

SENATE BILL REPORT

HB 2835

As Reported By Senate Committee On:
Human Services & Corrections, February 28, 2008
Ways & Means, March 03, 2008

Title: An act relating to requiring federal name-based criminal history record checks when a child is placed in out-of-home care in an emergency situation.

Brief Description: Requiring federal name-based criminal history record checks when a child is placed in out-of-home care in an emergency situation.

Sponsors: Representatives Kagi, Roberts, Loomis, Morrell, Kenney and Haigh; by request of Department of Social and Health Services.

Brief History: Passed House: 2/12/08, 96-0.

Committee Activity: Human Services & Corrections: 2/21/08, 2/28/08 [DPA].
Ways & Means: 3/3/08 [DPA].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Marr and McAuliffe.

Staff: Kevin Black (786-7747)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Fairley, Hatfield, Hobbs, Honeyford, Keiser, Kohl-Welles, Oemig, Parlette, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Tom.

Staff: Paula Moore (786-7449)

Background: Whenever a child is placed in out-of-home care by the Department of Social and Health Services (DSHS), federal and state laws require fingerprint-based background checks be completed on all potential caretakers in the home. In exigent circumstances, such as in the middle of the night, the DSHS Children's Administration completes an initial background check using name and date-of-birth, followed by a comprehensive fingerprint

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based background check, which must be completed within 14 days. Following passage of ESSB 5774 in the 2007 session, DSHS gained provisional permission from the federal government to request federal name-based criminal history background checks from the National Crime Information Center (NCIC) database when an emergency situation requires immediate placement of a child in out-of-home care. By letter dated July 18, 2007, the federal Office of General Counsel has advised that continued access to name-based criminal history background checks is conditional on passage of legislation by the end of March 2008. This bill formalizes a procedure which is already in place, and which DSHS has agreed to follow throughout the provisional period.

Summary of Bill (Recommended Amendments): In an emergency situation requiring a child to be placed in out-of-home care due to sudden unavailability of a child's primary caretaker, DSHS must request a name-based criminal history background check of each adult residing in the home where the child is to be placed. DSHS must provide a complete set of fingerprints for each adult to the Washington State Patrol within 14 days. If an adult refuses to provide fingerprints and written consent for the background check, the child must be immediately removed from the home.

DSHS must inquire whether an applicant to serve as a foster-family home has previously resided in another state or foreign country and must check databases available to it through the Washington State Patrol and the Federal Bureau of Investigation to ascertain whether the applicant has ever been the subject of a conviction or civil finding outside of the state of Washington that bears upon the fitness of the applicant to serve as a foster-family home.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Amendments): Language is modified to avoid unintended liability with regard to determining whether applicants for a foster family home have had a conviction or civil finding outside the state that would impact the fitness of the applicant to be a foster family home.

The language is changed from "shall make best efforts" to "shall check databases available to it through the Washington State Patrol and Federal Bureau of Investigation."

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Amendments): DSHS must inquire whether an applicant to serve as a foster-family home has previously resided in another state or foreign country and must make best efforts to ascertain whether the applicant has ever been the subject of a conviction or civil finding outside of the state of Washington that bears upon the fitness of the applicant to serve as a foster-family home.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony (Human Services & Corrections): PRO: We thought we had an agreement with the federal government last year, but they are now requiring this legislation to continue access to the NCIC database.

Persons Testifying (Human Services & Corrections): PRO: Cheryl Stephani, DSHS, Children's Administration.

Staff Summary of Public Testimony on HSC Recommended Amendments (Ways & Means): OTHER: This bill is vital to the safety of children served by the Department, as it allows access to use the NCIC database. However, the Department is concerned by Section 3, as it adds liability risks with the new vague duty of searching for past criminal and civil convictions in foreign legal systems. It is unclear how much staff time would be required and the increased liability the Department would be exposed to.

Persons Testifying (Ways & Means): OTHER: David Del Villar Fox, DSHS Children's Administration.