

SENATE BILL REPORT

SHB 2055

**AS REPORTED BY COMMITTEE ON HEALTH & LONG-TERM CARE,
FEBRUARY 26, 1992**

Brief Description: Providing for criminal history background checks.

SPONSORS: House Committee on Health Care (originally sponsored by Representative Braddock)

HOUSE COMMITTEE ON HEALTH CARE

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: Do pass as amended.

Signed by Senators West, Chairman; M. Kreidler, Niemi, Sumner, and Wojahn.

Staff: Scott Plack (786-7409)

Hearing Dates: February 24, 1992; February 26, 1992

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 (DSHS) 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 difficult 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 him or her 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:

The Secretary of Health in addition to the Secretary of DSHS is directed to adopt requirements for the licensure or relicensure of agencies and facilities which provide care to vulnerable adults. The length of time is established for which a person can be disqualified from employment involving 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 exempt from working with vulnerable adults for a period of three years: simple assault, assault in the third 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.

Appropriation: none

Revenue: none

Fiscal Note: none requested

SUMMARY OF PROPOSED SENATE AMENDMENTS:

Provisions are deleted allowing persons convicted of assault in the third degree from providing services to vulnerable adults.

TESTIMONY FOR:

Persons committing "minor" offenses should not be permanently denied employment involving services to vulnerable adults.

TESTIMONY AGAINST: None

TESTIFIED: Mike Nagle, WA Health Care Assn. (pro); Robb Menaul, WA State Hosp. Assn. (pro); Kary Hyre, LTC Ombudsman (pro)

