

HOUSE BILL REPORT

SHB 2055

As Amended by the Senate

Title: An act relating to criminal history background checks.

Brief Description: Providing for criminal history background checks.

Sponsor(s): By House Committee on Health Care (originally sponsored by Representative Braddock).

Brief History:

Reported by House Committee on:
Health Care, February 5, 1992, DPS;
Passed House, February 15, 1992, 88-5;
Amended by Senate.

**HOUSE COMMITTEE ON
HEALTH CARE**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 8 members: Representatives Braddock, Chair; Day, Vice Chair; Moyer, Ranking Minority Member; Casada, Assistant Ranking Minority Member; Cantwell; Edmondson; Morris; and Prentice.

Minority Report: *Do not pass.* Signed by 2 members: Representatives Franklin and Paris.

Staff: Antonio Sanchez (786-7133).

Background: In 1987, the Washington State Patrol Criminal Identification System began providing criminal background information on prospective employees and volunteers who have unsupervised access to children and developmentally disabled persons. Records of convictions of offenses against persons, court findings of abuse and neglect in civil cases, and disciplinary board final decisions may be disclosed to organizations, businesses, schools districts, and the state agencies who deal with children or developmentally disabled persons.

In 1989, the Washington State Patrol Identification System was expanded to include persons found by a court or a disciplinary board to have abused or financially exploited a vulnerable adult. A vulnerable adult is a person 60 years of age or older who is functionally mentally or physically

unable to care for himself or herself or is a patient in a state hospital for the mentally ill.

The Department of Social and Health Services currently requires a background check on all staff or volunteers of an agency licensed or relicensed to care for and treat vulnerable adults. This may include chore workers, aides working in nursing homes or other health care facilities. Persons who have been convicted of any of the following criminal offenses currently cannot be licensed or relicensed to work: "crimes against persons," which include murder, kidnapping, rape, and burglary as well as vehicular homicide, simple assault, prostitution, custodial interference, promoting pornography, and selling erotic material to a minor. Persons convicted of "crimes relating to financial exploitation," which include extortion, theft, robbery, and forgery, cannot be employed if the victim of the offense was a vulnerable adult. It has proven impossible in practice to determine whether the victim of a "crime relating to financial exploitation" offense was a vulnerable adult, as no record of the identity of the victim is kept in the criminal history records.

The background check process can take approximately two months to complete. Due to health employee shortages, many agencies and hospitals hire applicants prior to receiving the completed background check. If the check reveals that the individual has committed a violation that prevents he or she from working with vulnerable persons, the employee must be immediately fired. The results of this process have created problems for both the health care industry and for many individuals trying to find employment in entry level health care positions.

Summary of Bill: The length of time is established for which a person can be disqualified from employment involving the provision of services to vulnerable adults in an agency or facility as a result of certain misdemeanor and class C felony criminal convictions. The time limits vary from three to five years depending on the gravity of the offense. Persons convicted of committing the following crimes are exempted from working with vulnerable adults for a period of three years: simple assault, assault in the fourth degree, prostitution, and theft in the third degree. Conviction for the following crimes carries a five-year statute of limitations: assault in the third degree, theft in the second degree, and forgery.

EFFECT OF SENATE AMENDMENT(S): The Senate amendment eliminates the ability for nursing homes to be protected from having an employee's criminal history used against him or her in a civil or criminal law suit. Third degree

assault is removed from the list of offenses that would not bar an individual from employment after the limitation period was completed. Clarification is provided to insure that it is not mandatory to hire persons with a criminal history as defined in the act.

Fiscal Note: Not requested.

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

Testimony For: This measure would allow nursing homes to obtain more employees and, in turn, help persons contribute positively towards their future.

Testimony Against: More lenient laws would compromise the safety of vulnerable adults, especially in nursing homes.

Witnesses: Cathy Wiggins, Department of Social and Health Services; Joan Kleinberg (pro); Bambi Patrick (pro); Carrie Bashaw, Washington Health Care Association (pro); Kary Hyre, State Long Term Care Ombudsman (con); and Karen Tynes, Washington Association of Homes for the Aging (pro).

VOTE ON FINAL PASSAGE:

Yeas 88; Nays 5; Excused 4; Absent 1

Nays: Representatives Ferguson, Franklin, Padden, Riley, Silver

Excused: Representatives Basich, Fuhrman, Meyers R, Wineberry

Absent: Representative Wang