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BILL ANALYSIS

Senate Fiscal Agency

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Senate Bill 542 (Substitute S-2 as reported)  
Sponsor: Senator Jack Welborn  
Committee: Criminal Justice and Urban Affairs

Date Completed: 10-31-89

**RATIONALE**

Earlier this year, the Senate passed Senate Bill 155, which would prohibit, with certain exceptions, the hiring of felons by the Department of Corrections. At the time that Senate Bill 155 received a hearing in the Senate Committee on Criminal Justice and Urban Affairs, several people expressed an interest in supporting the same type of legislation with respect to Department of Social Services (DSS) positions dealing with children's services. The DSS's Office of Children and Youth Services (OCYS) reportedly has the State Police run a name check of job candidates for positions that require child welfare licensing, but does not require a criminal background inquiry of persons seeking employment in unlicensed children's services positions. For these reasons, some people believe that the DSS should be statutorily prohibited, with certain exceptions, from hiring convicted felons for positions dealing directly with children and youth services.

**CONTENT**

The bill would amend the Social Welfare Act to prohibit, with certain exceptions, the employment or appointment of a felon or a person who was subject to pending felony charges in a Department of Social Services position dealing directly with children and youth services. Such services would include, but not be limited to, the areas of abuse, neglect, detention, foster care, adoption, and probation. The DSS Director could waive the hiring prohibition if the person's final release from incarceration,

parole, or probation, whichever was later, occurred at least five years before application for appointment or employment, no felony charges were pending, and the Director conducted "an extensive and complete investigation" of the applicant's background and determined that the appointment or employment was appropriate. A written report, signed by the DSS Director, would have to be made of every investigation that determined employment or appointment to be appropriate. The bill would not apply to individuals employed by or appointed to DSS positions before the bill's effective date.

The Director could not waive the prohibition for a person convicted of any of the following felonies:

- Aggravated assault during an armed robbery (MCL 750.529) or assault with intent to murder (MCL 750.83), to commit armed robbery (MCL 750.89), or to commit criminal sexual conduct (MCL 750.520g).
- First degree, second degree, or attempted murder (MCL 750.316, 750.317, and 750.91).
- Child abuse (MCL 750.136b) or dealing in child sexually abusive activity or material (MCL 750.145c).
- Sodomy (MCL 750.158) or gross indecency (MCL 750.338, 750.338a, and 750.338b).
- Kidnapping (MCL 750.349 and 750.350).
- Pandering for the purposes of prostitution (MCL 750.455).

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- First, second, or third degree criminal sexual conduct (MCL 750.520b, 750.520c, and 750.520d).

Proposed MCL 400.123

### **FISCAL IMPACT**

This bill would probably result in a small increase in State costs. The State Police already do name checks for the Departments free of charge. However, if this bill were interpreted to mean that fingerprint checks would need to be done, then the DSS could experience an increase in costs of about \$10 per check (based on the estimated per-unit costs of the new State Police automated fingerprint checking system). Given an approximate annual turnover rate of 5% and 2,900 children and youth services-related positions, the minimum annual cost would be \$1,500. Multiple applications for the same position would increase that cost.

### **ARGUMENTS**

#### **Supporting Argument**

Due to the sensitive nature of DSS positions that deal with impressionable youth, the Department should not be permitted to fill those positions with individuals who have been convicted of or charged with a felony. Although the DSS currently conducts a name check of job candidates for positions that require child welfare licensure and takes that information into account when making hiring decisions, the potential for ex-felons to be hired into both licensed and unlicensed positions is too great. The bill would impose specific restrictions on such hiring practices and thereby ensure that few, if any, undesirable applicants slipped through the hiring process.

**Response:** Reportedly, the OCYS often has difficulty in gaining access to the Law Enforcement Information Network (LEIN) in order to run name checks of job candidates. In addition, the OCYS claims that the LEIN sometimes yields incomplete information on an individual's criminal record. The bill should require the State Police to give the DSS timely and complete criminal background information.

#### **Opposing Argument**

While the bill would restrict the hiring or appointment of felons, it does not address the

contracting of private service providers. The bill should apply the same hiring prohibition and waiver provision to contract providers that it would apply to employees and appointees.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.