

SSB 5565 - H AMD TO ELHS COMM AMD (H-2302.1/13) **445**

By Representative Shea

FAILED 04/16/2013

1 On page 1, line 5, after "serves." insert "The legislature also
2 recognizes that a goal of the department of early learning is to keep
3 children safe when children attend child care or early learning
4 programs.

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6 On page 1, line 7, after "services" insert "and the department of
7 early learning"

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9 On page 1, line 9, after "RCW" insert ", chapter 43.215 RCW,"

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11 On page 1, line 14, after "RCW" insert ", chapter 43.215 RCW,"

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13 On page 1, line 18, after "system" insert "or child care and early
14 learning providers"

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16 On page 7, after line 20, insert the following:

17 **"Sec. 6.** RCW 43.215.215 and 2011 c 295 s 2 are each amended to
18 read as follows:

19 (1) In determining whether an individual is of appropriate
20 character, suitability, and competence to provide child care and early
21 learning services to children, the department may consider the history
22 of past involvement of child protective services or law enforcement
23 agencies with the individual for the purpose of establishing a pattern
24 of conduct, behavior, or inaction with regard to the health, safety,
25 or welfare of a child. No report of child abuse or neglect that has
26 been destroyed or expunged under RCW 26.44.031 may be used for such
27 purposes. No unfounded or inconclusive allegation of child abuse or

1 neglect as defined in RCW 26.44.020 may be disclosed to a provider
2 licensed under this chapter.

3 (2) In order to determine the suitability of individuals newly
4 applying for an agency license, new licensees, their new employees,
5 and other persons who newly have unsupervised access to children in
6 care, shall be fingerprinted.

7 (a) The fingerprints shall be forwarded to the Washington state
8 patrol and federal bureau of investigation for a criminal history
9 record check.

10 (b)(i) Effective July 1, 2012, all individuals applying for first-
11 time agency licenses, all new employees, and other persons who have
12 not been previously qualified by the department to have unsupervised
13 access to children in care must be fingerprinted and obtain a criminal
14 history record check pursuant to this section.

15 (ii) Persons required to be fingerprinted and obtain a criminal
16 [history] record check pursuant to this section must pay for the cost
17 of this check as follows: The fee established by the Washington state
18 patrol for the criminal background history check, including the cost
19 of obtaining the fingerprints; and a fee paid to the department for
20 the cost of administering the individual-based/portable background
21 check clearance registry. The fee paid to the department must be
22 deposited into the individual-based/portable background check
23 clearance account established in RCW 43.215.218. The licensee may,
24 but need not, pay these costs on behalf of a prospective employee or
25 reimburse the prospective employee for these costs. The licensee and
26 the prospective employee may share these costs.

27 (c) The director shall use the fingerprint criminal history record
28 check information solely for the purpose of determining eligibility
29 for a license and for determining the character, suitability, and
30 competence of those persons or agencies, excluding parents, not
31 required to be licensed who are authorized to care for children.

32 (d) Criminal justice agencies shall provide the director such
33 information as they may have and that the director may require for
34 such purpose.

1 (e) No later than July 1, 2013, all agency licensees holding
2 licenses prior to July 1, 2012, persons who were employees before July
3 1, 2012, and persons who have been qualified by the department before
4 July 1, 2012, to have unsupervised access to children in care, must
5 submit a new background application to the department. The department
6 must require persons submitting a new background application pursuant
7 to this subsection (2)(e) to pay a fee to the department for the cost
8 of administering the individual-based/portable background check
9 clearance registry. This fee must be paid into the individual-
10 based/portable background check clearance account established in RCW
11 43.215.218. The licensee may, but need not, pay these costs on behalf
12 of a prospective employee or reimburse the prospective employee for
13 these costs. The licensee and the prospective employee may share
14 these costs.

15 (f) In determining the character, suitability, and competence of
16 an individual the department may not:

17 (i) Deny or delay a license or approval of unsupervised access to
18 children to an individual solely because of a crime or civil
19 infraction involving the individual or entity revealed in the
20 background check process that is not on the director's list of crimes
21 and negative actions and is not related directly to child safety; or

22 (ii) Delay the issuance of a license or approval of unsupervised
23 access to children by requiring the individual to obtain records
24 relating to a crime or civil infraction revealed in the background
25 check process that is not on the director's list of crimes and
26 negative actions and is not related directly to child safety and is
27 not a permanent disqualifier pursuant to department rule.

28 ~~((f))~~ (g) The department shall issue a background check clearance
29 card or certificate to the applicant if after the completion of a
30 background check the department concludes the applicant is qualified
31 for unsupervised access to children in care. The background check
32 clearance card or certificate is valid for three years from the date
33 of issuance. A valid card or certificate must be accepted by a
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1 potential employer as proof that the applicant has successfully
2 completed a background check as required under this chapter.

3 (h) If the department determines that an individual does not
4 possess the character, suitability, or competence to provide care or
5 have unsupervised access to a child, it must provide the reasons for
6 its decision in writing with copies of the records or documents
7 related to its decision to the individual within ten days of making
8 the decision.

9 ~~((g))~~(i) The original applicant for an agency license,
10 licensees, their employees, and other persons who have unsupervised
11 access to children in care shall submit a new background check
12 application to the department, on a form and by a date as determined
13 by the department.

14 ~~((h))~~(j) The applicant and agency shall maintain on-site for
15 inspection a copy of the background check clearance card or
16 certificate.

17 ~~((i))~~(k) Individuals who have been issued a background check
18 clearance card or certificate shall report nonconviction and
19 conviction information to the department within twenty-four hours of
20 the event constituting the nonconviction or conviction information.

21 ~~((j))~~(l) The department shall investigate and conduct a
22 redetermination of an applicant's or licensee's background clearance
23 if the department receives a complaint or information from
24 individuals, a law enforcement agency, or other federal, state, or
25 local government agency. Subject to the requirements contained in RCW
26 43.215.300 and 43.215.305 and based on a determination that an
27 individual lacks the appropriate character, suitability, or competence
28 to provide child care or early learning services to children, the
29 department may: (i) Invalidate the background card or certificate; or
30 (ii) suspend, modify, or revoke any license authorized by this
31 chapter.

32 (3) To satisfy the shared background check requirements of the
33 department of early learning and the department of social and health
34 services, each department shall share federal fingerprint-based

1 background check results as permitted under the law. The purpose of
2 this provision is to allow both departments to fulfill their joint
3 background check responsibility of checking any individual who may
4 have unsupervised access to vulnerable adults, children, or juveniles.
5 Neither department may share the federal background check results with
6 any other state agency or person."

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8 Renumber the remaining sections consecutively and correct and
9 internal references accordingly.

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11 On page 13, at the beginning of line 34, insert "and the
12 department of early learning"

EFFECT: Adds that the Department of Early Learning may not delay or deny child care or early learning licensure solely based on a crime or civil infraction that is not on the Director's List of Crimes and Negative Actions and is not related to child safety.

- Adds that the Department of Early Learning may not deny or delay child care or early learning licensure by requiring an individual to secure documentation relating to a crime that is not on the Director's List of Crimes and Negative Actions and is not related to child safety.

- Requires the Department of Early Learning to provide child care and early learning providers with the reason for a denial of licensure and copies of documentation that informed the decision within ten days of making the decision.

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