any business, organization, or individual, who provides services to vulnerable adults and children, the relevant background of persons applying for employment.

Summary of Bill:

Amends background check statutes relating to children, vulnerable adults, the developmentally disabled, the mentally ill, and expectant mothers.

Applicants for state positions. Background checks of persons applying for state positions involving unsupervised access to vulnerable adults are required. This includes positions involving contact for assessments, eligibility determinations, licensing and certification, investigations, surveys, or case management. Persons being considered for a state position that is directly responsible for the supervision, care, or treatment of vulnerable adults must undergo a background check. Background checks will also be conducted for such positions as required by federal law.

Contracting for case management. When the state enters into a contract with a business, individual, or organization for case management, the state must conduct a background check.

Payment for in-home care. A criminal history check is required when payment is issued by the state to the individual provider or home care agency for in-home care involving unsupervised access to persons with physical, mental, or developmental disabilities, mental illness, or a vulnerable adult. An individual provider or home care agency provider that has been in Washington state less than 3 years is required to be fingerprinted for the state and federal criminal history check. If the in-home service is funded by medicaid personal care, the community options program entry system waiver services, or chore services, the providers may not have a conviction of a crime against children or other persons, a crime relating to drugs or a crime relating to financial exploitation, or an adverse disciplinary board final decision.

Timing. All state background checks must be completed within one month. If the federal bureau of investigation check is also required, provisional approval to hire pending the results of the federal check may be given for up to 180 days based on an applicant's state background check.

State registry. The state registry for personal aides providing long-term care under Chapter 74.39A RCW is eliminated.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: (Children & Family Services) There is a long-standing policy to perform background checks on individuals who have unsupervised access to children, the developmentally disabled and vulnerable adults. Currently, this is not required of individuals hired for state positions that have unsupervised contact with this population. This bill will require that employees of DSHS will have the same type of background checks as those employed by the long-term care providers. This bill will continue to protect vulnerable adults; however, we should also look at including background checks on in-home and non-licensed care givers of disabled persons or children.

(Appropriations) This is agency request legislation from the DSHS. The state already requires providers with unsupervised access to vulnerable adults to undergo criminal background checks. It only makes sense to require the same for potential DSHS employees with similar access.

Testimony Against: (Children & Family Services) None.

(Appropriations) None.

Testified: (Children & Family Services) Kathy Leitch, Department of Social and Health Services; and Sherry Appleton, League of Women Voters.

(Appropriations) Kathy Leitch, Department of Social and Health Services, Aging and Adult Services.