



May 6, 2020

SUMMARY OF BILL: Prohibits the Department of Human Services (DHS) from requiring a person who works with or around children to resubmit a verifiable fingerprint sample for subsequent background checks.

Requires DHS, or any contractor or agent of DHS that collects fingerprint samples used for fingerprint-based background checks, to retain the verifiable fingerprint samples and supply the sample at no cost for any subsequent background checks of the same person.

ESTIMATED FISCAL IMPACT:

Decrease State Revenue – \$66,300/FY20-21 and Subsequent Years/TBI

Increase State Expenditures – \$66,300/FY20-21 and Subsequent Years/TBI

Other Fiscal Impact - Passage of the proposed legislation could jeopardize federal funding to the Department of Human Services for the Child Care and Development Fund of approximately \$187,000,000 in FY20-21 and subsequent years if it is determined the state is noncompliant with federal law.

Assumptions:

- Pursuant to Tenn. Code Ann. § 71-3-507, a person applying to work with children or with the DHS in any position in which any significant contact with children is likely, is required to supply a fingerprint sample and submit to a fingerprint-based criminal background check.
- Pursuant to 45 CFR § 98.43, states are required to conduct criminal background checks for each child care staff member and child care provider prior to the date an individual becomes a staff member, and every five years thereafter in order to be eligible to receive federal assistance from the Child Care and Development Fund (CCDF).
- The Tennessee Bureau of Investigation (TBI) oversees the collection and submission of verifiable fingerprint samples for the purpose of conducting fingerprint-based background checks on behalf of DHS and other state agencies.
- The cost of a national criminal background check is \$35.15. The disbursement of this fee are as follows:
 - TBI: \$13.25;

- Federal Bureau of Investigation (FBI): \$13.25; and
- Applicable vendor: \$8.65.
- In 2019, the TBI received approximately 25,000 fingerprint-based background check requests on behalf of the DHS.
- Of the 25,000 background checks, it is estimated that the TBI will be required to cover the cost of 20 percent, or 5,000 requests (25,000 x 20.0%), for subsequent background checks under the provisions of this legislation.
- A recurring increase in state expenditures to the TBI of \$66,250 (5,000 x \$13.25) beginning in FY20-21.
- A recurring decrease in state revenue to the TBI of \$66,250 (5,000 x \$13.25) beginning in FY20-21.
- According to the TBI, only law enforcement agencies are authorized to retain fingerprint samples.
- Furthermore, the TBI is prohibited from resubmitting a retained fingerprint image and is required by federal law to submit a new verifiable fingerprint image to the FBI for each requested fingerprint-based background check.
- Requiring the DHS or any contractor or agent of DHS to retain fingerprint samples could jeopardize a portion or all of federal CCDF grant funding of approximately \$187,000,000.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

/jpi