
OLR Bill Analysis

sHB 6417 (as amended by House "A")*

AN ACT REQUIRING BACKGROUND CHECKS FOR CERTAIN EMPLOYEES OF YOUTH CAMPS.

SUMMARY

Starting October 1, 2022, this bill requires youth camps licensed by the Office of Early Childhood (OEC) (see BACKGROUND) to require prospective employees age 18 or older to submit to comprehensive background checks if they are applying for positions that provide care or involve unsupervised access to any child in the youth camp.

Similarly, the bill requires certain municipalities, businesses, and nonprofit organizations operating youth athletic activities ("operators"), starting October 1, 2022, to require prospective employees or volunteers who are age 18 or older and applying for a position as coach, instructor, or athletic trainer to submit to comprehensive background checks.

The bill establishes specifications for these background checks, including specifying who may conduct them, what databases must be checked, the frequency of the checks, the exemptions from the requirements; the crimes that are generally disqualifying; the required protocols when a criminal record or certain convictions are found; notification requirements and associated penalties for failure to report; and record retention requirements.

*House Amendment "A" adds the provisions that pertain to youth sports coaches, trainers, and instructors; sets the circumstances under which a third-party provider may conduct the background check; adds the option to search the Judicial Branch's electronic criminal system for convictions; exempts certain visa-holders; requires licensees to maintain background check records and make them available to OEC upon request; establishes protocols for the finding of a criminal record

or conviction of specified crimes; establishes a licensee's duty to report convictions to OEC and imposes a penalty for failure to report; and makes other minor changes.

EFFECTIVE DATE: October 1, 2021

COMPREHENSIVE BACKGROUND CHECKS FOR YOUTH CAMP EMPLOYEES

Background Check Options

The bill provides two options to meet the background check requirement. Under the first option, the background check must include the following:

1. a criminal history records check conducted by (a) the State Police Bureau of Identification in accordance with existing law (see BACKGROUND) or (b) searching the electronic criminal record system for convictions maintained on the Judicial Department's website matching the prospective employee's name and birth date;
2. a check of the state child abuse registry;
3. a check of the state sex offender registry; and
4. a search of the National Sex Offender Registry public website maintained by the U.S. Department of Justice.

Alternatively, a background check may be done by a third-party provider of national criminal history record checks conducted through a centralized database using the prospective employee's fingerprints. The provider must be on the list of providers OEC publishes on its website.

Release of Information

Under the bill, prior to conducting a child abuse registry check, (1) the youth camps must submit to OEC a form signed by the prospective employee authorizing the release of personal information and (2) OEC must submit this signed form to the Department of Children and

Families (DCF). The bill requires OEC to prescribe the form.

Provisional Employment

Under the bill, prospective employees may begin working on a provisional basis while the comprehensive background check is pending. Their work must always be supervised by an employee who was subjected to the comprehensive background check within the previous five years.

Exemptions for Certain Visa Holders

The bill exempts prospective employees who hold J-1, H-1B, or R-1 visas issued by the U.S. Department of State from this background check requirement.

Frequency of Background Checks

Under the bill, licensees must require any youth camp employees holding a position that requires the provision of care to a child or involves unsupervised access to a child to submit to the bill's comprehensive background check within five years after their hiring date and at least once every five years after that. The bill specifies that licensees are not prohibited from requiring such employees to submit to a comprehensive background check more than once every five years.

Record Retention

The bill requires licensees to maintain, and make available upon OEC's request, any documentation associated with a comprehensive background check for at least five years from the date the (1) background check was completed, if the subject of the comprehensive background check was not hired, or (2) employment ended, if the licensee had hired the subject of the comprehensive background check.

OEC Enforcement Powers

The bill gives the OEC commissioner the express authorization to (1) refuse to license a person to establish, conduct, or maintain a youth camp; (2) suspend or revoke the license; or (3) take any other action authorized under regulation if the person who establishes, conducts,

or maintains the youth camp or an employee in a position connected with the provision of care to a child or involving unsupervised access to a child has been convicted in this state or any other state of certain felonies.

This applies to a felony involving the following:

1. use, attempted use, or threatened use of physical force against another person;
2. cruelty to persons;
3. injury or risk of injury to or impairing morals of children;
4. abandonment of children under age six;
5. any felony where the victim is a child under age 18;
6. sexual assault in a spousal or cohabitating relationship;
7. 1st, 2nd, 3rd, or 4th degree sexual assault;
8. 3rd degree sexual assault with a firearm; or
9. 1st degree aggravated sexual assault.

Under the bill, the OEC commissioner may also take the enforcement actions described above if the person has a criminal record in this state or any other state that the commissioner reasonably believes renders the person unsuitable to establish, conduct, or maintain or be employed by a youth camp.

Under the bill, the OEC commissioner's refusal to issue a license must be in accordance with the statutes that apply to post-conviction hiring.

Notification by Licensee to OEC of Certain Criminal Convictions

The bill requires any person licensed to establish, operate, or maintain a youth camp to notify the OEC commissioner if the licensee or youth camp employee is convicted of any of the crimes listed above

and is employed in a position connected with the provision of care to a child or involving unsupervised access to a child. The licensee or employee must notify OEC immediately upon learning about the conviction.

Penalty for Failure to Notify

Under the bill, failure to comply with the notification requirement (1) may result in license suspension or revocation or the imposition of any action authorized by regulation and (2) subjects the licensee to a civil penalty of up to \$100 per day for each day after the licensee learned of the conviction, up to \$4,500 total.

COMPREHENSIVE BACKGROUND CHECKS FOR YOUTH SPORTS COACHES, TRAINERS, AND INSTRUCTORS

This bill requires certain municipalities, businesses, and nonprofit organizations operating youth athletic activities (“operators”), starting October 1, 2022, to require prospective employees or volunteers who are age 18 or older and applying for a position as coach, instructor, or athletic trainer to submit to a comprehensive background check.

The bill applies this requirement to youth athletic activities organized for participants age 19 and under.

Background Check Options

The bill provides two options to meet the background check requirement. Under the first option, the background check must include the following:

1. a criminal history records check conducted by (a) the State Police Bureau of Identification in accordance with existing law (see BACKGROUND) or (b) searching the electronic criminal record system for convictions maintained on the Judicial Department’s website matching the prospective employee’s name and birth date;
2. a check of the state child abuse registry;
3. a check of the state sex offender registry; and

4. a search of the National Sex Offender Registry public website maintained by the U.S. Department of Justice.

Alternatively, the background check requirement can be conducted by a third-party provider of national criminal history record checks in accordance with the national industry background check standards established by the United States Olympic and Paralympic Committee.

Release of Information

For each check of the state child abuse registry conducted in accordance with this provision, an operator must submit to DCF an authorization for the release of personal information signed by the prospective employee or volunteer.

Provisional Employment

The bill generally allows prospective employees and volunteers to begin working on a provisional basis while the background check is pending. This work must always be supervised by an employee or volunteer who was subjected to the comprehensive background check within the previous five years.

Frequency of Background Checks

The bill requires employees and volunteers in these positions to submit to the same background checks at least once every five years.

It also specifies that it does not prohibit an operator from requiring an applicant for a position as a coach, instructor, or athletic trainer to submit to comprehensive background checks more often than once every five years.

Exemptions

The bill exempts from the comprehensive background check requirement the following applicants for a position as a coach, instructor, or athletic trainer for a youth athletic activity:

1. employees or volunteers of a youth athletic activity operator in the state or who have not been separated from employment as a youth athletic activity coach, instructor, or athletic trainer in the

state for more than 180 days and have successfully completed the comprehensive background check in the previous five years or

2. intramural or interscholastic athletic coaches employed by a local or regional board of education, so long as the board satisfies the state and national criminal history records checks requirements for board employees under existing law.

Criminal Record or Conviction Result

The bill establishes conditions under which operators may not employ someone or accept them as a volunteer, youth athletic activity coach, instructor, or athletic trainer.

Under the bill, if the comprehensive background check results in a finding that a person who applied for the position (1) has been convicted in this state or any other state of any of the felony crimes listed above (see “OEC Enforcement Powers” above) or (2) has a criminal record in this state or any other state that the operator reasonably believes may render the person unsuitable for the position, the operator must not employ the person or accept them as a volunteer if it determines that he or she is not suitable for the position after considering the following:

1. the nature of the crime and its relationship to the position for which the person has applied,
2. information pertaining to the degree of rehabilitation of the convicted person, and
3. the time elapsed since the conviction or release.

Definitions

Operator. By law, an “operator” is any municipality, business, or nonprofit organization that conducts, coordinates, organizes, or otherwise oversees any youth athletic activity. It does not include any of these entities, whether or not compensated, that solely provide access to, or use of, a field, court, or other recreational area.

Youth Athletic Activity. Under existing law, a youth athletic activity is an organized athletic activity involving participants who:

1. (a) engage in, or practice or prepare for, an organized athletic game or competition against another team, club, or entity or (b) attend an organized athletic camp or clinic that trains, instructs, or prepares these participants and
2. pay a fee to participate in such an organized athletic game or competition or attend such a camp or clinic, or whose fee is sponsored by a municipality, business, or nonprofit organization.

It does not include any college or university athletic activity, or one that is incidental to a nonathletic program or lesson.

Under current law, youth athletic activities participants are ages seven through 19. The bill additionally applies its background check provisions to youth athletic activities in which participants are under age seven.

BACKGROUND

Youth Camps

By law, the programs that must be licensed as youth camps are any regularly scheduled programs or organized group activities advertised as a camp or operated only during school vacations or on weekends by a person, partnership, corporation, association, the state, or a municipal agency for recreational or educational purposes and accommodating at least five children, from ages three to 16. These children (1) may not be bona fide personal guests in the private home of an individual and (2) must live apart from their relatives, parents, or legal guardian at least three full or partial days per week unless a relative or guardian is a camp employee. It does not include classroom-based summer instructional programs, public or private schools' summer educational programs, licensed child care centers, or drop-in programs for children who are at least age six administered by a nationally chartered boys' and girls' club

Criminal History Records Checks

By law, if a criminal history records check is required by state law, it must be requested from the State Police Bureau of Identification and must apply to the individual identified in the request. The requesting party must arrange for the fingerprinting of the individual or for conducting any other method of positive identification required by the State Police Bureau of Identification and, if a national criminal history records check is requested, by the Federal Bureau of Investigation (CGS § 29-17a).

Related Bill

sHB 6511 (File 166), favorably reported by the Committee on Children, contains similar provisions to the requirements for certain municipalities, businesses, and nonprofit organizations operating youth athletic activities to require prospective employees who are age 18 or older and applying for a position as coach, instructor, or athletic trainer to submit to a comprehensive background check.

COMMITTEE ACTION

Committee on Children

Joint Favorable Substitute

Yea 12 Nay 1 (03/11/2021)