

HOUSE BILL REPORT

HB 1490

As Reported by House Committee On:

Early Learning & Human Services

Title: An act relating to fingerprint-based background checks.

Brief Description: Concerning fingerprint-based background checks.

Sponsors: Representatives Obras, Gregerson, Peterson and Cortes; by request of Department of Social and Health Services.

Brief History:

Committee Activity:

Early Learning & Human Services: 2/5/25, 2/14/25 [DPS].

Brief Summary of Substitute Bill

- Adds specificity and definitions to the provisions outlining the current roles and circumstances that require a fingerprint-based background check.
- Establishes background check requirements for those working in transitional care facilities.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Bergquist, Chair; Cortes, Vice Chair; Burnett, Assistant Ranking Minority Member; Bernbaum, Dent, Goodman, Hill, Ortiz-Self, Penner and Taylor.

Staff: Omeara Harrington (786-7136).

Background:

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.

Criminal History Information.

The Washington State Patrol's (WSP) Criminal History Records Section is the central repository for criminal history record information for Washington. Criminal history record information consists of fingerprint-based records and disposition information submitted by law enforcement agencies and courts throughout the state. The 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 the WSP and the FBI before working in a long-term care or child care position with such unsupervised access. Additionally, the Department of Social and Health Services (DSHS) and the Department of Children, Youth, and Families (DCYF) must require a fingerprint-based background check of persons applying for certain positions.

The DSHS must require a fingerprint-based background check of an individual who:

- has resided in the state 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 applying for 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.

The DCYF must require a fingerprint-based background check of 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.

Transitional Care Facilities.

A transitional care facility is described by the DSHS as a staff-secure and voluntary facility offering specialized treatment for suitable youth. Lake Burien Transitional Care Facility is a new therapeutic facility established by the DSHS that was developed to support youth, ages 13 to 17, with intellectual and developmental disabilities, autism spectrum disorder, behavioral health needs, and other co-occurring disorders such as substance use disorder and mental illness.

Summary of Substitute Bill:

Provisions that direct the Department of Social and Health Services (DSHS) and the Department of Children, Youth, and Families (DCYF) to require a fingerprint-based background check of persons applying for certain positions are reframed and made more specific. In order to determine a person's character, competence, and suitability to work unsupervised as a DSHS or DCYF long-term care service provider, direct care worker, child placement provider, high-risk provider, residential habilitation center worker, transitional care facility worker, or a contracted home and community-based service provider, the person must submit their fingerprints to the Washington State Patrol (WSP) for a national background check, as must individuals over 16 years old living in the home of a child placement provider or companion home provider.

Individuals 16 years of age or older residing in a certified community residential companion home, and persons applying for employment by a transitional care facility, are added to the current law statutory categories of persons who must undergo a national, fingerprint-based background check. Definitions are added to specify the roles of administrators for assisted living facilities, enhanced service facilities, and community residential service providers, who are required to undergo background checks. It is specified that employees of residential habilitation centers seeking a job class series change must undergo a background

check.

Additional definitions are added to the provisions governing background check requirements for persons in certain roles.

"Long-term care workers" are defined to include all persons who provide paid, hands-on, personal care services for the elderly or persons with disabilities, including but not limited to individual providers of home care services; direct care workers employed by home care agencies or a consumer directed employer; providers of home care services to persons with developmental disabilities; all direct care workers in state-licensed assisted living facilities, enhanced services facilities, and adult family homes; respite care providers; direct care workers employed by community residential service businesses; and any other direct care worker providing home or community-based services to the elderly or persons with functional disabilities or developmental disabilities.

"Transitional care facility" is defined as a staff secure and voluntary state-operated residential treatment facility offering specialized treatment and rehabilitative interventions for eligible youth with developmental disabilities.

"Unsupervised" means not in the presence of: (1) another employee or volunteer from the same business or organization as the applicant; or (2) any relative or guardian of any of the children or persons with developmental disabilities or vulnerable adults to which the applicant has access while they are employed or involved with the business or organization.

Other non-substantive, restructuring changes are made.

Substitute Bill Compared to Original Bill:

The substitute bill reinstates current law, applying in just a subset of categories the narrowing criteria that a Department of Social and Health Services (DSHS) applicant or service provider need only undergo a national background check if they have lived in the state less than three years. A provision indicating that the DSHS may perform a state-based name and birthdate background check in certain circumstances is removed. Provisions are reorganized for clarity and consistent use of terms, cross references are corrected, language is aligned with drafting conventions, and other similar non-substantive changes are made.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is an agency request bill that clarifies language the Federal Bureau of Investigation (FBI) has flagged as overly broad or vague. The bill clearly outlines who needs a federal background check, which will preserve access to the FBI's system. Without these changes the FBI will not allow access to its system. The bill also includes background check requirements for those working at the Lake Burien Transitional Care Facility, which supports a very vulnerable population. This is a straightforward bill ensuring maintenance of trust and strengthening of hiring and licensing practices.

(Opposed) None.

Persons Testifying: Representative Edwin Obras, prime sponsor; Upkar Mangat, DSHS Developmental Disabilities Administration; and Megan DeSmet, DSHS Developmental Disabilities Administration.

Persons Signed In To Testify But Not Testifying: None.