

FINAL BILL REPORT

SSB 6095

C 88 L 14
Synopsis as Enacted

Brief Description: Addressing background checks for persons who will have access to children or vulnerable adults.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Kline and Roach).

Senate Committee on Human Services & Corrections
House Committee on Early Learning & Human Services

Background: The Children's Administration (CA) of the Department of Social and Health Services (DSHS) obtains background information by means of a background check for persons who serve as placement resources for dependent children who the state removes from their home. A dependent child is a child who has been abandoned, abused, or neglected by a person legally responsible for the child's care; who has no parent or guardian capable of adequately caring for the child; or who is receiving extended foster care services. State law requires the state to give preference to a relative or other suitable person in making placement decisions. A suitable person is defined as a person with whom the child or family has a preexisting relationship, who has completed all required criminal history background checks, and who appears to be suitable and competent to provide care for the child.

A background check may reveal criminal history, child abuse or neglect history, and other information. The background check may consist of a check based on name and date of birth, which reveals information based on Washington State records; or a fingerprint-based check with FBI databases, which reveals consolidated national criminal history records. The fingerprint-based check requires greater time and expense to complete than a check based on name and date of birth.

According to published CA policy, CA staff must disqualify persons from being authorized to provide care for children based on a document called the DSHS Secretary's List of Disqualifying Crimes & Negative Actions (Secretary's List). The Secretary's List identifies crimes and negative actions, such as a finding of abuse, neglect, exploitation, or abandonment of a vulnerable adult, juvenile, or child, that may trigger disqualification. Crimes and negative actions may be identified as permanent disqualifiers, or five-year disqualifiers. If crimes or negative actions exist which are not permanent disqualifiers or five-year disqualifiers that are within the five-year disqualification window, CA staff must perform an administrative review of the character and suitability of the person for the license

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or employment that the person is seeking with reference to an enumerated list of factors. CA policy states that in rare circumstances, an administrative approval or waiver may be granted to authorize an exception for a person with a disqualifying crime or negative action. This waiver must be requested by a social worker, licensor, or contract manager and submitted to the CA Assistant Secretary or, in some circumstances, a regional or area administrator.

The Adoption and Safe Families Act of 1997 (ASFA) is an act of Congress. ASFA provides that no federal Title IV-E funds or adoption support funds may be used to support placements of children with persons who have a history of certain crimes. In some instances, the list of crimes provided by ASFA is less extensive than the Secretary's List, in that a crime listed as a permanent disqualifier by the Secretary's List is listed as a five-year disqualifier by ASFA, or a crime listed as a permanent or five-year disqualifier by the Secretary's List does not appear on the ASFA list. The negative action of a finding of child abuse or neglect is not listed as a permanent or five-year disqualifier by ASFA.

When placing a child in shelter care, if the court places the child with a relative or suitable person, state law provides that the criminal history background check need not be completed before placement, but may be completed as soon as possible after placement, if the relative or other suitable person appears otherwise suitable and competent to provide care and treatment.

Summary: If an agency operating under contract with CA chooses to hire a person who would be precluded from employment with DSHS based on a disqualifying crime or negative action, DSHS and its officers and employees are not liable for harm to a child or DSHS client attributable to such person.

CA must not deny or delay a license or approval of unsupervised access to children based solely on a crime or infraction that is not disqualifying under ASFA, or does not relate directly to child safety, permanence, or wellbeing.

A person licensed or employed in a position which provides care and treatment to vulnerable adults, children, persons with mental illness, or persons with developmental disabilities must not be disqualified for licensure or employment based upon a crime or negative action if the crime or negative action was reviewed by DSHS through its Background Assessment Review Team process in 2002 and the person was permitted to remain in the position of licensure or employment. DSHS and DOH must not automatically disqualify a person for licensure or employment based upon a crime or disposition that has been the subject of a pardon, annulment, or other equivalent procedure.

Votes on Final Passage:

Senate	47	2	
House	97	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 12, 2014