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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
56th Legislature, 2nd Session, 2024

Bill Number	<u>*SB152/aSJC</u>	Sponsor	<u>Hemphill</u>
Tracking Number	<u>.226948.5SA</u>	Committee Referrals	<u>SCC/SEC/SJC</u>
Short Title	<u>CYFD Investigations & Background Checks</u>		
Analyst	<u>Armatage</u>	Original Date	<u>1/26/2024</u>
		Last Updated	<u>2/6/2024</u>

BILL SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee’s amendment to *SB152 (*SB152/aSJC) strikes “direct or indirect” from the definition of “operator” in Section 2E of the bill (page 9, line 6). The amended definition reads, “a person who has any oversight over a facility’s or program’s employees or day-to-day operations.” In the bill, operator is used to specify who is required to undergo background checks by the Early Childhood Education and Care Department (ECECD) and the Children, Youth and Families Department (CYFD).

Synopsis of Original Bill

*Senate Bill 152 (*SB152) amends criminal background check procedures and requirements for Early Childhood Education and Care Department (ECECD) and the Children, Youth, and Families Department (CYFD). The bill would require employees and volunteers of ECECD and student interns at certain facilities and programs with primary custody of children to undergo background checks. *SB152 provides definitions that specify who has to undergo a background checks. This bill contains an emergency clause and would become effective immediately upon signature by the governor.

FISCAL IMPACT

*SB152/aSJC does not include an appropriation.

Neither CYFD nor ECECD predict a cost associated with an increased number of background checks. This is likely because, as ECECD reports already conducting background checks for employees, the only additional background checks the bill would require that are not being presently conducted are those for student interns. It appears volunteers are required to pay a \$44 fee for their background checks. Student interns would likely be expected to do the same.

SUBSTANTIVE ISSUES

*SB152/aSJC amends Section 9-29-8.1 NMSA 1978 to require state and national criminal history checks for employees and volunteers of ECECD, and employees and volunteers of providers contracted by ECECD, and allows the department access to this criminal history records information.

*SB152/aSJC would amend the Children’s Code to require background checks for all student interns at facilities and programs that have primary custody of children for twenty hours or more per week, including juvenile detention facilities, juvenile correction facilities or treatment facilities.

The Children’s Code would also include new definitions to clarify services and providers that would be affected by these changes, including:

- Behavior management skills development;
- Case management;
- Child placement agency;
- Comprehensive community support services;
- Day treatment;
- Employee, facility;
- Group home;
- Intensive outpatient programming;
- Juvenile correction facility;
- Juvenile detention facility;
- Operator;
- Prevention, intervention and reunification services;
- Primary custody;
- Program;
- Residential treatment facility;
- Shelter care;
- Student intern;
- Supervised visitation and safe exchange;
- Treatment facility;
- Treatment foster care services; and
- Volunteer.

ECECD notes these definitions are required by the Federal Bureau of Investigation (FBI) to continue CYFD’s authority to perform background checks. CYFD has a grace period through September 2024, by which time legislation making the required changes must be passed to retain background clearance authority.

ECECD notes the passing of this bill is required by the FBI for the department to continue conducting background checks on ECECD employees. ECECD has a grace period through September 2024 in which the legislation must be passed to retain background clearance authority for employees.

*SB152/aSJC represents the latest of a series of legislation intended to bring state agencies into compliance with federal requirements for background checks. Legislation related to background

checks for ECECD and the Public Education Department was passed and signed by the governor during the 2023 legislative session.

ADMINISTRATIVE IMPLICATIONS

Neither ECECD nor CYFD reported administrative implications. This is likely because, as ECECD reports already conducting background checks for employees, the only background checks the bill would require that are not being presently conducted are background checks for certain student interns.

CONSEQUENCE OF NOT ENACTING THE BILL

ECECD notes failing to enact this bill could cause CYFD to lose its authority to conduct necessary background checks. Likewise, ECECD would not have authority to conduct background checks on its volunteers and employees.

SOURCES OF INFORMATION

- LESC Files
- Children, Youth and Family Department (CYFD)
- Early Childhood Education and Care Department (ECECD)

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