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Senate Bills 613 and 614 (as introduced 6-16-05)  
Sponsor: Senator Cameron S. Brown (S.B. 613)  
Senator Bev Hammerstrom (S.B. 614)  
Committee: Families and Human Services

Date Completed: 6-28-05

## **CONTENT**

### **Senate Bill 614 would amend the Social Welfare Act to do the following:**

- **Require a child care center or day care center to perform a background check on a person before making an offer of employment.**
- **Prohibit the center from making an offer of employment if the background check revealed that the person had been convicted of a listed offense.**
- **Require a center employee to report to the center within seven days after he or she was charged with a listed crime.**
- **Prescribe criminal penalties for a person who did not report as required.**

**Senate Bill 613 would amend the Code of Criminal Procedure to include in the sentencing guidelines a child care or day care center employee's failure to report felony charges to his or her employer.**

The bills are tie-barred to each other.

### **Senate Bill 614**

Under the bill, before a child care center or day care center made an offer of employment to a person or allowed a person to work regularly and continuously under contract at the center, the child care or day care center would have to perform a background check on that person using the Department of State Police's Internet Criminal History Access Tool (ICHAT).

If an ICHAT search revealed that the person had been convicted of a listed offense, the center could not make an offer of employment to that person, or allow him or her to work regularly and continuously under contract at the center.

An child care or day care center employee would have to report to the center within seven days after he or she was charged with a crime listed under Section 1535a of the Revised School Code (described in **BACKGROUND**, below). If a person did not report to the center as required, he or she would be guilty as follows:

- If the crime were a felony, the person would be guilty of a felony punishable by imprisonment for up to two years or a maximum fine of \$2,000.

- If the crime were a misdemeanor, the person would be guilty of a misdemeanor punishable by imprisonment for up to one year or a maximum fine of \$1,000.

### **Senate Bill 613**

The bill would add to the sentencing guidelines failure to report felony charges to an employer, as Senate Bill 614 would require. The offense would be a Class G felony against public safety punishable by up to two years' imprisonment.

MCL 777.15g (S.B. 613)

Proposed MCL 400.5d & 400.5e (S.B. 614)

### **BACKGROUND**

Section 1535a requires the Superintendent of Public Instruction to notify a person that his or her teaching certificate may be suspended if he or she has been convicted of any felony or any of the following misdemeanors:

- Fourth-degree criminal sexual conduct (CSC) or an attempt to commit that offense.
- Third- or fourth-degree child abuse or an attempt to commit that offense.
- A misdemeanor involving cruelty, torture, or indecent exposure involving a child.
- A misdemeanor violation of Section 7410 of the Public Health Code (which prohibits the delivery of a Schedule 1 or 2 controlled substance that is a narcotic or cocaine, by a person who is 18 or older to a person who is under 18 and at least three years younger than the offender, or delivery on or within 1,000 feet of school property).
- Breaking and entering.
- Allowing a minor to possess or consume alcohol at a social gathering on premises under the offender's control.
- Accosting, soliciting, or enticing a child for immoral purposes.
- Indecent exposure.
- Larceny from a vacant building.
- Selling or furnishing alcohol to a minor.

Section 1535a also provides for the summary suspension of the teaching certificate of a person who has been convicted of a crime listed below, if the Superintendent finds that the public health, safety, or welfare requires emergency action:

- Criminal sexual conduct in any degree, assault with intent to commit CSC, or an attempt to commit CSC in any degree.
- Felonious assault on a child, first-degree child abuse, or an attempt to commit first-degree child abuse.
- Cruelty, torture, or indecent exposure involving a child.
- Manufacture, delivery, or possession with intent to manufacture or deliver, of at least 1,000 grams of a Schedule 1 or 2 controlled substance that is narcotic or cocaine.
- Intentional or knowing possession of a Schedule 1 or 2 narcotic or cocaine.
- Delivery of a Schedule 1 or 2 narcotic or cocaine to a minor.
- A violation of Section 7410 of the Public Health Code (described above).
- Recruiting, inducing, or coercing a minor to commit a controlled substance felony.
- Assault with intent to commit murder.
- Armed assault with intent to steal.
- Attempted murder.
- Accosting, soliciting, or enticing a child for immoral purposes.
- First- or second-degree murder.
- Armed robbery.

Legislative Analyst: Julie Koval  
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## **FISCAL IMPACT**

The bills would require each applicant at a child care or day care center to undergo a name criminal history check through the Department of State Police. The cost of a name check would \$10 if a center is a for-profit business, and there would no charge for a center that has nonprofit or governmental status. It should be noted that the Governor has proposed, for FY 2005-06, beginning in October, that nonprofit and governmental agencies be charged \$3 for each criminal history name check. Whether this proposed charge will actually take effect depends upon the final resolution of the State's FY 2005-06 budget, which has not yet occurred.

There are no data to indicate how many offenders would be convicted of the proposed offenses. Local units would incur the costs of misdemeanor probation and incarceration in a local facility, both of which vary by county. The State would incur the cost of felony probation at an average annual cost of \$2,000 per offender, as well as the cost of incarceration in a State facility at an average annual cost of \$28,000. Public libraries would benefit from any additional penal fine revenue.

The bills would have no fiscal impact on the Department of Human Services.

Fiscal Analyst: Bruce Baker  
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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.