

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: SB577-ER

House of Origin	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input checked="" type="checkbox"/> Enrolled

2. Patron: Mason

3. Committee: Passed Both Houses

4. Title: Criminal history background checks; children's residential facilities.

5. Summary: Provides that a person who is required to undergo a background check as a condition of employment at a children's residential facility may work at such children's residential facility pending the results of all background check components required by this section provided that (i) the applicant has received qualifying results on the fingerprint-based criminal history background check, (ii) the person does not work in the children's residential facility or any other location where children placed in such facility are present, and (iii) such employment is permitted under 42 U.S.C. § 671 and regulations promulgated pursuant thereto.

6. Budget Amendment Necessary: No. See Item 8.

7. Fiscal Impact Estimates: Final. See Item 8.

8. Fiscal Implications: The bill permits the Department of Behavioral Health and Developmental Services to employ a person pending results of all background check components required, provided that (i) the applicant has received qualifying results on the fingerprint-based criminal history background check, (ii) the person does not work in the children's residential facility or any other location where children placed in such facility are present, and (iii) such employment is permitted under 42 U.S.C. § 671 and regulations promulgated pursuant thereto. This original bill permitted the Department of Behavioral Health and Developmental Services to allow a person to work or volunteer in a children's residential facility (CRF) while a qualifying fingerprint-based criminal history background check is being completed and while waiting for the results of additional background checks, provided that person is under the supervision of a person who has met the background check requirements.

The Department of Social Services (DSS) is responsible for ensuring compliance with federal background checks for children's residential care facilities, including those licensed by the Department of Behavioral Health and Developmental Services. According to the DSS federal liaison at the U.S. Children's Bureau, the criminal record check procedures under § 471(a)(20)(D) of the Social Security Act establish the circumstances under which an agency may claim Title IV-E foster care maintenance payments on behalf of an eligible child. A Title IV-E agency only may claim Title IV-E foster care maintenance payments on behalf of

a child placed in a child care institution if, during the period the Title IV-E agency claims Title IV-E foster care maintenance payments, the results of the criminal record checks, including a search of the central registry, have been received for all of the adults working in the child care institution.

The procedures under § 471(a)(20)(D) of the Social Security Act do not detail when an employee may be hired to work in a child care institution, or whether an employee may work in a child care institution at a certain point in time (e.g., before the results of the criminal record checks are received). However, failure to meet the Title IV-E requirements will have a substantial negative impact on availability of federal funds to support placements and operate the child welfare program in Virginia. DSS has noted that the agency has requested additional review by the policy unit at the U.S. Children's Bureau.

Currently, DSS ensures compliance with the federal background check requirements by verifying the dates of hire and the dates the background checks were received for all employees in any CRF that accepts Title IV-E funding. Under the proposed system, DSS may not be able to provide sufficient verification that, while the staff person started working for the CRF, they did not work within the facility until the central registry search was received.

It is assumed that children's residential facilities will not employ a person pending results of all background check components, if it is determined that doing so is not permitted by paragraph D. iii. of this legislation; therefore, this bill does not have a fiscal impact.

9. Specific Agency or Political Subdivisions Affected: Department of Social Services, local departments of social services, Office of Children's Services, Department of Behavioral Health and Developmental Services

10. Technical Amendment Necessary: No.

11. Other Comments: None.