

FINAL BILL REPORT

SB 5252

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Synopsis as Enacted

Brief Description: Making modifications necessary to comply with federal regulations regarding dissemination of federal bureau of investigation criminal history record information.

Sponsors: Senators Valdez, Padden, Kuderer, Nobles and Wilson, C.; by request of Department of Social and Health Services.

Senate Committee on Human Services
House Committee on Human Services, Youth, & Early Learning

Background: Criminal History Information. The Washington State Patrol's (WSP) Criminal History Records Section is the central repository for criminal history record information (CHRI) for the state of Washington. CHRI consists of fingerprint-based records, and disposition information submitted by law enforcement agencies and courts throughout the state. WSP facilitates background checks for other agencies, employers, and the public.

Federal Bureau of Investigation (FBI) records are compiled from records received from local, state, federal, tribal, and international criminal justice agencies. Federal law allows for the exchange of criminal records and related information within the possession of the FBI with authorized officials of the federal government, states, Indian tribes, cities, and penal and other institutions. Exchange of these records is only for official use, and is subject to cancellation if dissemination is made outside of authorized recipients. The FBI must approve the state background check laws before it will grant access to its criminal history database.

Background Check Requirements. Persons with certain criminal history, pending charges, or history of other disqualifying negative action are disqualified from working in positions where they will have unsupervised access to children or vulnerable adults. A person must pass a fingerprint-based state and federal background check through WSP and the FBI before working in a long-term care or child care position with such unsupervised access.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

For other persons, the Department of Social and Health Services (DSHS) and the Department of Children, Youth, and Families (DCYF) may require a fingerprint-based background check through both WSP and the FBI at any time, and must require a fingerprint-based check when a person has resided in the state less than three consecutive years, and meets certain other criteria.

Background check screening is not required for an employee of a consumer directed employer if the individual has an individual provider contract with DSHS, the last background check is still valid, employment with the consumer directed employer is the only reason a new background check would be required, and DSHS's background check results have been shared with the employer.

Sharing Background Check Information. There are several provisions that allow sharing background check information between designated entities. DSHS may share the results of state and federal background checks with the Department of Health (DOH) in furtherance of the prohibition against any long-term care worker who has been disqualified from working with vulnerable persons working as a home care aid. DSHS must also make background check information pertaining to long-term care workers available to employers, prospective employers, and others authorized by law. To satisfy shared background check requirements, DSHS and DCYF must share federal fingerprint-based background check information permitted by law, but must not share this information with other agencies or persons. Processes designed to facilitate timely access to criminal background check information for health care providers allows health care facilities to share completed criminal background inquiry information under certain circumstances.

Summary: Background check information normally shared between designated entities is either no longer permitted or limited to state information. Health care facilities may only exchange state criminal background check information. DCYF and DSHS are not required to share the results of federal fingerprint-based background checks with each other. DSHS may no longer share background check information pertaining to long-term care workers, and must instead inform employers, prospective employers and others authorized by law, whether screened applicants are ineligible for employment. DSHS may no longer provide the results of state and federal background checks to DOH for DOH's use in fulfilling certification requirements for home care aides.

DSHS and DCYF have different requirements for conducting background checks through WSP.

DSHS must require a fingerprint-based background check through WSP for an individual who:

- has resided in the state for less than three years and is a contractor providing services funded by certain home and community long-term care programs; is authorized to provide services to persons with developmental disabilities; or is an employee of an area agency on aging or federally recognized Indian tribe, or an employee of a

contractor for one of these entities, that may have unsupervised access to vulnerable adults, children, or juveniles;

- is applying for or is an employee of certain secure facilities;
- is applying to be an adult family home licensee, entity representative, or resident manager;
- is applying to be an assisted living facility or enhanced services facility licensee or administrator;
- is applying to be a certified community residential services and supports provider or administrator;
- has been categorized as a high-risk provider; or
- is applying for or is an employee of a residential habilitation center or other state-operated program for individuals with developmental disabilities.

DCYF must require a fingerprint-based background check, for an individual who:

- is applying for a license to provide certain foster or maternity-care services, or is an adult living in a home where a child is placed;
- is applying for employment or already employed at a group care facility, regardless of whether the applicant is working directly with children;
- is newly applying for a child care license, is newly licensed, is an employee of a child care agency that is newly licensed, or will newly have unsupervised access to children in child care; or
- has resided in the state less than three consecutive years before application and is applying for employment, promotion, reallocation, or transfer to a position that may require unsupervised access to children or juveniles; is a business or individual contracted to provide developmental disabilities services; or is a person age 16 or older who is residing with or under the care of an applicant or service provider providing foster care or other services.

DSHS may no longer require fingerprint-based background checks for long-term care workers. Employees of consumer directed employers who meet certain criteria are no longer exempt from background check requirements.

Various changes are made to definitions, and modifications are made to reorganize and clarify current law provisions.

Votes on Final Passage:

Senate	48	0	
House	98	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 23, 2023