

SUBJECT: Criminal background checks for child care workers

COMMITTEE: Human Services — committee substitute recommended

VOTE: 7 ayes — Hilderbran, Naishtat, Chavez, Christian, Davila, Maxey, McReynolds

0 nays

2 absent — Krusee, Wohlgemuth

WITNESSES: For — Jane Piper, Texas CASA Inc.

Against — None

On — Howard Baldwin, Department of Protective and Regulatory Services

BACKGROUND : By law, the Department of Protective and Regulatory Services (DPRS) may obtain criminal history records for owners or employees of child care facilities; applicants or volunteers for DPRS positions; volunteers with Big Brothers or Sisters or with court-appointed advocates for children (CASA); and foster care or adoption providers. By policy, DPRS requires criminal history checks for all of its employees and volunteers and for all persons providing foster, in-home, or adoptive care for children.

DIGEST: CSHB 2663 would require DPRS to conduct criminal history checks of department employees and volunteers; owners and employees of DPRS-licensed child care facilities and family homes; employees and volunteers of entities contracting with the department; persons providing or applying to provide adoptive, in-home or foster care for children; and subjects of child, elderly or disabled abuse or neglect reports. The bill would specify that DPRS could run criminal checks on volunteers with certain groups.

DPRS would be required to conduct criminal history checks on owners, employees and residents of family homes prior to registration and each year thereafter and could charge a fee to cover administrative costs. The department could deny or revoke registration based on the criminal history

results. The department would have to obtain information from the FBI as well as state criminal justice agencies.

All applicants for positions with DPRS or a licensed or registered family home would be required to submit an affidavit swearing that they had not been convicted of or had pending criminal charges for child abuse and neglect, any felony, rape, sexual assault, incest, molestation, endangerment, exploitation or abduction of a minor or unfitness as parent. The failure or refusal to provide fingerprints and complete name or to submit a required affidavit would constitute good cause for dismissal or refusal to hire.

The bill would take effect September 1, 1997.

**SUPPORTERS
SAY:**

CSHB 2663 would strengthen current law by providing for more comprehensive and mandatory criminal background checks of certain employees, volunteers and prospective employees who work closely with children. The bill would codify current practices at DPRS regarding criminal history checks for employees and volunteers and enhance current processes for obtaining data by emphasizing national background checks rather than simply in-state checks. Although DPRS internal policy requires the department to conduct many checks regularly, statutory codification would prevent any change to policy in the future. The bill also would provide for early screening of employees and volunteers who work with children.

It is an unfortunate fact that many child abuse and neglect victims are hurt by those in a position of trust and authority over them. A critical step in preventing child abuse, exploitation and abduction is the early screening of child care personnel. Although criminal checks will not be a complete or thorough solution to the problems of child abuse, they are important first steps that should be required for all personnel who provide services to children through either private organizations or state schools and institutions.

Several other states require either fingerprints from applicants or signed statements or affidavits from employees or volunteers indicating whether the person has ever been convicted of crimes against minors. In many states the

penalties for failure to disclose information about convictions and arrests is included on the background application form.

The proposals in HB 2663 are necessary regulations for protecting the lives and safety of our children, not overregulations. Arguments about costs, delays, overregulation or individual freedoms, while important, cannot compare to saving the lives and protecting the physical and emotional well being of one of the most vulnerable segments in our society, children.

OPPONENTS
SAY:

HB 2663 would use children as an excuse for government overregulation and intrusiveness. Requiring employees and volunteers to submit to criminal checks and provide fingerprints and affidavits would infringe on privacy rights. Furthermore, the cost and delays that would be caused by these comprehensive checks would not be justified; it is unlikely that many convicted child abusers would be found through this screening process. Parents are in a better position than the state to oversee child care and to select appropriate child care providers.

The bill is unnecessary; DPRS internal policies already provide for criminal checks of employees, volunteers, and those providing foster or adoptive care.

NOTES:

The committee substitute clarified language in the affidavit provisions.

A related bill, HB 155 by Greenberg, requiring listing and criminal history checks of family home providers, passed the House on May 5 and has been referred to the Senate Health and Human Services Committee.