

LEGISLATIVE COMMITTEE MINUTES

# **SB246**

Bill as  
Introduced

SB 246-FN - AS INTRODUCED

2019 SESSION

19-0977  
05/03

SENATE BILL

***246-FN***

AN ACT

relative to licensing of child daycare, residential care, and child-placing agencies.

SPONSORS:

Sen. Gray, Dist 6; Sen. Bradley, Dist 3; Sen. Fuller Clark, Dist 21

COMMITTEE:

Executive Departments and Administration

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ANALYSIS

This bill revises the state registry and criminal records check requirements for employees and others associated with residential child care agencies and child day care providers.

The bill is a request of the department of health and human services.

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Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through~~].

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Nineteen*

AN ACT relative to licensing of child daycare, residential care, and child-placing agencies.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Child Day Care Licensing; State Registry and Criminal Records Check; Revocation of  
2 Registration and Withholding of State Funds. Amend RSA 170-E:7 to read as follows:

3 170-E:7 State Registry and Criminal Records Check; Revocation of Registration and  
4 Withholding of State Funds.

5 I. Child day care **agencies and** providers who are required to be licensed or registered  
6 according to the provisions of this chapter shall ~~[, prior to the date an individual is responsible for~~  
7 ~~the care of, or has regular contact with children, and upon adding new household members or other~~  
8 ~~individuals who will have regular contact with children,]~~ submit to the department~~[,]~~ the names,  
9 birth names, **aliases**, birth dates, and **resident** addresses during the preceding 5 years of ~~[such~~  
10 ~~individuals]~~ **all owners, board members, household members, and center directors prior to**  
11 **the issuance of a permit or license**, and ~~[other information]~~ **subsequent to licensure, for all**  
12 **individuals as** required by the department ~~[as prescribed by]~~ **in** rules adopted ~~[by the~~  
13 ~~commissioner]~~ **under RSA 541-A and in accordance with federal standards implementing the**  
14 **Child Care and Development Fund Program.**

15 I-a. The persons described in paragraph I shall **complete a Federal Bureau of**  
16 **Investigation fingerprint check using the biometric identification system through a**  
17 **qualified law enforcement agency or an authorized employee of the department of safety**  
18 **and** submit directly to the department ~~[of safety]~~ a criminal history ~~[records release form]~~ **record**  
19 **information authorization form and any additional required forms**, as provided by the New  
20 Hampshire division of state police, which ~~[authorizes]~~ **authorize** the release of the person's  
21 criminal records, if any, to the department. ~~[The person shall complete a Federal Bureau of~~  
22 ~~Investigation fingerprint check using the Integrated Automated Fingerprint Identification System~~  
23 ~~through a qualified law enforcement agency or an authorized employee of the department of safety.~~  
24 ~~The department of safety shall complete the criminal history records check and forward such~~  
25 ~~record, if any, to the department.]~~ In the event that the first set of fingerprints is invalid due to  
26 insufficient pattern, a second set of fingerprints shall be necessary to complete the criminal history  
27 records check. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the  
28 department may, in lieu of the criminal history records check, accept police clearances from every  
29 city, town, or county where the person has lived during the past 5 years.

30 II.(a) For every name submitted on an application, in the registration process, and for each  
31 individual for whom information is required to be submitted pursuant to paragraph I, the

1 department shall search for such persons against the New Hampshire sex offender and abuse and  
2 neglect registries, *the National Sex Offender Registry, and* the sex offender [~~and abuse and~~  
3 neglect] registries of each state where the individual resided in the past 5 years [~~and the National~~  
4 ~~Sex Offender Registry~~]. *The department shall submit all forms and any payment required*  
5 *and provided by the individual to request from each state a check of the criminal history*  
6 *repository and abuse and neglect registry offices where the individual resided in the past*  
7 *5 years.*

8 (b) The department [~~of safety~~] shall submit the criminal history record information  
9 authorization form to the New Hampshire division of state police, which shall conduct a criminal  
10 history records check through its records and through the Federal Bureau of Investigation,  
11 *including the National Sex Offender Registry file in the National Crime Information*  
12 *Center records.* Upon completion of the background investigation, the division of state police shall  
13 release copies of the criminal conviction records to the department. The department shall maintain  
14 the confidentiality of all criminal history records information received [~~pursuant to this paragraph~~].

15 (c) The costs of criminal history record *and abuse and neglect registry* checks shall  
16 be borne by the child day care *agency or* provider; provided, that the child day care *agency or*  
17 provider may require an applicant to pay the actual costs of the criminal history check *and abuse*  
18 *and neglect registry checks* of the employee.

19 (d) *Any individual who refuses to consent to the criminal background check or*  
20 *knowingly makes a materially false statement in connection with such criminal*  
21 *background checks shall be ineligible for employment.*

22 II-a. An individual shall not be required to submit a request under paragraph I-a if:

23 (a) In the previous 5 years, the individual submitted a state criminal records release  
24 form and fingerprints and completed a criminal records check under this section;

25 (b) The individual is currently employed by a child care provider within the state, or  
26 has been separated from employment from a child care provider within the state for a period of not  
27 more than 180 consecutive days; and

28 (c) The department made a determination that when the individual completed the  
29 criminal records check within the previous 5 years as described in this section, the individual was  
30 eligible for employment as provided in paragraphs III and IV.

31 III. The department shall make a determination regarding the individual's eligibility for  
32 employment no later than 45 days from submission of all required information as described in  
33 paragraphs I and I-a. If any individual whose name has been submitted for a check under this  
34 section is registered or required to be registered on a state sex offender registry or repository, or the  
35 National Sex Offender Registry, or has been convicted of a felony consisting of murder, child abuse  
36 or neglect, an offense involving child sexual abuse images, trafficking, spousal abuse, a crime  
37 involving rape or sexual assault, kidnapping, arson, physical assault or battery, or a drug-related  
38 offense committed during the previous 5 years, or any other violent or sexually-related

1 misdemeanor against a child, including child abuse, child endangerment, sexual assault, or a  
2 misdemeanor involving child sexual abuse images, or of a crime which shows that the person might  
3 be reasonably expected to pose a threat to a child, such as a violent crime or a sexually-related  
4 crime against an adult, the department shall:

5 (a) If the individual is the applicant or owner, revoke or deny the license or permit, or  
6 withhold state funds if the child day care provider is not required to be licensed.

7 ~~(b) [If the individual is a board member, household member, or child day care~~  
8 ~~personnel, or any other individual having regular contact with the enrolled children]~~ **For any**  
9 **other individual**, inform the child day care agency or registered provider that the individual is  
10 ineligible for employment and give the agency or registered provider an opportunity to take  
11 immediate corrective action to remove the individual from the agency, and, in conjunction with the  
12 department, to develop a corrective action plan, approved by the department, which shall ensure  
13 that the individual will not be on the premises of the child day care program and shall have no  
14 contact with children enrolled in the child day care program.

15 (c) Suspend, deny, or revoke the license or permit, and withhold state funding, if the  
16 child day care program refuses to take corrective action as indicated in subparagraph (b), or  
17 subsequently fails to comply with the corrective action plan approved by the department.

18 (d) Upon a finding of criminal activity as described in this paragraph, withhold state  
19 funding to registered child day care providers that are exempt from the licensing requirements of  
20 RSA 170-E:4 if the provider refuses to take corrective action as indicated in subparagraph (b), or  
21 fails to comply with the corrective action plan approved by the department.

22 IV. If any individual whose name has been submitted for this check has been convicted of a  
23 felony offense deemed directly or indirectly harmful to children in child day care, crimes against  
24 minors or adults, except crimes as provided in paragraph III, or is the subject of a founded  
25 complaint of child abuse or neglect, the department may deny, revoke, or suspend a license, permit,  
26 or registration pending the development and implementation of a corrective action plan approved by  
27 the department. In addition, the department may, upon a finding of criminal activity or a founded  
28 complaint of child abuse or neglect as described in this paragraph, withhold state funding to  
29 registered child day care providers that are exempt from the licensing requirements of RSA 170-E:4  
30 pending the development and implementation of a corrective action plan approved by the  
31 department. The department shall conduct an investigation in accordance with rules adopted  
32 under this subdivision to determine whether the individual poses a present threat to the safety of  
33 children. The investigation shall include an opportunity for the individual to present evidence on  
34 his **or her** behalf to show that the individual does not pose a threat to the safety of children.

35 IV-a. After the department has made a determination that an individual required to  
36 complete a criminal record check under paragraph I does not pose a present threat to the safety of  
37 children, the department may issue a child care employment eligibility card, which shall be valid for  
38 5 years provided that no disqualifying convictions are subsequently submitted, and the individual

1 remains eligible as described in subparagraph II-a(b). [~~The state may require additional~~  
2 ~~background checks to be completed based upon conviction information submitted.~~] *The*  
3 *department may require additional background checks to be completed based upon*  
4 *reliable information that the individual received one or more additional convictions*  
5 *subsequent to the previous criminal record check submission. If the department receives*  
6 *confirmation from a law enforcement agency that an individual has been charged with a*  
7 *crime as described in paragraph III or IV, the department shall suspend the individual's*  
8 *child care employment eligibility card and inform the child day care agency or registered*  
9 *provider that the individual is ineligible for employment and give the agency or registered*  
10 *provider an opportunity to take immediate corrective action to remove the individual from*  
11 *the agency, and, in conjunction with the department, to develop a corrective action plan,*  
12 *approved by the department, which shall ensure that the individual shall not be on the*  
13 *premises of the child day care program and shall have no contact with children enrolled*  
14 *in the child day care program while charges are pending.*

15 IV-b. Child day care providers who are required to be licensed or registered according to the  
16 provisions of this chapter shall, for every individual submitted for a check under paragraph I who is  
17 not required to complete the criminal background check pursuant to paragraph II-a, have on file a  
18 signed statement from the individual stating since the day the individual's background check was  
19 completed, that he or she:

20 (a) Has not been convicted of any crimes; and

21 (b) Has not had a finding by the department or any administrative agency in this or any  
22 other state for abuse, neglect, or exploitation.

23 IV-c. Child *day care agencies or* providers, whether registered or licensed, and individuals  
24 as described in paragraph I, shall complete the background check process described in this section  
25 no later than 5 years from the previous background check submission.

26 IV-d. The fee for a child care employment eligibility card issued under paragraph IV-a shall  
27 be \$50 and the card shall be valid for 5 years from the date of issuance, *or a prorated amount of*  
28 *\$10 per year from the most recently completed criminal background check.* A replacement  
29 card may be requested for a [~~\$15~~] \$10 fee.

30 V. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the  
31 confidentiality of information collected under this section and to the release, if any, of such  
32 information.

33 2 State Registry and Criminal Records Check for Child Care Institutions and Child Care  
34 Agencies. Amend RSA 170-E:29-a to read as follows:

35 170-E:29-a State Registry and Criminal Records Check for Child Care Institutions and Child  
36 Care Agencies.

37 I. Child care institutions and child care agencies, with the exception of foster family homes,  
38 that are required to be licensed according to the provisions of this chapter shall *submit to the*

1 *department the names, birth names, aliases, birth dates, and resident addresses during*  
2 *the previous 5 years of all owners, board members, household members, and program*  
3 *directors prior to the issuance of a permit or license and prior to making a final offer of*  
4 *employment, [to a person who will be responsible for the care of, or who will have regular contact*  
5 *with children, and upon adding a new household member, or other persons who will have regular*  
6 *contact with children, submit to the department, the names, birth names, birth dates, and*  
7 *addresses during the preceding 5 years of such persons and other information] for all individuals*  
8 *as required by the department [as prescribed by] in rules adopted [by the commissioner] under RSA*  
9 *541-A and as required by federal standards implementing the Families First Prevention*  
10 *Services Act.*

11 I-a. The persons described in paragraph I shall *complete a Federal Bureau of*  
12 *Investigation fingerprint check using the biometric identification system through a*  
13 *qualified law enforcement agency or an authorized employee of the department of safety*  
14 *and* submit directly to the department [~~of safety~~] a criminal history record information  
15 authorization form *and any other required forms*, as provided by the New Hampshire division of  
16 state police, which authorizes the release of the person's criminal records, if any, to the department.  
17 [~~The persons shall complete a Federal Bureau of Investigation fingerprint check using the~~  
18 ~~Integrated Automated Fingerprint Identification System through a qualified law enforcement~~  
19 ~~agency or an authorized employee of the department of safety. The department of safety shall~~  
20 ~~complete the criminal history records check and forward such record, if any, to the department.~~] In  
21 the event that the first set of fingerprints is invalid due to insufficient pattern, a second set of  
22 fingerprints shall be necessary to complete the criminal history records check. If, after 2 attempts,  
23 a set of fingerprints is invalid due to insufficient pattern, the department may, in lieu of the  
24 criminal history records check, accept police clearances from every city, town, or county where the  
25 person has lived during the past 5 years.

26 II.(a) For every name submitted on an application and for each person for whom  
27 information is required to be submitted pursuant to paragraph I, the department shall search for  
28 such persons against the New Hampshire sex offender and abuse and neglect registries, the sex  
29 offender and abuse and neglect registries of each state where the individual resided in the past 5  
30 years, and the National Sex Offender Registry. *The department shall submit all forms and*  
31 *any required payments from the individual to request from each state a check of the abuse*  
32 *and neglect registry records where the individual resided in the past 5 years.*

33 (b) The department [~~of safety~~] shall submit the criminal history records release form to  
34 the New Hampshire division of state police, which shall conduct a criminal history records check  
35 through its records and through the Federal Bureau of Investigation, *including the National Sex*  
36 *Offender Registry file in the National Crime Information Center records.* Upon completion  
37 of the background investigation, the division of state police shall release copies of the criminal  
38 conviction records to the department. The department shall maintain the confidentiality of all



1 criminal history records information received pursuant to this paragraph.

2 (c) The costs of criminal history record *and abuse and neglect registry* checks shall  
3 be borne by the licensee; provided, that the licensee may require an applicant to pay the actual costs  
4 of the criminal history check *and abuse and neglect registry checks* of the employee.

5 (d) *Any individual who refuses to consent to the criminal background check or*  
6 *knowingly makes a materially false statement in connection with such criminal*  
7 *background checks shall be ineligible for employment.*

8 III. Notwithstanding paragraph I, a licensee may make a final offer of employment and  
9 allow a person to begin working in the program while the results of the state and national criminal  
10 background check is pending provided that, prior to beginning employment, the applicant completes  
11 a statement stating that he or she:

12 (a) Does not have any felony conviction in this or any other state.

13 (b) Has not been convicted of a sexual assault, assault including simple assault, any  
14 other violent crime, abuse, neglect, or any other crime that shows that they may pose a threat to  
15 well-being of children, such as a violent crime or a sexually-related crime against an adult.

16 (c) Has not had a finding by the department or any administrative agency in this or any  
17 other state for abuse, neglect, or exploitation of children.

18 IV. The results of the criminal background check shall be valid for 5 years. Prior to the  
19 expiration of that 5-year period, [~~a person responsible for the care of, or who has regular contact~~  
20 ~~with children in child care institutions or child care agencies, or household members, or other~~  
21 ~~persons who will have regular contact with children,]~~ *the individuals described in paragraph I*  
22 shall undergo a background check pursuant to this section.

23 IV-a. If a person who is or has been employed or volunteered at a child care institution or  
24 child care agency is offered employment or volunteers at another child care institution or child care  
25 agency or a child day care agency, the person shall not be required to undergo the criminal records  
26 check described in paragraph I-a if the previous criminal records check was completed within the  
27 last 5 years *as provided in paragraph IV*, and the person was determined by the department to  
28 be eligible for employment. Before entering employment or volunteering with the new agency, the  
29 person shall complete a statement as set forth in paragraph III.

30 V. The department shall make a determination regarding the individual's eligibility for  
31 employment no later than 45 days from submission of all required information as described in  
32 paragraphs I and I-a. If any person whose name has been submitted for a check under this section  
33 is registered or required to be registered on a state sex offender registry or repository, or the  
34 National Sex Offender Registry, or has been convicted of a felony consisting of murder, child abuse  
35 or neglect, an offense involving child sexual abuse images, trafficking, spousal abuse, a crime  
36 involving rape or sexual assault, kidnapping, arson, physical assault or battery, or a drug-related  
37 offense committed during the previous 5 years, or any other violent or sexually related  
38 misdemeanor or against a child, including child abuse, child endangerment, sexual assault, or a

1 misdemeanor involving child sexual abuse images, or of a crime which shows that the person might  
2 be reasonably expected to pose a threat to a child, such as a violent crime or a sexually-related  
3 crime against an adult, the department shall:

4 (a) If the person is the applicant or owner, revoke or deny the license.

5 (b) If the person is a board member, household member, or child care institution or  
6 child care agency personnel, or any other person having regular contact with the enrolled children  
7 inform the child care institution or child care agency that the person is ineligible for employment  
8 and give the program an opportunity to take immediate corrective action to remove the person from  
9 the program, and, in conjunction with the department, to develop a corrective action plan, approved  
10 by the department, which shall ensure that the person will not be on the premises of the child care  
11 institution or child care agency and shall have no contact with children enrolled in the child care  
12 institution or child care agency.

13 (c) Suspend, deny, or revoke the license or permit if the child care institution or child  
14 care agency refuses to take corrective action as indicated in subparagraph (b), or subsequently fails  
15 to comply with the corrective action plan approved by the department.

16 VI. If any person whose name has been submitted for this check has been convicted of a  
17 felony offense or violent crime deemed directly or indirectly harmful to children in child residential  
18 care, crimes against minors or adults, except crimes as provided in paragraph V, or is the subject of  
19 a founded complaint of child abuse or neglect, the department may deny, revoke, or suspend a  
20 license or permit pending the development and implementation of a corrective action plan approved  
21 by the department. The department shall conduct an investigation in accordance with rules  
22 adopted under this subdivision to determine whether the person is ineligible for employment. The  
23 investigation shall include an opportunity for the person to present evidence on his or her behalf to  
24 show that the person does not pose a threat to the safety of children.

25 VII.(a) Once the department has made a determination that the individual required to  
26 complete a criminal record check under paragraph I-a is eligible for employment, the department  
27 shall issue a [~~child care~~] **residential child care** employment eligibility card, which shall be valid  
28 for 5 years provided that no disqualifying convictions are subsequently submitted, and the  
29 individual remains eligible as described in [~~RSA 170-E:7, II-a(b)~~] **paragraph V**. The [state]  
30 **department** may require additional background checks to be completed based upon [~~conviction~~  
31 ~~information submitted~~] **reliable information that the individual received one or more**  
32 **additional convictions subsequent to the previous criminal record submission. If the**  
33 **department receives confirmation from a law enforcement agency that an individual has**  
34 **been charged with a crime as described in paragraph III or V, the department shall**  
35 **suspend the individuals residential child care eligibility card and inform the agency that**  
36 **the individual is ineligible for employment and give the agency an opportunity to take**  
37 **immediate corrective action to remove the individual from the agency, and, in conjunction**  
38 **with the department, to develop a corrective action plan, approved by the department,**

1 *which shall ensure that the individual will not be on the premises of the program and*  
2 *shall have no contact with children enrolled in the program while charges are pending.*

3 (b) The fee for a *residential* child care employment eligibility card shall be \$50, and  
4 the card shall be valid for 5 years from the date of issuance, *or a prorated amount of \$10 per*  
5 *year from the most recently completed criminal background check.* The fee for a  
6 replacement card shall be [~~\$15~~] *\$10.*

7 VIII. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the  
8 confidentiality of information collected under this section and to the release, if any, of such  
9 information.

10 3 Effective Date. This act shall take effect July 1, 2019.

**SB 246-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT relative to licensing of child daycare, residential care, and child-placing agencies.

**FISCAL IMPACT:**  State  County  Local  None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Expenditures</b>	\$123,000	\$121,000	\$127,000	\$131,000
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General Funds	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other - Federal

**METHODOLOGY:**

This bill amends RSA 170:E by clarifying certain processes and language to align criminal background checks for child care programs with federal requirements of the Child Care and Development Fund Program. Specifically, the bill requires background checks be submitted directly to the Department of Health and Human Services prior to being forwarded to the Department of Safety, grants the Department of Health and Human Services the authority to request additional records in certain instances, and allows the Department to suspend an individual's eligibility to work in a child care program if the individual is charged with a disqualifying crime while charges are pending. The Department notes the above changes are necessary to comply with federal requirements and to avoid a 5 percent penalty of federal funds received through the Child Care Development Block Grant, through which the Department received approximately \$40 million in FY 2018. The bill also allows for a prorated fee for an employment eligibility card and reduces the card replacement fee from \$15 to \$10.

The Department anticipates registration card fee changes will minimally increase state revenue, stating only 5 replacement cards were requested since January 2018 and prorated card fees have been requested, but have yet to be implemented. It also states two additional full-time positions would be required to support the increase in workload attributed to the bill. The following salary, benefit and other cost estimates were provided for two Program Assistant I positions at labor grade 12. The position costs will consist of 33 percent general funds and 67 percent federal funds.

<b>2 FTE Program Assistant I</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
Salary	\$61,000	\$63,000	\$66,000	\$68,000
Benefits	\$50,000	\$53,000	\$56,000	\$58,000
Other	\$12,000	\$5,000	\$5,000	\$5,000
<b>Total</b>	<b>\$123,000</b>	<b>\$121,000</b>	<b>\$127,000</b>	<b>\$131,000</b>
<b>General Fund Total (33%)</b>	<b>\$40,590</b>	<b>\$39,930</b>	<b>\$41,910</b>	<b>\$43,230</b>
<b>Federal Fund Total (67%)</b>	<b>\$82,410</b>	<b>\$81,070</b>	<b>\$85,090</b>	<b>\$87,770</b>

The Department of Safety does not anticipate any fiscal impact to expenditures and revenue as a result of the bill.

**AGENCIES CONTACTED:**

Department of Health and Human Services and Department of Safety

SB 246-FN - AS AMENDED BY THE SENATE

03/07/2019 0613s

2019 SESSION

19-0977  
05/03

SENATE BILL **246-FN**

AN ACT relative to licensing of child daycare, residential care, and child-placing agencies.

SPONSORS: Sen. Gray, Dist 6; Sen. Bradley, Dist 3; Sen. Fuller Clark, Dist 21

COMMITTEE: Executive Departments and Administration **QTP/A S-O CONSENT**

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AMENDED ANALYSIS

This bill revises the state registry and criminal records check requirements for employees and others associated with residential child care agencies and child day care providers. The bill also establishes the child care licensing fund in the department of health and human services.

The bill is a request of the department of health and human services.

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6 according to the provisions of this chapter shall ~~[prior to the date an individual is responsible for~~  
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8 ~~individuals who will have regular contact with children,]~~ submit to the department~~]~~ the names,  
9 birth names, **aliases**, birth dates, and **resident** addresses during the preceding 5 years of ~~[such~~  
10 ~~individuals]~~ **all owners, board members, household members, and center directors prior to**  
11 **the issuance of a permit or license**, and ~~[other information]~~ **subsequent to licensure, for all**  
12 **individuals as** required by the department ~~[as prescribed by]~~ **in** rules adopted ~~[by the~~  
13 ~~commissioner]~~ **under RSA 541-A and in accordance with federal standards implementing the**  
14 **Child Care and Development Fund Program.**

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18 **and** submit directly to the department ~~[of safety]~~ a criminal history ~~[records release form]~~ **record**  
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26 insufficient pattern, a second set of fingerprints shall be necessary to complete the criminal history  
27 records check. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the  
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2 neglect registries, *the National Sex Offender Registry, and* the sex offender [~~and abuse and~~  
3 ~~neglect~~] registries of each state where the individual resided in the past 5 years [~~and the National~~  
4 ~~Sex Offender Registry~~]. *The department shall submit all forms and any payment required*  
5 *and provided by the individual to request from each state a check of the criminal history*  
6 *repository and abuse and neglect registry offices where the individual resided in the past*  
7 *5 years.*

8 (b) The department [~~of safety~~] shall submit the criminal history record information  
9 authorization form to the New Hampshire division of state police, which shall conduct a criminal  
10 history records check through its records and through the Federal Bureau of Investigation,  
11 *including the National Sex Offender Registry file in the National Crime Information*  
12 *Center records.* Upon completion of the background investigation, the division of state police shall  
13 release copies of the criminal conviction records to the department. The department shall maintain  
14 the confidentiality of all criminal history records information received [~~pursuant to this paragraph~~].

15 (c) The costs of criminal history record *and abuse and neglect registry* checks shall  
16 be borne by the child day care *agency or* provider; provided, that the child day care *agency or*  
17 provider may require an applicant to pay the actual costs of the criminal history check *and abuse*  
18 *and neglect registry checks* of the employee.

19 (d) *Any individual who refuses to consent to the criminal background check or*  
20 *knowingly makes a materially false statement in connection with such criminal*  
21 *background checks shall be ineligible for employment.*

22 II-a. An individual shall not be required to submit a request under paragraph I-a if:

23 (a) In the previous 5 years, the individual submitted a state criminal records release  
24 form and fingerprints and completed a criminal records check under this section;

25 (b) The individual is currently employed by a child care provider within the state, or  
26 has been separated from employment from a child care provider within the state for a period of not  
27 more than 180 consecutive days; and

28 (c) The department made a determination that when the individual completed the  
29 criminal records check within the previous 5 years as described in this section, the individual was  
30 eligible for employment as provided in paragraphs III and IV.

31 III. The department shall make a determination regarding the individual's eligibility for  
32 employment no later than 45 days from submission of all required information as described in  
33 paragraphs I and I-a. If any individual whose name has been submitted for a check under this  
34 section is registered or required to be registered on a state sex offender registry or repository, or the  
35 National Sex Offender Registry, or has been convicted of a felony consisting of murder, child abuse  
36 or neglect, an offense involving child sexual abuse images, trafficking, spousal abuse, a crime  
37 involving rape or sexual assault, kidnapping, arson, physical assault or battery, or a drug-related  
38 offense committed during the previous 5 years, or any other violent or sexually-related



SB 246-FN - AS AMENDED BY THE SENATE

- Page 3 -

1 misdemeanor against a child, including child abuse, child endangerment, sexual assault, or a  
2 misdemeanor involving child sexual abuse images, or of a crime which shows that the person might  
3 be reasonably expected to pose a threat to a child, such as a violent crime or a sexually-related  
4 crime against an adult, the department shall:

5 (a) If the individual is the applicant or owner, revoke or deny the license or permit, or  
6 withhold state funds if the child day care provider is not required to be licensed.

7 (b) ~~[If the individual is a board member, household member, or child day care~~  
8 ~~personnel, or any other individual having regular contact with the enrolled children]~~ **For any**  
9 **other individual**, inform the child day care agency or registered provider that the individual is  
10 ineligible for employment and give the agency or registered provider an opportunity to take  
11 immediate corrective action to remove the individual from the agency, and, in conjunction with the  
12 department, to develop a corrective action plan, approved by the department, which shall ensure  
13 that the individual will not be on the premises of the child day care program and shall have no  
14 contact with children enrolled in the child day care program.

15 (c) Suspend, deny, or revoke the license or permit, and withhold state funding, if the  
16 child day care program refuses to take corrective action as indicated in subparagraph (b), or  
17 subsequently fails to comply with the corrective action plan approved by the department.

18 (d) Upon a finding of criminal activity as described in this paragraph, withhold state  
19 funding to registered child day care providers that are exempt from the licensing requirements of  
20 RSA 170-E:4 if the provider refuses to take corrective action as indicated in subparagraph (b), or  
21 fails to comply with the corrective action plan approved by the department.

22 IV. If any individual whose name has been submitted for this check has been convicted of a  
23 felony offense deemed directly or indirectly harmful to children in child day care, crimes against  
24 minors or adults, except crimes as provided in paragraph III, or is the subject of a founded  
25 complaint of child abuse or neglect, the department may deny, revoke, or suspend a license, permit,  
26 or registration pending the development and implementation of a corrective action plan approved by  
27 the department. In addition, the department may, upon a finding of criminal activity or a founded  
28 complaint of child abuse or neglect as described in this paragraph, withhold state funding to  
29 registered child day care providers that are exempt from the licensing requirements of RSA 170-E:4  
30 pending the development and implementation of a corrective action plan approved by the  
31 department. The department shall conduct an investigation in accordance with rules adopted  
32 under this subdivision to determine whether the individual poses a present threat to the safety of  
33 children. The investigation shall include an opportunity for the individual to present evidence on  
34 his *or her* behalf to show that the individual does not pose a threat to the safety of children.

35 IV-a. After the department has made a determination that an individual required to  
36 complete a criminal record check under paragraph I does not pose a present threat to the safety of  
37 children, the department may issue a child care employment eligibility card, which shall be valid for  
38 5 years provided that no disqualifying convictions are subsequently submitted, and the individual

1 remains eligible as described in subparagraph II-a(b). [~~The state may require additional~~  
 2 ~~background checks to be completed based upon conviction information submitted.~~] *The*  
 3 *department may require additional background checks to be completed based upon*  
 4 *reliable information that the individual received one or more additional convictions*  
 5 *subsequent to the previous criminal record check submission. If the department receives*  
 6 *confirmation from a law enforcement agency that an individual has been charged with a*  
 7 *crime as described in paragraph III or IV, the department shall suspend the individual's*  
 8 *child care employment eligibility card and inform the child day care agency or registered*  
 9 *provider that the individual is ineligible for employment and give the agency or registered*  
 10 *provider an opportunity to take immediate corrective action to remove the individual from*  
 11 *the agency, and, in conjunction with the department, to develop a corrective action plan,*  
 12 *approved by the department, which shall ensure that the individual shall not be on the*  
 13 *premises of the child day care program and shall have no contact with children enrolled*  
 14 *in the child day care program while charges are pending.*

15 IV-b. Child day care providers who are required to be licensed or registered according to the  
 16 provisions of this chapter shall, for every individual submitted for a check under paragraph I who is  
 17 not required to complete the criminal background check pursuant to paragraph II-a, have on file a  
 18 signed statement from the individual stating since the day the individual's background check was  
 19 completed, that he or she:

20 (a) Has not been convicted of any crimes; and

21 (b) Has not had a finding by the department or any administrative agency in this or any  
 22 other state for abuse, neglect, or exploitation.

23 IV-c. Child *day* care **agencies or** providers, whether registered or licensed, and individuals  
 24 as described in paragraph I, shall complete the background check process described in this section  
 25 no later than 5 years from the previous background check submission.

26 IV-d. The fee for a child care employment eligibility card issued under paragraph IV-a shall  
 27 be \$50 and the card shall be valid for 5 years from the date of issuance, **or a prorated amount of**  
 28 **\$10 per year from the most recently completed criminal background check.** A replacement  
 29 card may be requested for a [~~\$15~~] \$10 fee.

30 V. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the  
 31 confidentiality of information collected under this section and to the release, if any, of such  
 32 information.

33 2 State Registry and Criminal Records Check for Child Care Institutions and Child Care  
 34 Agencies. Amend RSA 170-E:29-a to read as follows:

35 170-E:29-a State Registry and Criminal Records Check for Child Care Institutions and Child  
 36 Care Agencies.

37 I. Child care institutions and child care agencies, with the exception of foster family homes,  
 38 that are required to be licensed according to the provisions of this chapter shall **submit to the**

1 *department the names, birth names, aliases, birth dates, and resident addresses during*  
2 *the previous 5 years of all owners, board members, household members, and program*  
3 *directors prior to the issuance of a permit or license and prior to making a final offer of*  
4 *employment, [to a person who will be responsible for the care of, or who will have regular contact*  
5 *with children, and upon adding a new household member, or other persons who will have regular*  
6 *contact with children, submit to the department, the names, birth names, birth dates, and*  
7 *addresses during the preceding 5 years of such persons and other information] for all individuals*  
8 *as required by the department [as prescribed by] in rules adopted [by the commissioner] under RSA*  
9 *541-A and as required by federal standards implementing the Families First Prevention*  
10 *Services Act.*

11 I-a. The persons described in paragraph I shall *complete a Federal Bureau of*  
12 *Investigation fingerprint check using the biometric identification system through a*  
13 *qualified law enforcement agency or an authorized employee of the department of safety*  
14 *and* submit directly to the department [~~of safety~~] a criminal history record information  
15 authorization form *and any other required forms*, as provided by the New Hampshire division of  
16 state police, which authorizes the release of the person's criminal records, if any, to the department.  
17 [~~The persons shall complete a Federal Bureau of Investigation fingerprint check using the~~  
18 ~~Integrated Automated Fingerprint Identification System through a qualified law enforcement~~  
19 ~~agency or an authorized employee of the department of safety. The department of safety shall~~  
20 ~~complete the criminal history records check and forward such record, if any, to the department.] In~~  
21 the event that the first set of fingerprints is invalid due to insufficient pattern, a second set of  
22 fingerprints shall be necessary to complete the criminal history records check. If, after 2 attempts,  
23 a set of fingerprints is invalid due to insufficient pattern, the department may, in lieu of the  
24 criminal history records check, accept police clearances from every city, town, or county where the  
25 person has lived during the past 5 years.

26 II.(a) For every name submitted on an application and for each person for whom  
27 information is required to be submitted pursuant to paragraph I, the department shall search for  
28 such persons against the New Hampshire sex offender and abuse and neglect registries, the sex  
29 offender and abuse and neglect registries of each state where the individual resided in the past 5  
30 years, and the National Sex Offender Registry. *The department shall submit all forms and*  
31 *any required payments from the individual to request from each state a check of the abuse*  
32 *and neglect registry records where the individual resided in the past 5 years.*

33 (b) The department [~~of safety~~] shall submit the criminal history records release form to  
34 the New Hampshire division of state police, which shall conduct a criminal history records check  
35 through its records and through the Federal Bureau of Investigation, *including the National Sex*  
36 *Offender Registry file in the National Crime Information Center records.* Upon completion  
37 of the background investigation, the division of state police shall release copies of the criminal  
38 conviction records to the department. The department shall maintain the confidentiality of all

1 criminal history records information received pursuant to this paragraph.

2 (c) The costs of criminal history record *and abuse and neglect registry* checks shall  
3 be borne by the licensee; provided, that the licensee may require an applicant to pay the actual costs  
4 of the criminal history check *and abuse and neglect registry checks* of the employee.

5 (d) *Any individual who refuses to consent to the criminal background check or*  
6 *knowingly makes a materially false statement in connection with such criminal*  
7 *background checks shall be ineligible for employment.*

8 III. Notwithstanding paragraph I, a licensee may make a final offer of employment and  
9 allow a person to begin working in the program while the results of the state and national criminal  
10 background check is pending provided that, prior to beginning employment, the applicant completes  
11 a statement stating that he or she:

12 (a) Does not have any felony conviction in this or any other state.

13 (b) Has not been convicted of a sexual assault, assault including simple assault, any  
14 other violent crime, abuse, neglect, or any other crime that shows that they may pose a threat to  
15 well-being of children, such as a violent crime or a sexually-related crime against an adult.

16 (c) Has not had a finding by the department or any administrative agency in this or any  
17 other state for abuse, neglect, or exploitation of children.

18 IV. The results of the criminal background check shall be valid for 5 years. Prior to the  
19 expiration of that 5-year period, ~~[a person responsible for the care of, or who has regular contact~~  
20 ~~with children in child care institutions or child care agencies, or household members, or other~~  
21 ~~persons who will have regular contact with children,]~~ *the individuals described in paragraph I*  
22 shall undergo a background check pursuant to this section.

23 IV-a. If a person who is or has been employed or volunteered at a child care institution or  
24 child care agency is offered employment or volunteers at another child care institution or child care  
25 agency or a child day care agency, the person shall not be required to undergo the criminal records  
26 check described in paragraph I-a if the previous criminal records check was completed within the  
27 last 5 years *as provided in paragraph IV*, and the person was determined by the department to  
28 be eligible for employment. Before entering employment or volunteering with the new agency, the  
29 person shall complete a statement as set forth in paragraph III.

30 V. The department shall make a determination regarding the individual's eligibility for  
31 employment no later than 45 days from submission of all required information as described in  
32 paragraphs I and I-a. If any person whose name has been submitted for a check under this section  
33 is registered or required to be registered on a state sex offender registry or repository, or the  
34 National Sex Offender Registry, or has been convicted of a felony consisting of murder, child abuse  
35 or neglect, an offense involving child sexual abuse images, trafficking, spousal abuse, a crime  
36 involving rape or sexual assault, kidnapping, arson, physical assault or battery, or a drug-related  
37 offense committed during the previous 5 years, or any other violent or sexually related  
38 misdemeanor or against a child, including child abuse, child endangerment, sexual assault, or a

1 misdemeanor involving child sexual abuse images, or of a crime which shows that the person might  
 2 be reasonably expected to pose a threat to a child, such as a violent crime or a sexually-related  
 3 crime against an adult, the department shall:

4 (a) If the person is the applicant or owner, revoke or deny the license.

5 (b) If the person is a board member, household member, or child care institution or  
 6 child care agency personnel, or any other person having regular contact with the enrolled children  
 7 inform the child care institution or child care agency that the person is ineligible for employment  
 8 and give the program an opportunity to take immediate corrective action to remove the person from  
 9 the program, and, in conjunction with the department, to develop a corrective action plan, approved  
 10 by the department, which shall ensure that the person will not be on the premises of the child care  
 11 institution or child care agency and shall have no contact with children enrolled in the child care  
 12 institution or child care agency.

13 (c) Suspend, deny, or revoke the license or permit if the child care institution or child  
 14 care agency refuses to take corrective action as indicated in subparagraph (b), or subsequently fails  
 15 to comply with the corrective action plan approved by the department.

16 VI. If any person whose name has been submitted for this check has been convicted of a  
 17 felony offense or violent crime deemed directly or indirectly harmful to children in child residential  
 18 care, crimes against minors or adults, except crimes as provided in paragraph V, or is the subject of  
 19 a founded complaint of child abuse or neglect, the department may deny, revoke, or suspend a  
 20 license or permit pending the development and implementation of a corrective action plan approved  
 21 by the department. The department shall conduct an investigation in accordance with rules  
 22 adopted under this subdivision to determine whether the person is ineligible for employment. The  
 23 investigation shall include an opportunity for the person to present evidence on his or her behalf to  
 24 show that the person does not pose a threat to the safety of children.

25 VII.(a) Once the department has made a determination that the individual required to  
 26 complete a criminal record check under paragraph I-a is eligible for employment, the department  
 27 shall issue a ~~[child-care]~~ **residential child care** employment eligibility card, which shall be valid  
 28 for 5 years provided that no disqualifying convictions are subsequently submitted, and the  
 29 individual remains eligible as described in ~~[RSA 170-E:7, II-a(b)]~~ **paragraph V**. The ~~[state]~~  
 30 **department** may require additional background checks to be completed based upon ~~[conviction~~  
 31 ~~information submitted]~~ **reliable information that the individual received one or more**  
 32 **additional convictions subsequent to the previous criminal record submission. If the**  
 33 **department receives confirmation from a law enforcement agency that an individual has**  
 34 **been charged with a crime as described in paragraph III or V, the department shall**  
 35 **suspend the individuals residential child care eligibility card and inform the agency that**  
 36 **the individual is ineligible for employment and give the agency an opportunity to take**  
 37 **immediate corrective action to remove the individual from the agency, and, in conjunction**  
 38 **with the department, to develop a corrective action plan, approved by the department,**

1 *which shall ensure that the individual will not be on the premises of the program and*  
2 *shall have no contact with children enrolled in the program while charges are pending.*

3 (b) The fee for a *residential* child care employment eligibility card shall be \$50, and  
4 the card shall be valid for 5 years from the date of issuance, *or a prorated amount of \$10 per*  
5 *year from the most recently completed criminal background check.* The fee for a  
6 replacement card shall be ~~[\$15]~~ \$70.

7 VIII. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the  
8 confidentiality of information collected under this section and to the release, if any, of such  
9 information.

10 3 New Section; Child Day Care Licensing; State Registry and Criminal Records Check; Child  
11 Care Licensing Fund Established. Amend RSA 170-E by inserting after section 7 the following new  
12 section:

13 170-E:7-a Child Care Licensing Fund Established. There is hereby established a nonlapsing  
14 fund to be known as the child care licensing fund, which shall be administered by the commissioner  
15 of the department of health and human services and which shall be kept distinct and separate from  
16 all other funds. All fees for state registry and criminal records checks collected by the department  
17 pursuant to RSA 170-E:7 and RSA 170-E:29-a shall be deposited in the fund and all moneys in the  
18 fund shall be continually appropriated to the department of health and human services for the  
19 purpose of paying costs associated with administering the provisions of this chapter.

20 4 New Subparagraph; State Treasurer and State Accounts; Application of Receipts. Amend  
21 RSA 6:12, I(b) by inserting after subparagraph (343) the following new subparagraph:

22 (344) Moneys deposited into the child care licensing fund established in RSA 170-  
23 E:7-a.

24 5 Effective Date. This act shall take effect July 1, 2019.

**SB 246-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT relative to licensing of child daycare, residential care, and child-placing agencies.

FISCAL IMPACT:  State  County  Local  None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$123,000	\$121,000	\$127,000	\$131,000
Funding Source:	<input checked="" type="checkbox"/> General Funds <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Federal			

**METHODOLOGY:**

This bill amends RSA 170:E by clarifying certain processes and language to align criminal background checks for child care programs with federal requirements of the Child Care and Development Fund Program. Specifically, the bill requires background checks be submitted directly to the Department of Health and Human Services prior to being forwarded to the Department of Safety, grants the Department of Health and Human Services the authority to request additional records in certain instances, and allows the Department to suspend an individual's eligibility to work in a child care program if the individual is charged with a disqualifying crime while charges are pending. The Department notes the above changes are necessary to comply with federal requirements and to avoid a 5 percent penalty of federal funds received through the Child Care Development Block Grant, through which the Department received approximately \$40 million in FY 2018. The bill also allows for a prorated fee for an employment eligibility card and reduces the card replacement fee from \$15 to \$10.

The Department anticipates registration card fee changes will minimally increase state revenue, stating only 5 replacement cards were requested since January 2018 and prorated card fees have been requested, but have yet to be implemented. It also states two additional full-time positions would be required to support the increase in workload attributed to the bill. The following salary, benefit and other cost estimates were provided for two Program Assistant I positions at labor grade 12. The position costs will consist of 33 percent general funds and 67 percent federal funds.

<b>2 FTE Program Assistant I</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
Salary	\$61,000	\$63,000	\$66,000	\$68,000
Benefits	\$50,000	\$53,000	\$56,000	\$58,000
Other	\$12,000	\$5,000	\$5,000	\$5,000
<b>Total</b>	<b>\$123,000</b>	<b>\$121,000</b>	<b>\$127,000</b>	<b>\$131,000</b>
<b>General Fund Total (33%)</b>	<b>\$40,590</b>	<b>\$39,930</b>	<b>\$41,910</b>	<b>\$43,230</b>
<b>Federal Fund Total (67%)</b>	<b>\$82,410</b>	<b>\$81,070</b>	<b>\$85,090</b>	<b>\$87,770</b>

The Department of Safety does not anticipate any fiscal impact to expenditures and revenue as a result of the bill.

**AGENCIES CONTACTED:**

Department of Health and Human Services and Department of Safety



**SB 246-FN FISCAL NOTE  
AS AMENDED BY THE SENATE (AMENDMENT #2019-0613s)**

AN ACT relative to licensing of child daycare, residential care, and child-placing agencies.

FISCAL IMPACT:     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Expenditures</b>	\$123,000	\$121,000	\$127,000	\$131,000
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other Federal Funds, Child Care Licensing Fund			

**METHODOLOGY:**

This bill amends RSA 170:E by clarifying certain processes and language to align criminal background checks for child care programs with federal requirements of the Child Care and Development Fund Program. Specifically, the bill requires background checks be submitted directly to the Department of Health and Human Services prior to being forwarded to the Department of Safety, grants the Department of Health and Human Services the authority to request additional records in certain instances, and allows the Department to suspend an individual's eligibility to work in a child care program if the individual is charged with a disqualifying crime while charges are pending. The Department notes the above changes are necessary to comply with federal requirements and to avoid a 5 percent penalty of federal funds received through the Child Care Development Block Grant, through which the Department received approximately \$40 million in FY 2018.

The bill also allows for a prorated fee for an employment eligibility card, reduces the card replacement fee from \$15 to \$10, and establishes the Child Care Licensing Fund to deposit the fees collected from state registry and criminal record checks pursuant to RSA 170-E:7 and RSA 170-E:29-a for administering the program.

The Department anticipates registration card fee changes will minimally increase state revenue, stating only 5 replacement cards were requested since January 2018 and prorated card

fees have been requested, but have yet to be implemented. It also states two additional full-time positions would be required to support the increase in workload attributed to the bill. The following salary, benefit and other cost estimates were provided for two Program Assistant I positions at labor grade 12. The position costs will consist of 33 percent general funds and 67 percent federal funds. The Department anticipates general funds will be offset, in part, by revenue collected from fees under the bill.

2 FTE Program Assistant I	FY 2020	FY 2021	FY 2022	FY 2023
Salary	\$61,000	\$63,000	\$66,000	\$68,000
Benefits	\$50,000	\$53,000	\$56,000	\$58,000
Other	\$12,000	\$5,000	\$5,000	\$5,000
<b>Total</b>	<b>\$123,000</b>	<b>\$121,000</b>	<b>\$127,000</b>	<b>\$131,000</b>
<b>General Fund/Fee Revenue Total (33%)</b>	<b>\$40,590</b>	<b>\$39,930</b>	<b>\$41,910</b>	<b>\$43,230</b>
<b>Federal Fund Total (67%)</b>	<b>\$82,410</b>	<b>\$81,070</b>	<b>\$85,090</b>	<b>\$87,770</b>

The Department of Safety does not anticipate any fiscal impact to expenditures and revenue as a result of the bill.

**AGENCIES CONTACTED:**

Department of Health and Human Services and Department of Safety

SB 246-FN - AS AMENDED BY THE SENATE

03/07/2019 0613s  
03/21/2019 0997s

2019 SESSION

19-0977  
05/03

SENATE BILL **246-FN**

AN ACT relative to licensing of child daycare, residential care, and child-placing agencies.

SPONSORS: Sen. Gray, Dist 6; Sen. Bradley, Dist 3; Sen. Fuller Clark, Dist 21

COMMITTEE: Executive Departments and Administration

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AMENDED ANALYSIS

This bill revises the state registry and criminal records check requirements for employees and others associated with residential child care agencies and child day care providers. The bill also establishes the child care licensing fund in the department of health and human services.

The bill is a request of the department of health and human services.

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Explanation: Matter added to current law appears in *bold italics*.  
Matter removed from current law appears ~~[in brackets and struckthrough]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 246-FN - AS AMENDED BY THE SENATE

03/07/2019 0613s  
03/21/2019 0997s

19-0977  
05/03

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Nineteen*

AN ACT relative to licensing of child daycare, residential care, and child-placing agencies.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Child Day Care Licensing; State Registry and Criminal Records Check; Revocation of  
2 Registration and Withholding of State Funds. Amend RSA 170-E:7 to read as follows:

3 170-E:7 State Registry and Criminal Records Check; Revocation of Registration and  
4 Withholding of State Funds.

5 I. Child day care *agencies and* providers who are required to be licensed or registered  
6 according to the provisions of this chapter shall [~~prior to the date an individual is responsible for~~  
7 ~~the care of, or has regular contact with children, and upon adding new household members or other~~  
8 ~~individuals who will have regular contact with children,~~] submit to the department[~~;~~] the names,  
9 birth names, *aliases*, birth dates, and *resident* addresses during the preceding 5 years of [~~such~~  
10 ~~individuals~~] *all owners, board members, household members, and center directors prior to*  
11 *the issuance of a permit or license, and [other information] subsequent to licensure, for all*  
12 *individuals as* required by the department [~~as prescribed by~~] *in* rules adopted [~~by the~~  
13 ~~commissioner~~] *under RSA 541-A and in accordance with federal standards implementing the*  
14 *Child Care and Development Fund Program.*

15 I-a. The persons described in paragraph I shall *complete a Federal Bureau of*  
16 *Investigation fingerprint check using the biometric identification system through a*  
17 *qualified law enforcement agency or an authorized employee of the department of safety*  
18 *and* submit directly to the department [~~of safety~~] a criminal history [~~records release form~~] *record*  
19 *information authorization form and any additional required forms, as provided by the New*  
20 *Hampshire division of state police, which [authorizes] authorize the release of the person's criminal*  
21 *records, if any, to the department. [The person shall complete a Federal Bureau of Investigation*  
22 *fingerprint check using the Integrated Automated Fingerprint Identification System through a*  
23 *qualified law enforcement agency or an authorized employee of the department of safety. The*  
24 *department of safety shall complete the criminal history records check and forward such record, if*  
25 *any, to the department.] In the event that the first set of fingerprints is invalid due to insufficient*  
26 *pattern, a second set of fingerprints shall be necessary to complete the criminal history records*  
27 *check. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the department*  
28 *may, in lieu of the criminal history records check, accept police clearances from every city, town, or*  
29 *county where the person has lived during the past 5 years.*

1 II.(a) For every name submitted on an application, in the registration process, and for each  
 2 individual for whom information is required to be submitted pursuant to paragraph I, the  
 3 department shall search for such persons against the New Hampshire sex offender and abuse and  
 4 neglect registries, *the National Sex Offender Registry*, and the sex offender [~~and abuse and~~  
 5 ~~neglect~~] registries of each state where the individual resided in the past 5 years[~~and the National~~  
 6 ~~Sex Offender Registry~~]. *The department shall submit all forms and any payment required*  
 7 *and provided by the individual to request from each state a check of the criminal history*  
 8 *repository and abuse and neglect registry offices where the individual resided in the past 5*  
 9 *years.*

10 (b) The department [~~of safety~~] shall submit the criminal history record information  
 11 authorization form to the New Hampshire division of state police, which shall conduct a criminal  
 12 history records check through its records and through the Federal Bureau of Investigation,  
 13 *including the National Sex Offender Registry file in the National Crime Information*  
 14 *Center records.* Upon completion of the background investigation, the division of state police shall  
 15 release copies of the criminal conviction records to the department. The department shall maintain  
 16 the confidentiality of all criminal history records information received [~~pursuant to this paragraph~~].

17 (c) The costs of criminal history record *and abuse and neglect registry* checks shall be  
 18 borne by the child day care *agency or* provider; provided, that the child day care *agency or* provider  
 19 may require an applicant to pay the actual costs of the criminal history check *and abuse and*  
 20 *neglect registry checks* of the employee.

21 (d) *Any individual who refuses to consent to the criminal background check or*  
 22 *knowingly makes a materially false statement in connection with such criminal*  
 23 *background checks shall be ineligible for employment.*

24 II-a. An individual shall not be required to submit a request under paragraph I-a if:

25 (a) In the previous 5 years, the individual submitted a state criminal records release  
 26 form and fingerprints and completed a criminal records check under this section;

27 (b) The individual is currently employed by a child care provider within the state, or has  
 28 been separated from employment from a child care provider within the state for a period of not more  
 29 than 180 consecutive days; and

30 (c) The department made a determination that when the individual completed the  
 31 criminal records check within the previous 5 years as described in this section, the individual was  
 32 eligible for employment as provided in paragraphs III and IV.

33 III. The department shall make a determination regarding the individual's eligibility for  
 34 employment no later than 45 days from submission of all required information as described in  
 35 paragraphs I and I-a. If any individual whose name has been submitted for a check under this  
 36 section is registered or required to be registered on a state sex offender registry or repository, or the  
 37 National Sex Offender Registry, or has been convicted of a felony consisting of murder, child abuse

1 or neglect, an offense involving child sexual abuse images, trafficking, spousal abuse, a crime  
2 involving rape or sexual assault, kidnapping, arson, physical assault or battery, or a drug-related  
3 offense committed during the previous 5 years, or any other violent or sexually-related misdemeanor  
4 against a child, including child abuse, child endangerment, sexual assault, or a misdemeanor  
5 involving child sexual abuse images, or of a crime which shows that the person might be reasonably  
6 expected to pose a threat to a child, such as a violent crime or a sexually-related crime against an  
7 adult, the department shall:

8 (a) If the individual is the applicant or owner, revoke or deny the license or permit, or  
9 withhold state funds if the child day care provider is not required to be licensed.

10 (b) ~~[If the individual is a board member, household member, or child day care personnel,~~  
11 ~~or any other individual having regular contact with the enrolled children]~~ **For any other**  
12 **individual**, inform the child day care agency or registered provider that the individual is ineligible  
13 for employment and give the agency or registered provider an opportunity to take immediate  
14 corrective action to remove the individual from the agency, and, in conjunction with the department,  
15 to develop a corrective action plan, approved by the department, which shall ensure that the  
16 individual will not be on the premises of the child day care program and shall have no contact with  
17 children enrolled in the child day care program.

18 (c) Suspend, deny, or revoke the license or permit, and withhold state funding, if the  
19 child day care program refuses to take corrective action as indicated in subparagraph (b), or  
20 subsequently fails to comply with the corrective action plan approved by the department.

21 (d) Upon a finding of criminal activity as described in this paragraph, withhold state  
22 funding to registered child day care providers that are exempt from the licensing requirements of  
23 RSA 170-E:4 if the provider refuses to take corrective action as indicated in subparagraph (b), or  
24 fails to comply with the corrective action plan approved by the department.

25 IV. If any individual whose name has been submitted for this check has been convicted of a  
26 felony offense deemed directly or indirectly harmful to children in child day care, crimes against  
27 minors or adults, except crimes as provided in paragraph III, or is the subject of a founded complaint  
28 of child abuse or neglect, the department may deny, revoke, or suspend a license, permit, or  
29 registration pending the development and implementation of a corrective action plan approved by  
30 the department. In addition, the department may, upon a finding of criminal activity or a founded  
31 complaint of child abuse or neglect as described in this paragraph, withhold state funding to  
32 registered child day care providers that are exempt from the licensing requirements of RSA 170-E:4  
33 pending the development and implementation of a corrective action plan approved by the  
34 department. The department shall conduct an investigation in accordance with rules adopted under  
35 this subdivision to determine whether the individual poses a present threat to the safety of children.  
36 The investigation shall include an opportunity for the individual to present evidence on his *or her*  
37 behalf to show that the individual does not pose a threat to the safety of children.

1 IV-a. After the department has made a determination that an individual required to  
2 complete a criminal record check under paragraph I does not pose a present threat to the safety of  
3 children, the department may issue a child care employment eligibility card, which shall be valid for  
4 5 years provided that no disqualifying convictions are subsequently submitted, and the individual  
5 remains eligible as described in subparagraph II-a(b). ~~[The state may require additional background~~  
6 ~~checks to be completed based upon conviction information submitted.]~~ *The department may*  
7 *require additional background checks to be completed based upon reliable information*  
8 *that the individual received one or more additional convictions subsequent to the previous*  
9 *criminal record check submission. If the department receives confirmation from a law*  
10 *enforcement agency that an individual has been charged with a crime as described in*  
11 *paragraph III or IV, the department shall suspend the individual's child care employment*  
12 *eligibility card and inform the child day care agency or registered provider that the*  
13 *individual is ineligible for employment and give the agency or registered provider an*  
14 *opportunity to take immediate corrective action to remove the individual from the agency,*  
15 *and, in conjunction with the department, to develop a corrective action plan, approved by*  
16 *the department, which shall ensure that the individual shall not be on the premises of the*  
17 *child day care program and shall have no contact with children enrolled in the child day*  
18 *care program while charges are pending.*

19 IV-b. Child day care providers who are required to be licensed or registered according to the  
20 provisions of this chapter shall, for every individual submitted for a check under paragraph I who is  
21 not required to complete the criminal background check pursuant to paragraph II-a, have on file a  
22 signed statement from the individual stating since the day the individual's background check was  
23 completed, that he or she:

24 (a) Has not been convicted of any crimes; and

25 (b) Has not had a finding by the department or any administrative agency in this or any  
26 other state for abuse, neglect, or exploitation.

27 IV-c. Child *day* care *agencies or* providers, whether registered or licensed, and individuals  
28 as described in paragraph I, shall complete the background check process described in this section no  
29 later than 5 years from the previous background check submission.

30 IV-d. The fee for a child care employment eligibility card issued under paragraph IV-a shall  
31 be \$50 and the card shall be valid for 5 years from the date of issuance, *or a prorated amount of*  
32 *\$10 per year from the most recently completed criminal background check.* A replacement  
33 card may be requested for a ~~[\$15]~~ \$10 fee.

34 V. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the  
35 confidentiality of information collected under this section and to the release, if any, of such  
36 information.

1           2 State Registry and Criminal Records Check for Child Care Institutions and Child Care  
2 Agencies. Amend RSA 170-E:29-a to read as follows:

3           170-E:29-a State Registry and Criminal Records Check for Child Care Institutions and Child  
4 Care Agencies.

5           I. Child care institutions and child care agencies, with the exception of foster family homes,  
6 that are required to be licensed according to the provisions of this chapter shall *submit to the*  
7 *department the names, birth names, aliases, birth dates, and resident addresses during the*  
8 *previous 5 years of all owners, board members, household members, and program directors*  
9 *prior to the issuance of a permit or license and* prior to making a final offer of employment, [~~to~~  
10 ~~a person who will be responsible for the care of, or who will have regular contact with children, and~~  
11 ~~upon adding a new household member, or other persons who will have regular contact with children,~~  
12 ~~submit to the department, the names, birth names, birth dates, and addresses during the preceding~~  
13 ~~5 years of such persons and other information]~~ *for all individuals as* required by the department  
14 [~~as prescribed by]~~ *in* rules adopted [~~by the commissioner]~~ under RSA 541-A *and as required by*  
15 *federal standards implementing the Families First Prevention Services Act.*

16           I-a. The persons described in paragraph I shall *complete a Federal Bureau of*  
17 *Investigation fingerprint check using the biometric identification system through a*  
18 *qualified law enforcement agency or an authorized employee of the department of safety*  
19 *and* submit directly to the department [~~of safety]~~ a criminal history record information  
20 authorization form *and any other required forms*, as provided by the New Hampshire division of  
21 state police, which authorizes the release of the person's criminal records, if any, to the department.  
22 [~~The persons shall complete a Federal Bureau of Investigation fingerprint check using the~~  
23 ~~Integrated Automated Fingerprint Identification System through a qualified law enforcement agency~~  
24 ~~or an authorized employee of the department of safety. The department of safety shall complete the~~  
25 ~~criminal history records check and forward such record, if any, to the department.]~~ In the event that  
26 the first set of fingerprints is invalid due to insufficient pattern, a second set of fingerprints shall be  
27 necessary to complete the criminal history records check. If, after 2 attempts, a set of fingerprints is  
28 invalid due to insufficient pattern, the department may, in lieu of the criminal history records check,  
29 accept police clearances from every city, town, or county where the person has lived during the past  
30 5 years.

31           II.(a) For every name submitted on an application and for each person for whom information  
32 is required to be submitted pursuant to paragraph I, the department shall search for such persons  
33 against the New Hampshire sex offender and abuse and neglect registries, the sex offender and  
34 abuse and neglect registries of each state where the individual resided in the past 5 years, and the  
35 National Sex Offender Registry. *The department shall submit all forms and any required*  
36 *payments from the individual to request from each state a check of the abuse and neglect*  
37 *registry records where the individual resided in the past 5 years.*



1 (b) The department [~~of safety~~] shall submit the criminal history records release form to  
2 the New Hampshire division of state police, which shall conduct a criminal history records check  
3 through its records and through the Federal Bureau of Investigation, *including the National Sex*  
4 *Offender Registry file in the National Crime Information Center records*. Upon completion of  
5 the background investigation, the division of state police shall release copies of the criminal  
6 conviction records to the department. The department shall maintain the confidentiality of all  
7 criminal history records information received pursuant to this paragraph.

8 (c) The costs of criminal history record *and abuse and neglect registry* checks shall be  
9 borne by the licensee; provided, that the licensee may require an applicant to pay the actual costs of  
10 the criminal history check *and abuse and neglect registry checks* of the employee.

11 (d) *Any individual who refuses to consent to the criminal background check or*  
12 *knowingly makes a materially false statement in connection with such criminal*  
13 *background checks shall be ineligible for employment.*

14 III. Notwithstanding paragraph I, a licensee may make a final offer of employment and  
15 allow a person to begin working in the program while the results of the state and national criminal  
16 background check is pending provided that, prior to beginning employment, the applicant completes  
17 a statement stating that he or she:

18 (a) Does not have any felony conviction in this or any other state.

19 (b) Has not been convicted of a sexual assault, assault including simple assault, any  
20 other violent crime, abuse, neglect, or any other crime that shows that they may pose a threat to  
21 well-being of children, such as a violent crime or a sexually-related crime against an adult.

22 (c) Has not had a finding by the department or any administrative agency in this or any  
23 other state for abuse, neglect, or exploitation of children.

24 IV. The results of the criminal background check shall be valid for 5 years. Prior to the  
25 expiration of that 5-year period, [~~a person responsible for the care of, or who has regular contact with~~  
26 ~~children in child care institutions or child care agencies, or household members, or other persons~~  
27 ~~who will have regular contact with children,~~] *the individuals described in paragraph I* shall  
28 undergo a background check pursuant to this section.

29 IV-a. If a person who is or has been employed or volunteered at a child care institution or  
30 child care agency is offered employment or volunteers at another child care institution or child care  
31 agency or a child day care agency, the person shall not be required to undergo the criminal records  
32 check described in paragraph I-a if the previous criminal records check was completed within the  
33 last 5 years *as provided in paragraph IV*, and the person was determined by the department to  
34 be eligible for employment. Before entering employment or volunteering with the new agency, the  
35 person shall complete a statement as set forth in paragraph III.

36 V. The department shall make a determination regarding the individual's eligibility for  
37 employment no later than 45 days from submission of all required information as described in

1 paragraphs I and I-a. If any person whose name has been submitted for a check under this section is  
2 registered or required to be registered on a state sex offender registry or repository, or the National  
3 Sex Offender Registry, or has been convicted of a felony consisting of murder, child abuse or neglect,  
4 an offense involving child sexual abuse images, trafficking, spousal abuse, a crime involving rape or  
5 sexual assault, kidnapping, arson, physical assault or battery, or a drug-related offense committed  
6 during the previous 5 years, or any other violent or sexually related misdemeanor or against a child,  
7 including child abuse, child endangerment, sexual assault, or a misdemeanor involving child sexual  
8 abuse images, or of a crime which shows that the person might be reasonably expected to pose a  
9 threat to a child, such as a violent crime or a sexually-related crime against an adult, the  
10 department shall:

11 (a) If the person is the applicant or owner, revoke or deny the license.

12 (b) If the person is a board member, household member, or child care institution or child  
13 care agency personnel, or any other person having regular contact with the enrolled children inform  
14 the child care institution or child care agency that the person is ineligible for employment and give  
15 the program an opportunity to take immediate corrective action to remove the person from the  
16 program, and, in conjunction with the department, to develop a corrective action plan, approved by  
17 the department, which shall ensure that the person will not be on the premises of the child care  
18 institution or child care agency and shall have no contact with children enrolled in the child care  
19 institution or child care agency.

20 (c) Suspend, deny, or revoke the license or permit if the child care institution or child  
21 care agency refuses to take corrective action as indicated in subparagraph (b), or subsequently fails  
22 to comply with the corrective action plan approved by the department.

23 VI. If any person whose name has been submitted for this check has been convicted of a  
24 felony offense or violent crime deemed directly or indirectly harmful to children in child residential  
25 care, crimes against minors or adults, except crimes as provided in paragraph V, or is the subject of  
26 a founded complaint of child abuse or neglect, the department may deny, revoke, or suspend a  
27 license or permit pending the development and implementation of a corrective action plan approved  
28 by the department. The department shall conduct an investigation in accordance with rules adopted  
29 under this subdivision to determine whether the person is ineligible for employment. The  
30 investigation shall include an opportunity for the person to present evidence on his or her behalf to  
31 show that the person does not pose a threat to the safety of children.

32 VII.(a) Once the department has made a determination that the individual required to  
33 complete a criminal record check under paragraph I-a is eligible for employment, the department  
34 shall issue a [child-care] *residential child care* employment eligibility card, which shall be valid  
35 for 5 years provided that no disqualifying convictions are subsequently submitted, and the individual  
36 remains eligible as described in ~~[RSA 170-E:7, II-a(b)]~~ *paragraph V*. The [state] *department* may  
37 require additional background checks to be completed based upon ~~[conviction information submitted]~~

1 *reliable information that the individual received one or more additional convictions*  
2 *subsequent to the previous criminal record submission. If the department receives*  
3 *confirmation from a law enforcement agency that an individual has been charged with a*  
4 *crime as described in paragraph III or V, the department shall suspend the individuals*  
5 *residential child care eligibility card and inform the agency that the individual is*  
6 *ineligible for employment and give the agency an opportunity to take immediate corrective*  
7 *action to remove the individual from the agency, and, in conjunction with the department,*  
8 *to develop a corrective action plan, approved by the department, which shall ensure that*  
9 *the individual will not be on the premises of the program and shall have no contact with*  
10 *children enrolled in the program while charges are pending.*

11 (b) The fee for a *residential* child care employment eligibility card shall be \$50, and the  
12 card shall be valid for 5 years from the date of issuance, *or a prorated amount of \$10 per year*  
13 *from the most recently completed criminal background check.* The fee for a replacement card  
14 shall be \$15.

15 VIII. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the  
16 confidentiality of information collected under this section and to the release, if any, of such  
17 information.

18 3 New Section; Child Day Care Licensing; State Registry and Criminal Records Check; Child  
19 Care Licensing Fund Established. Amend RSA 170-E by inserting after section 7 the following new  
20 section:

21 170-E:7-a Child Care Licensing Fund Established. There is hereby established a nonlapsing  
22 fund to be known as the child care licensing fund, which shall be administered by the commissioner  
23 of the department of health and human services and which shall be kept distinct and separate from  
24 all other funds. All fees for state registry and criminal records checks collected by the department  
25 pursuant to RSA 170-E:7 and RSA 170-E:29-a shall be deposited in the fund and all moneys in the  
26 fund shall be continually appropriated to the department of health and human services for the  
27 purpose of paying costs associated with administering the provisions of this chapter.

28 4 New Subparagraph; State Treasurer and State Accounts; Application of Receipts. Amend RSA  
29 6:12, I(b) by inserting after subparagraph (343) the following new subparagraph:

30 (344) Moneys deposited into the child care licensing fund established in RSA 170-  
31 E:7-a.

32 5 Effective Date. This act shall take effect July 1, 2019.

**SB 246-FN- FISCAL NOTE**  
**AS AMENDED BY THE SENATE (AMENDMENT #2019-0997s)**

AN ACT relative to licensing of child daycare, residential care, and child-placing agencies.

**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Expenditures</b>	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General Child Care Licensing Fund	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other

**METHODOLOGY:**

This bill amends RSA 170-E by clarifying certain processes and language to align criminal background checks for child care programs with federal requirements of the Child Care and Development Fund Program. Specifically, the bill requires background checks be submitted directly to the Department of Health and Human Services prior to being forwarded to the Department of Safety, grants the Department of Health and Human Services the authority to request additional records in certain instances, and allows the Department to suspend an individual's eligibility to work in a child care program if the individual is charged with a disqualifying crime while charges are pending. The Department notes the above changes are necessary to comply with federal requirements and to avoid a 5 percent penalty of federal funds received through the Child Care Development Block Grant, through which the Department received approximately \$10.3 million in FY 2018.

The bill also allows for a prorated fee for an employment eligibility card and establishes the Child Care Licensing Fund to deposit the fees collected from state registry and criminal record checks pursuant to RSA 170-E:7 and RSA 170-E:29-a for administering the program. The Department anticipates general funds will be offset, in part, by revenue collected from fees under the bill.

The Department anticipates registration card fee changes will minimally increase state revenue, stating only 5 replacement cards at a cost of \$15 each were requested since January 2018 and

prorated card fees have been requested, but have yet to be implemented. It also states two additional full-time positions would be required to support the increase in workload attributed to the bill. The following salary, benefit and other cost estimates were provided for two Program Assistant I positions at labor grade 12.

<b>2 FTE Program Assistant I</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
Salary	\$61,000	\$63,000	\$66,000	\$68,000
Benefits	\$50,000	\$53,000	\$56,000	\$58,000
Other	\$12,000	\$5,000	\$5,000	\$5,000
<b>Total</b>	<b>\$123,000</b>	<b>\$121,000</b>	<b>\$127,000</b>	<b>\$131,000</b>

The Department states there would be additional indeterminable expenditures for IT changes which are necessary to maintain databases and comply with federal audit requirements.

The Department of Safety does not anticipate any fiscal impact to expenditures and revenue as a result of the bill.

**AGENCIES CONTACTED:**

Department of Health and Human Services and Department of Safety

SB 246-FN - AS AMENDED BY THE HOUSE

03/07/2019 0613s  
03/21/2019 0997s  
8May2019... 1746h

2019 SESSION

19-0977  
05/03

SENATE BILL **246-FN**

AN ACT relative to licensing of child daycare, residential care, and child-placing agencies.

SPONSORS: Sen. Gray, Dist 6; Sen. Bradley, Dist 3; Sen. Fuller Clark, Dist 21

COMMITTEE: Executive Departments and Administration

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AMENDED ANALYSIS

This bill revises the state registry and criminal records check requirements for employees and others associated with residential child care agencies and child day care providers. The bill also establishes the child care licensing fund in the department of health and human services.

The bill is a request of the department of health and human services.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struckthrough~~].  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 246-FN - AS AMENDED BY THE HOUSE

03/07/2019 0613s  
03/21/2019 0997s  
8May2019... 1746h

19-0977  
05/03

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Nineteen*

AN ACT relative to licensing of child daycare, residential care, and child-placing agencies.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Child Day Care Licensing; State Registry and Criminal Records Check; Revocation of  
2 Registration and Withholding of State Funds. Amend RSA 170-E:7 to read as follows:

3 170-E:7 State Registry and Criminal Records Check; Revocation of Registration and  
4 Withholding of State Funds.

5 I. Child day care *agencies and* providers who are required to be licensed or registered  
6 according to the provisions of this chapter shall [~~prior to the date an individual is responsible for~~  
7 ~~the care of, or has regular contact with children, and upon adding new household members or other~~  
8 ~~individuals who will have regular contact with children,~~] submit to the department[<sup>s</sup>] the names,  
9 birth names, *aliases*, birth dates, and *resident* addresses during the preceding 5 years of [~~such~~  
10 ~~individuals~~] *all owners, board members, household members, and center directors prior to*  
11 *the issuance of a permit or license*, and [~~other information~~] *subsequent to licensure, for all*  
12 *individuals as* required by the department [~~as prescribed by~~] *in* rules adopted [~~by the~~  
13 ~~commissioner~~] *under RSA 541-A and in accordance with federal standards implementing the*  
14 *Child Care and Development Fund Program.*

15 I-a. The persons described in paragraph I shall *complete a Federal Bureau of*  
16 *Investigation fingerprint check using the biometric identification system through a*  
17 *qualified law enforcement agency or an authorized employee of the department of safety*  
18 *and* submit directly to the department [~~of safety~~] a criminal history [~~records release form~~] *record*  
19 *information authorization form and any additional required forms*, as provided by the New  
20 Hampshire division of state police, which [~~authorizes~~] *authorize* the release of the person's criminal  
21 records, if any, to the department. [~~The person shall complete a Federal Bureau of Investigation~~  
22 ~~fingerprint check using the Integrated Automated Fingerprint Identification System through a~~  
23 ~~qualified law enforcement agency or an authorized employee of the department of safety. The~~  
24 ~~department of safety shall complete the criminal history records check and forward such record, if~~  
25 ~~any, to the department.~~] In the event that the first set of fingerprints is invalid due to insufficient  
26 pattern, a second set of fingerprints shall be necessary to complete the criminal history records  
27 check. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the department  
28 may, in lieu of the criminal history records check, accept police clearances from every city, town, or  
29 county where the person has lived during the past 5 years.

1 II.(a) For every name submitted on an application, in the registration process, and for each  
2 individual for whom information is required to be submitted pursuant to paragraph I, the  
3 department shall search for such persons against the New Hampshire sex offender and abuse and  
4 neglect registries, *the National Sex Offender Registry*, and the sex offender [~~and abuse and~~  
5 ~~neglect~~] registries of each state where the individual resided in the past 5 years [~~and the National~~  
6 ~~Sex Offender Registry~~]. *The department shall submit all forms and any payment required*  
7 *and provided by the individual to request from each state a check of the criminal history*  
8 *repository and abuse and neglect registry offices where the individual resided in the past 5*  
9 *years.*

10 (b) The department [~~of safety~~] shall submit the criminal history record information  
11 authorization form to the New Hampshire division of state police, which shall conduct a criminal  
12 history records check through its records and through the Federal Bureau of Investigation,  
13 *including the National Sex Offender Registry file in the National Crime Information*  
14 *Center records.* Upon completion of the background investigation, the division of state police shall  
15 release copies of the criminal conviction records to the department. The department shall maintain  
16 the confidentiality of all criminal history records information received [~~pursuant to this paragraph~~].

17 (c) The costs of criminal history record *and abuse and neglect registry* checks shall be  
18 borne by the child day care *agency or* provider; provided, that the child day care *agency or* provider  
19 may require an applicant to pay the actual costs of the criminal history check *and abuse and*  
20 *neglect registry checks* of the employee.

21 (d) *Any individual who refuses to consent to the criminal background check or*  
22 *knowingly makes a materially false statement in connection with such criminal*  
23 *background checks shall be ineligible for employment.*

24 II-a. An individual shall not be required to submit a request under paragraph I-a if:

25 (a) In the previous 5 years, the individual submitted a state criminal records release  
26 form and fingerprints and completed a criminal records check under this section;

27 (b) The individual is currently employed by a child care provider within the state, or has  
28 been separated from employment from a child care provider within the state for a period of not more  
29 than 180 consecutive days; and

30 (c) The department made a determination that when the individual completed the  
31 criminal records check within the previous 5 years as described in this section, the individual was  
32 eligible for employment as provided in paragraphs III and IV.

33 III. The department shall make a determination regarding the individual's eligibility for  
34 employment no later than 45 days from submission of all required information as described in  
35 paragraphs I and I-a. If any individual whose name has been submitted for a check under this  
36 section is registered or required to be registered on a state sex offender registry or repository, or the  
37 National Sex Offender Registry, or has been convicted of a felony consisting of murder, child abuse



1 or neglect, an offense involving child sexual abuse images, trafficking, spousal abuse, a crime  
2 involving rape or sexual assault, kidnapping, arson, physical assault or battery, or a drug-related  
3 offense committed during the previous 5 years, or any other violent or sexually-related misdemeanor  
4 against a child, including child abuse, child endangerment, sexual assault, or a misdemeanor  
5 involving child sexual abuse images, or of a crime which shows that the person might be reasonably  
6 expected to pose a threat to a child, such as a violent crime or a sexually-related crime against an  
7 adult, the department shall:

8 (a) If the individual is the applicant or owner, revoke or deny the license or permit, or  
9 withhold state funds if the child day care provider is not required to be licensed.

10 (b) ~~[If the individual is a board member, household member, or child day care personnel,~~  
11 ~~or any other individual having regular contact with the enrolled children]~~ *For any other*  
12 *individual*, inform the child day care agency or registered provider that the individual is ineligible  
13 for employment and give the agency or registered provider an opportunity to take immediate  
14 corrective action to remove the individual from the agency, and, in conjunction with the department,  
15 to develop a corrective action plan, approved by the department, which shall ensure that the  
16 individual will not be on the premises of the child day care program and shall have no contact with  
17 children enrolled in the child day care program.

18 (c) Suspend, deny, or revoke the license or permit, and withhold state funding, if the  
19 child day care program refuses to take corrective action as indicated in subparagraph (b), or  
20 subsequently fails to comply with the corrective action plan approved by the department.

21 (d) Upon a finding of criminal activity as described in this paragraph, withhold state  
22 funding to registered child day care providers that are exempt from the licensing requirements of  
23 RSA 170-E:4 if the provider refuses to take corrective action as indicated in subparagraph (b), or  
24 fails to comply with the corrective action plan approved by the department.

25 IV. If any individual whose name has been submitted for this check has been convicted of a  
26 felony offense deemed directly or indirectly harmful to children in child day care, crimes against  
27 minors or adults, except crimes as provided in paragraph III, or is the subject of a founded complaint  
28 of child abuse or neglect, the department may deny, revoke, or suspend a license, permit, or  
29 registration pending the development and implementation of a corrective action plan approved by  
30 the department. In addition, the department may, upon a finding of criminal activity or a founded  
31 complaint of child abuse or neglect as described in this paragraph, withhold state funding to  
32 registered child day care providers that are exempt from the licensing requirements of RSA 170-E:4  
33 pending the development and implementation of a corrective action plan approved by the  
34 department. The department shall conduct an investigation in accordance with rules adopted under  
35 this subdivision to determine whether the individual poses a present threat to the safety of children.  
36 The investigation shall include an opportunity for the individual to present evidence on his *or her*  
37 behalf to show that the individual does not pose a threat to the safety of children.

1 IV-a. After the department has made a determination that an individual required to  
 2 complete a criminal record check under paragraph I does not pose a present threat to the safety of  
 3 children, the department may issue a child care employment eligibility card, which shall be valid for  
 4 5 years provided that no disqualifying convictions are subsequently submitted, and the individual  
 5 remains eligible as described in subparagraph II-a(b). ~~[The state may require additional background~~  
 6 ~~checks to be completed based upon conviction information submitted.]~~ *The department may*  
 7 *require additional background checks to be completed based upon reliable information*  
 8 *that the individual received one or more additional convictions subsequent to the previous*  
 9 *criminal record check submission. If the department receives confirmation from a law*  
 10 *enforcement agency that an individual has been charged with a crime as described in*  
 11 *paragraph III or IV, the department shall suspend the individual's child care employment*  
 12 *eligibility card and inform the child day care agency or registered provider that the*  
 13 *individual is ineligible for employment and give the agency or registered provider an*  
 14 *opportunity to take immediate corrective action to remove the individual from the agency,*  
 15 *and, in conjunction with the department, to develop a corrective action plan, approved by*  
 16 *the department, which shall ensure that the individual shall not be on the premises of the*  
 17 *child day care program and shall have no contact with children enrolled in the child day*  
 18 *care program while charges are pending.*

19 IV-b. Child day care providers who are required to be licensed or registered according to the  
 20 provisions of this chapter shall, for every individual submitted for a check under paragraph I who is  
 21 not required to complete the criminal background check pursuant to paragraph II-a, have on file a  
 22 signed statement from the individual stating since the day the individual's background check was  
 23 completed, that he or she:

24 (a) Has not been convicted of any crimes; and

25 (b) Has not had a finding by the department or any administrative agency in this or any  
 26 other state for abuse, neglect, or exploitation.

27 IV-c. Child *day* care *agencies or* providers, whether registered or licensed, and individuals  
 28 as described in paragraph I, shall complete the background check process described in this section no  
 29 later than 5 years from the previous background check submission.

30 IV-d. The fee for a child care employment eligibility card issued under paragraph IV-a shall  
 31 be \$50 and the card shall be valid for 5 years from the date of issuance, *or a prorated amount of*  
 32 *\$10 per year from the most recently completed criminal background check.* A replacement  
 33 card may be requested for a \$15 fee.

34 V. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the  
 35 confidentiality of information collected under this section and to the release, if any, of such  
 36 information.

SB 246-FN - AS AMENDED BY THE HOUSE

- Page 5 -

1       2 State Registry and Criminal Records Check for Child Care Institutions and Child Care  
2 Agencies. Amend RSA 170-E:29-a to read as follows:

3       170-E:29-a State Registry and Criminal Records Check for Child Care Institutions and Child  
4 Care Agencies.

5       I. Child care institutions and child care agencies, with the exception of foster family homes,  
6 that are required to be licensed according to the provisions of this chapter shall *submit to the*  
7 *department the names, birth names, aliases, birth dates, and resident addresses during the*  
8 *previous 5 years of all owners, board members, household members, and program directors*  
9 *prior to the issuance of a permit or license and* prior to making a final offer of employment, ~~[to~~  
10 ~~a person who will be responsible for the care of, or who will have regular contact with children, and~~  
11 ~~upon adding a new household member, or other persons who will have regular contact with children,~~  
12 ~~submit to the department, the names, birth names, birth dates, and addresses during the preceding~~  
13 ~~5 years of such persons and other information]~~ *for all individuals as* required by the department  
14 ~~[as prescribed by]~~ *in* rules adopted ~~[by the commissioner]~~ under RSA 541-A *and as required by*  
15 *federal standards implementing the Families First Prevention Services Act.*

16       I-a. The persons described in paragraph I shall *complete a Federal Bureau of*  
17 *Investigation fingerprint check using the biometric identification system through a*  
18 *qualified law enforcement agency or an authorized employee of the department of safety*  
19 *and* submit directly to the department ~~[of safety]~~ a criminal history record information  
20 authorization form *and any other required forms*, as provided by the New Hampshire division of  
21 state police, which authorizes the release of the person's criminal records, if any, to the department.  
22 ~~[The persons shall complete a Federal Bureau of Investigation fingerprint check using the~~  
23 ~~Integrated Automated Fingerprint Identification System through a qualified law enforcement agency~~  
24 ~~or an authorized employee of the department of safety. The department of safety shall complete the~~  
25 ~~criminal history records check and forward such record, if any, to the department.]~~ In the event that  
26 the first set of fingerprints is invalid due to insufficient pattern, a second set of fingerprints shall be  
27 necessary to complete the criminal history records check. If, after 2 attempts, a set of fingerprints is  
28 invalid due to insufficient pattern, the department may, in lieu of the criminal history records check,  
29 accept police clearances from every city, town, or county where the person has lived during the past  
30 5 years.

31       II.(a) For every name submitted on an application and for each person for whom information  
32 is required to be submitted pursuant to paragraph I, the department shall search for such persons  
33 against the New Hampshire sex offender and abuse and neglect registries, the sex offender and  
34 abuse and neglect registries of each state where the individual resided in the past 5 years, and the  
35 National Sex Offender Registry. *The department shall submit all forms and any required*  
36 *payments from the individual to request from each state a check of the abuse and neglect*  
37 *registry records where the individual resided in the past 5 years.*

1 (b) The department [~~of safety~~] shall submit the criminal history records release form to  
2 the New Hampshire division of state police, which shall conduct a criminal history records check  
3 through its records and through the Federal Bureau of Investigation, *including the National Sex*  
4 *Offender Registry file in the National Crime Information Center records*. Upon completion of  
5 the background investigation, the division of state police shall release copies of the criminal  
6 conviction records to the department. The department shall maintain the confidentiality of all  
7 criminal history records information received pursuant to this paragraph.

8 (c) The costs of criminal history record *and abuse and neglect registry* checks shall be  
9 borne by the licensee; provided, that the licensee may require an applicant to pay the actual costs of  
10 the criminal history check *and abuse and neglect registry checks* of the employee.

11 (d) *Any individual who refuses to consent to the criminal background check or*  
12 *knowingly makes a materially false statement in connection with such criminal*  
13 *background checks shall be ineligible for employment.*

14 III. Notwithstanding paragraph I, a licensee may make a final offer of employment and  
15 allow a person to begin working in the program while the results of the state and national criminal  
16 background check is pending provided that, prior to beginning employment, the applicant completes  
17 a statement stating that he or she:

18 (a) Does not have any felony conviction in this or any other state.

19 (b) Has not been convicted of a sexual assault, assault including simple assault, any  
20 other violent crime, abuse, neglect, or any other crime that shows that they may pose a threat to  
21 well-being of children, such as a violent crime or a sexually-related crime against an adult.

22 (c) Has not had a finding by the department or any administrative agency in this or any  
23 other state for abuse, neglect, or exploitation of children.

24 IV. The results of the criminal background check shall be valid for 5 years. Prior to the  
25 expiration of that 5-year period, [~~a person responsible for the care of, or who has regular contact with~~  
26 ~~children in child care institutions or child care agencies, or household members, or other persons~~  
27 ~~who will have regular contact with children,~~] *the individuals described in paragraph I* shall  
28 undergo a background check pursuant to this section.

29 IV-a. If a person who is or has been employed or volunteered at a child care institution or  
30 child care agency is offered employment or volunteers at another child care institution or child care  
31 agency or a child day care agency, the person shall not be required to undergo the criminal records  
32 check described in paragraph I-a if the previous criminal records check was completed within the  
33 last 5 years *as provided in paragraph IV*, and the person was determined by the department to  
34 be eligible for employment. Before entering employment or volunteering with the new agency, the  
35 person shall complete a statement as set forth in paragraph III.

36 V. The department shall make a determination regarding the individual's eligibility for  
37 employment no later than 45 days from submission of all required information as described in

1 paragraphs I and I-a. If any person whose name has been submitted for a check under this section is  
2 registered or required to be registered on a state sex offender registry or repository, or the National  
3 Sex Offender Registry, or has been convicted of a felony consisting of murder, child abuse or neglect,  
4 an offense involving child sexual abuse images, trafficking, spousal abuse, a crime involving rape or  
5 sexual assault, kidnapping, arson, physical assault or battery, or a drug-related offense committed  
6 during the previous 5 years, or any other violent or sexually related misdemeanor or against a child,  
7 including child abuse, child endangerment, sexual assault, or a misdemeanor involving child sexual  
8 abuse images, or of a crime which shows that the person might be reasonably expected to pose a  
9 threat to a child, such as a violent crime or a sexually-related crime against an adult, the  
10 department shall:

11 (a) If the person is the applicant or owner, revoke or deny the license.

12 (b) If the person is a board member, household member, or child care institution or child  
13 care agency personnel, or any other person having regular contact with the enrolled children inform  
14 the child care institution or child care agency that the person is ineligible for employment and give  
15 the program an opportunity to take immediate corrective action to remove the person from the  
16 program, and, in conjunction with the department, to develop a corrective action plan, approved by  
17 the department, which shall ensure that the person will not be on the premises of the child care  
18 institution or child care agency and shall have no contact with children enrolled in the child care  
19 institution or child care agency.

20 (c) Suspend, deny, or revoke the license or permit if the child care institution or child  
21 care agency refuses to take corrective action as indicated in subparagraph (b), or subsequently fails  
22 to comply with the corrective action plan approved by the department.

23 VI. If any person whose name has been submitted for this check has been convicted of a  
24 felony offense or violent crime deemed directly or indirectly harmful to children in child residential  
25 care, crimes against minors or adults, except crimes as provided in paragraph V, or is the subject of  
26 a founded complaint of child abuse or neglect, the department may deny, revoke, or suspend a  
27 license or permit pending the development and implementation of a corrective action plan approved  
28 by the department. The department shall conduct an investigation in accordance with rules adopted  
29 under this subdivision to determine whether the person is ineligible for employment. The  
30 investigation shall include an opportunity for the person to present evidence on his or her behalf to  
31 show that the person does not pose a threat to the safety of children.

32 VII.(a) Once the department has made a determination that the individual required to  
33 complete a criminal record check under paragraph I-a is eligible for employment, the department  
34 shall issue a [~~child care~~] **residential child care** employment eligibility card, which shall be valid  
35 for 5 years provided that no disqualifying convictions are subsequently submitted, and the individual  
36 remains eligible as described in [~~RSA 170 E:7, II a(b)~~] **paragraph V**. The [~~state~~] **department** may  
37 require additional background checks to be completed based upon [~~conviction information submitted~~]

1 *reliable information that the individual received one or more additional convictions*  
2 *subsequent to the previous criminal record submission. If the department receives*  
3 *confirmation from a law enforcement agency that an individual has been charged with a*  
4 *crime as described in paragraph III or V, the department shall suspend the individuals*  
5 *residential child care eligibility card and inform the agency that the individual is*  
6 *ineligible for employment and give the agency an opportunity to take immediate corrective*  
7 *action to remove the individual from the agency, and, in conjunction with the department,*  
8 *to develop a corrective action plan, approved by the department, which shall ensure that*  
9 *the individual will not be on the premises of the program and shall have no contact with*  
10 *children enrolled in the program while charges are pending.*

11 (b) The fee for a *residential* child care employment eligibility card shall be \$50, and the  
12 card shall be valid for 5 years from the date of issuance, *or a prorated amount of \$10 per year*  
13 *from the most recently completed criminal background check.* The fee for a replacement card  
14 shall be \$15.

15 VIII. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the  
16 confidentiality of information collected under this section and to the release, if any, of such  
17 information.

18 3 New Section; Child Day Care Licensing; State Registry and Criminal Records Check; Child  
19 Care Licensing Fund Established. Amend RSA 170-E by inserting after section 7 the following new  
20 section:

21 170-E:7-a Child Care Licensing Fund Established. There is hereby established a nonlapsing  
22 fund to be known as the child care licensing fund, which shall be administered by the commissioner  
23 of the department of health and human services and which shall be kept distinct and separate from  
24 all other funds. All fees for state registry and criminal records checks collected by the department  
25 pursuant to RSA 170-E:7 and RSA 170-E:29-a shall be deposited in the fund and all moneys in the  
26 fund shall be continually appropriated to the department of health and human services for the  
27 purpose of paying costs associated with administering the provisions of this chapter.

28 4 New Subparagraph; State Treasurer and State Accounts; Application of Receipts. Amend RSA  
29 6:12, I(b) by inserting after subparagraph (343) the following new subparagraph:

30 (344) Moneys deposited into the child care licensing fund established in RSA 170-  
31 E:7-a.

32 5 Effective Date. This act shall take effect July 1, 2019.

**SB 246-FN- FISCAL NOTE**  
 AS AMENDED BY THE HOUSE (AMENDMENT #2019-1746h)

AN ACT relative to licensing of child daycare, residential care, and child-placing agencies.

**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Expenditures</b>	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General Child Care Licensing Fund	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other

**METHODOLOGY:**

This bill amends RSA 170-E by clarifying certain processes and language to align criminal background checks for child care programs with federal requirements of the Child Care and Development Fund Program. Specifically, the bill requires background checks be submitted directly to the Department of Health and Human Services prior to being forwarded to the Department of Safety, grants the Department of Health and Human Services the authority to request additional records in certain instances, and allows the Department to suspend an individual's eligibility to work in a child care program if the individual is charged with a disqualifying crime while charges are pending. The Department notes the above changes are necessary to comply with federal requirements and to avoid a 5 percent penalty of federal funds received through the Child Care Development Block Grant, through which the Department received approximately \$10.3 million in FY 2018.

The bill also allows for a prorated fee for an employment eligibility card and establishes the Child Care Licensing Fund to deposit the fees collected from state registry and criminal record checks pursuant to RSA 170-E:7 and RSA 170-E:29-a for administering the program. The Department anticipates general funds will be offset, in part, by revenue collected from fees under the bill.

The Department anticipates registration card fee changes will minimally increase state revenue, stating only 5 replacement cards at a cost of \$15 each were requested since January 2018 and prorated card fees have been requested, but have yet to be implemented. It also states two

additional full-time positions would be required to support the increase in workload attributed to the bill. The following salary, benefit and other cost estimates were provided for two Program Assistant I positions at labor grade 12.

<b>2 FTE Program Assistant I</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
Salary	\$61,000	\$63,000	\$66,000	\$68,000
Benefits	\$50,000	\$53,000	\$56,000	\$58,000
Other	\$12,000	\$5,000	\$5,000	\$5,000
<b>Total</b>	<b>\$123,000</b>	<b>\$121,000</b>	<b>\$127,000</b>	<b>\$131,000</b>

The Department states there would be additional indeterminable expenditures for IT changes which are necessary to maintain databases and comply with federal audit requirements.

The Department of Safety does not anticipate any fiscal impact to expenditures and revenue as a result of the bill.

**AGENCIES CONTACTED:**

Department of Health and Human Services and Department of Safety



**SB 246-FN FISCAL NOTE  
 AS AMENDED BY THE HOUSE (AMENDMENT #2019-1746h)**

AN ACT relative to licensing of child daycare, residential care, and child-placing agencies.

FISCAL IMPACT:     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Expenditures</b>	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Child Care Licensing Fund			

**METHODOLOGY:**

This bill amends RSA 170-E by clarifying certain processes and language to align criminal background checks for child care programs with federal requirements of the Child Care and Development Fund Program. Specifically, the bill requires background checks be submitted directly to the Department of Health and Human Services prior to being forwarded to the Department of Safety, grants the Department of Health and Human Services the authority to request additional records in certain instances, and allows the Department to suspend an individual's eligibility to work in a child care program if the individual is charged with a disqualifying crime while charges are pending. The Department notes the above changes are necessary to comply with federal requirements and to avoid a 5 percent penalty of federal funds received through the Child Care Development Block Grant, through which the Department received approximately \$10.3 million in FY 2018.

The bill also allows for a prorated fee for an employment eligibility card and establishes the Child Care Licensing Fund to deposit the fees collected from state registry and criminal record checks pursuant to RSA 170-E:7 and RSA 170-E:29-a for administering the program. The Department anticipates general funds will be offset, in part, by revenue collected from fees under the bill.

The Department anticipates registration card fee changes will minimally increase state revenue, stating only 5 replacement cards at a cost of \$15 each were requested since January 2018 and prorated card fees have been requested, but have yet to be implemented. It also states two additional full-time positions would be required to support the increase in workload attributed to the bill. The following salary, benefit and other cost estimates were provided for two Program Assistant I positions at labor grade 12.

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Benefits	\$50,000	\$53,000	\$56,000	\$58,000
Other	\$12,000	\$5,000	\$5,000	\$5,000
<b>Total</b>	<b>\$123,000</b>	<b>\$121,000</b>	<b>\$127,000</b>	<b>\$131,000</b>

The Department states there would be additional indeterminable expenditures for IT changes which are necessary to maintain databases and comply with federal audit requirements.

The Department of Safety does not anticipate any fiscal impact to expenditures and revenue as a result of the bill.

**AGENCIES CONTACTED:**

Department of Health and Human Services and Department of Safety

CHAPTER 313  
SB 246-FN - FINAL VERSION

03/07/2019 0613s  
03/21/2019 0997s  
8May2019... 1746h  
06/27/2019 2600CofC

2019 SESSION

19-0977  
05/03

SENATE BILL **246-FN**

AN ACT relative to licensing of child day care, residential care, and child-placing agencies.

SPONSORS: Sen. Gray, Dist 6; Sen. Bradley, Dist 3; Sen. Fuller Clark, Dist 21

COMMITTEE: Executive Departments and Administration

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AMENDED ANALYSIS

This bill revises the state registry and criminal records check requirements for employees and others associated with residential child care agencies and child day care providers. The bill also establishes the child care licensing fund in the department of health and human services.

The bill is a request of the department of health and human services.

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Explanation: Matter added to current law appears in *bold italics*.  
Matter removed from current law appears ~~[in brackets and struck through.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

CHAPTER 313  
SB 246-FN - FINAL VERSION

03/07/2019 0613s  
03/21/2019 0997s  
8May2019... 1746h  
06/27/2019 2600CofC

19-0977  
05/03

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Nineteen*

AN ACT relative to licensing of child daycare, residential care, and child-placing agencies.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 313:1 Child Day Care Licensing; State Registry and Criminal Records Check; Revocation of  
2 Registration and Withholding of State Funds. Amend RSA 170-E:7 to read as follows:

3 170-E:7 State Registry and Criminal Records Check; Revocation of Registration and  
4 Withholding of State Funds.

5 I. Child day care *agencies and* providers who are required to be licensed or registered  
6 according to the provisions of this chapter shall [~~prior to the date an individual is responsible for~~  
7 ~~the care of, or has regular contact with children, and upon adding new household members or other~~  
8 ~~individuals who will have regular contact with children,~~] submit to the department[;] the names,  
9 birth names, *aliases*, birth dates, and *resident* addresses during the preceding 5 years of [~~such~~  
10 ~~individuals~~] *all owners, household members, and directors prior to the issuance of a permit*  
11 *or license*, and [~~other information~~] *subsequent to licensure, for all individuals as* required by  
12 the department [~~as prescribed by~~] *in* rules adopted [~~by the commissioner~~] under RSA 541-A.

13 I-a. The persons described in paragraph I shall *complete a Federal Bureau of*  
14 *Investigation fingerprint check using the biometric identification system through a*  
15 *qualified law enforcement agency or an authorized employee of the division of state police,*  
16 *department of safety and* [~~submit directly to the department of safety a criminal history records~~  
17 ~~release form, as provided by the New Hampshire division of state police, which authorizes~~  
18 *authorize* the release of the person's criminal records, if any, to the department. [~~The person shall~~  
19 ~~complete a Federal Bureau of Investigation fingerprint check using the Integrated Automated~~  
20 ~~Fingerprint Identification System through a qualified law enforcement agency or an authorized~~  
21 ~~employee of the department of safety. The department of safety shall complete the criminal history~~  
22 ~~records check and forward such record, if any, to the department.~~] In the event that the first set of  
23 fingerprints is invalid due to insufficient pattern, a second set of fingerprints shall be necessary to  
24 complete the criminal history records check. If, after 2 attempts, a set of fingerprints is invalid due  
25 to insufficient pattern, the department may, in lieu of the criminal history records check, accept  
26 police clearances from every city, town, or county where the person has lived during the past 5 years.

27 II.(a) For every name submitted on an application, in the registration process, and for each  
28 individual for whom information is required to be submitted pursuant to paragraph I, the

CHAPTER 313  
SB 246-FN - FINAL VERSION  
- Page 2 -

1 department shall search for such persons against the New Hampshire sex offender and abuse and  
2 neglect registries, *and* the sex offender [~~and abuse and neglect~~] registries of each state where the  
3 individual resided in the past 5 years [~~and the National Sex Offender Registry~~]. *The individual*  
4 *shall submit all forms and any required payments to the department to request from each*  
5 *state a check of the criminal history repository and abuse and neglect registry offices*  
6 *where the individual resided in the past 5 years.*

7 (b) [~~The department of safety shall submit the criminal history record information~~  
8 ~~authorization form to the New Hampshire division of state police, which~~] *Under the authority of*  
9 *the Child Care and Development Block Grant Act of 2014, the division of state police shall*  
10 *conduct [a] the criminal history records check pursuant to paragraph I-a, through its records and*  
11 *through the Federal Bureau of Investigation, to include a check of the National Sex Offender*  
12 *Registry file in the National Crime Information Center records. Upon completion of the*  
13 *background investigation, the division of state police shall release copies of the criminal conviction*  
14 *records to the department and shall indicate whether the individual is registered on the*  
15 *National Sex Offender Registry file in the National Crime Information Center records. The*  
16 *department shall maintain the confidentiality of all criminal history records information received*  
17 ~~[pursuant to this paragraph].~~

18 (c) The costs of criminal history record *and abuse and neglect registry* checks shall be  
19 borne by the child day care *agency or* provider; provided, that the child day care *agency or* provider  
20 may require an applicant to pay the actual costs of the criminal history check *and abuse and*  
21 *neglect registry checks* of the employee.

22 (d) *Any individual who refuses to consent to the criminal background check or*  
23 *knowingly makes a materially false statement in connection with such criminal*  
24 *background checks shall be ineligible for employment.*

25 II-a. An individual shall not be required to submit a request under paragraph I-a if:

26 (a) In the previous 5 years, the individual submitted a state criminal records release  
27 form and fingerprints and completed a criminal records check under this section;

28 (b) The individual is currently employed by a child care provider within the state, or has  
29 been separated from employment from a child care provider within the state for a period of not more  
30 than 180 consecutive days; and

31 (c) The department made a determination that when the individual completed the  
32 criminal records check within the previous 5 years as described in this section, the individual was  
33 eligible for employment as provided in paragraphs III and IV.

34 III. The department shall make a determination regarding the individual's eligibility for  
35 employment no later than 45 days from submission of all required information as described in  
36 paragraphs I and I-a. If any individual whose name has been submitted for a check under this  
37 section is registered or required to be registered on a state sex offender registry or repository, or the

CHAPTER 313  
SB 246-FN - FINAL VERSION  
- Page 3 -

1 National Sex Offender Registry, or has been convicted of a felony consisting of murder, child abuse  
2 or neglect, an offense involving child sexual abuse images, trafficking, spousal abuse, a crime  
3 involving rape or sexual assault, kidnapping, arson, physical assault or battery, or a drug-related  
4 offense committed during the previous 5 years, or any other violent or sexually-related misdemeanor  
5 against a child, including child abuse, child endangerment, sexual assault, or a misdemeanor  
6 involving child sexual abuse images, or of a crime which shows that the person might be reasonably  
7 expected to pose a threat to a child, such as a violent crime or a sexually-related crime against an  
8 adult, the department shall:

9 (a) If the individual is the applicant or owner, revoke or deny the license or permit, or  
10 withhold state funds if the child day care provider is not required to be licensed.

11 (b) ~~[If the individual is a board member, household member, or child day care personnel,~~  
12 ~~or any other individual having regular contact with the enrolled children]~~ *For any other*  
13 *individual*, inform the child day care agency or registered provider that the individual is ineligible  
14 for employment and give the agency or registered provider an opportunity to take immediate  
15 corrective action to remove the individual from the agency, and, in conjunction with the department,  
16 to develop a corrective action plan, approved by the department, which shall ensure that the  
17 individual will not be on the premises of the child day care program and shall have no contact with  
18 children enrolled in the child day care program.

19 (c) Suspend, deny, or revoke the license or permit, and withhold state funding, if the  
20 child day care program refuses to take corrective action as indicated in subparagraph (b), or  
21 subsequently fails to comply with the corrective action plan approved by the department.

22 (d) Upon a finding of criminal activity as described in this paragraph, withhold state  
23 funding to registered child day care providers that are exempt from the licensing requirements of  
24 RSA 170-E:4 if the provider refuses to take corrective action as indicated in subparagraph (b), or  
25 fails to comply with the corrective action plan approved by the department.

26 IV. If any individual whose name has been submitted for this check has been convicted of a  
27 felony offense deemed directly or indirectly harmful to children in child day care, crimes against  
28 minors or adults, except crimes as provided in paragraph III, or is the subject of a founded complaint  
29 of child abuse or neglect, the department may deny, revoke, or suspend a license, permit, or  
30 registration pending the development and implementation of a corrective action plan approved by  
31 the department. In addition, the department may, upon a finding of criminal activity or a founded  
32 complaint of child abuse or neglect as described in this paragraph, withhold state funding to  
33 registered child day care providers that are exempt from the licensing requirements of RSA 170-E:4  
34 pending the development and implementation of a corrective action plan approved by the  
35 department. The department shall conduct an investigation in accordance with rules adopted under  
36 this subdivision to determine whether the individual poses a present threat to the safety of children.

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- Page 4 -

1 The investigation shall include an opportunity for the individual to present evidence on his *or her*  
2 behalf to show that the individual does not pose a threat to the safety of children.

3 IV-a. After the department has made a determination that an individual required to  
4 complete a criminal record check under paragraph I does not pose a present threat to the safety of  
5 children, the department may issue a child care employment eligibility card, which shall be valid for  
6 5 years provided that no disqualifying convictions are subsequently submitted, and the individual  
7 remains eligible as described in subparagraph II-a(b). [~~The state may require additional background~~  
8 ~~checks to be completed based upon conviction information submitted.~~] *The department may*  
9 *require additional background checks to be completed based upon reliable information*  
10 *that the individual received one or more additional convictions subsequent to the previous*  
11 *criminal record check submission. If the department receives confirmation from a law*  
12 *enforcement agency that an individual has been charged with a crime as described in*  
13 *paragraph III or IV, the department shall suspend the individual's child care employment*  
14 *eligibility card and inform the child day care agency or registered provider that the*  
15 *individual is ineligible for employment and give the agency or registered provider an*  
16 *opportunity to take immediate corrective action to remove the individual from the agency,*  
17 *and, in conjunction with the department, to develop a corrective action plan, approved by*  
18 *the department, which shall ensure that the individual shall not be on the premises of the*  
19 *child day care program and shall have no contact with children enrolled in the child day*  
20 *care program while charges are pending.*

21 IV-b. Child day care providers who are required to be licensed or registered according to the  
22 provisions of this chapter shall, for every individual submitted for a check under paragraph I who is  
23 not required to complete the criminal background check pursuant to paragraph II-a, have on file a  
24 signed statement from the individual stating since the day the individual's background check was  
25 completed, that he or she:

26 (a) Has not been convicted of any crimes; and

27 (b) Has not had a finding by the department or any administrative agency in this or any  
28 other state for abuse, neglect, or exploitation.

29 IV-c. Child *day care agencies or* providers, whether registered or licensed, and individuals  
30 as described in paragraph I, shall complete the background check process described in this section no  
31 later than 5 years from the previous background check submission.

32 IV-d. The fee for a child care employment eligibility card issued under paragraph IV-a shall  
33 be \$50 and the card shall be valid for 5 years from the date of issuance, *or a prorated amount of*  
34 *\$10 per year from the most recently completed criminal background check.* A replacement  
35 card may be requested for a \$15 fee.

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1           V. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the  
2 confidentiality of information collected under this section and to the release, if any, of such  
3 information.

4           313:2 State Registry and Criminal Records Check for Child Care Institutions and Child Care  
5 Agencies. Amend RSA 170-E:29-a to read as follows:

6           170-E:29-a State Registry and Criminal Records Check for Child Care Institutions and Child  
7 Care Agencies.

8           I. Child care institutions and child care agencies, with the exception of foster family homes,  
9 that are required to be licensed according to the provisions of this chapter shall *submit to the*  
10 *department the names, birth names, aliases, birth dates, and resident addresses during the*  
11 *previous 5 years of all owners, household members, and program directors prior to the*  
12 *issuance of a permit or license and* prior to making a final offer of employment, ~~[to a person who~~  
13 ~~will be responsible for the care of, or who will have regular contact with children, and upon adding a~~  
14 ~~new household member, or other persons who will have regular contact with children, submit to the~~  
15 ~~department, the names, birth names, birth dates, and addresses during the preceding 5 years of such~~  
16 ~~persons and other information]~~ *for all individuals as* required by the department ~~[as prescribed~~  
17 ~~by]~~ *in* rules adopted ~~[by the commissioner]~~ under RSA 541-A.

18           I-a. The persons described in paragraph I shall ~~[submit directly to the department of safety~~  
19 ~~a criminal history record information authorization form as provided by the New Hampshire division~~  
20 ~~of state police, which authorizes]~~ *complete a Federal Bureau of Investigation fingerprint*  
21 *check using the biometric identification system through a qualified law enforcement*  
22 *agency or an authorized employee of the division of state police, department of safety and*  
23 *authorize* the release of the person's criminal records, if any, to the department. ~~[The persons shall~~  
24 ~~complete a Federal Bureau of Investigation fingerprint check using the Integrated Automated~~  
25 ~~Fingerprint Identification System through a qualified law enforcement agency or an authorized~~  
26 ~~employee of the department of safety. The department of safety shall complete the criminal history~~  
27 ~~records check and forward such record, if any, to the department.]~~ In the event that the first set of  
28 fingerprints is invalid due to insufficient pattern, a second set of fingerprints shall be necessary to  
29 complete the criminal history records check. If, after 2 attempts, a set of fingerprints is invalid due  
30 to insufficient pattern, the department may, in lieu of the criminal history records check, accept  
31 police clearances from every city, town, or county where the person has lived during the past 5 years.

32           II.(a) For every name submitted on an application and for each person for whom information  
33 is required to be submitted pursuant to paragraph I, the department shall search for such persons  
34 against the New Hampshire sex offender and abuse and neglect registries, *and* the sex offender and  
35 abuse and neglect registries of each state where the individual resided in the past 5 years~~[and the~~  
36 ~~National Sex Offender Registry]~~. *The individual shall submit all forms and any required*



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1 *payments to the department to request from each state a check of the abuse and neglect*  
2 *registry records where the individual resided in the past 5 years.*

3 (b) ~~[The department of safety shall submit the criminal history records release form to~~  
4 ~~the New Hampshire division of state police, which]~~ *Under the authority of the Child Care and*  
5 *Development Block Grant Act of 2014, the division of state police shall conduct [a] the*  
6 *criminal history records check pursuant to paragraph I-a, through its records and through the*  
7 *Federal Bureau of Investigation, to include a check of the National Sex Offender Registry file*  
8 *in the National Crime Information Center records. Upon completion of the background*  
9 *investigation, the division of state police shall release copies of the criminal conviction records to the*  
10 *department and shall indicate whether the individual is registered on the National Sex*  
11 *Offender Registry file in the National Crime Information Center records. The department*  
12 *shall maintain the confidentiality of all criminal history records information received [pursuant to*  
13 *this paragraph].*

14 (c) The costs of criminal history record *and abuse and neglect registry* checks shall be  
15 borne by the licensee; provided, that the licensee may require an applicant to pay the actual costs of  
16 the criminal history check *and abuse and neglect registry checks* of the employee.

17 (d) *Any individual who refuses to consent to the criminal background check or*  
18 *knowingly makes a materially false statement in connection with such criminal*  
19 *background checks shall be ineligible for employment.*

20 III. Notwithstanding paragraph I, a licensee may make a final offer of employment and  
21 allow a person to begin working in the program while the results of the state and national criminal  
22 background check is pending provided that, prior to beginning employment, the applicant completes  
23 a statement stating that he or she:

24 (a) Does not have any felony conviction in this or any other state.

25 (b) Has not been convicted of a sexual assault, assault including simple assault, any  
26 other violent crime, abuse, neglect, or any other crime that shows that they may pose a threat to  
27 well-being of children, such as a violent crime or a sexually-related crime against an adult.

28 (c) Has not had a finding by the department or any administrative agency in this or any  
29 other state for abuse, neglect, or exploitation of children.

30 IV. The results of the criminal background check shall be valid for 5 years. Prior to the  
31 expiration of that 5-year period, ~~[a person responsible for the care of, or who has regular contact with~~  
32 ~~children in child care institutions or child care agencies, or household members, or other persons~~  
33 ~~who will have regular contact with children,]~~ *the individuals described in paragraph I shall*  
34 *undergo a background check pursuant to this section.*

35 IV-a. If a person who is or has been employed or volunteered at a child care institution or  
36 child care agency is offered employment or volunteers at another child care institution or child care  
37 agency or a child day care agency, the person shall not be required to undergo the criminal records

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1 check described in paragraph I-a if the previous criminal records check was completed within the  
2 last 5 years *as provided in paragraph IV*, and the person was determined by the department to  
3 be eligible for employment. Before entering employment or volunteering with the new agency, the  
4 person shall complete a statement as set forth in paragraph III.

5 V. The department shall make a determination regarding the individual's eligibility for  
6 employment no later than 45 days from submission of all required information as described in  
7 paragraphs I and I-a. If any person whose name has been submitted for a check under this section is  
8 registered or required to be registered on a state sex offender registry or repository, or the National  
9 Sex Offender Registry, or has been convicted of a felony consisting of murder, child abuse or neglect,  
10 an offense involving child sexual abuse images, trafficking, spousal abuse, a crime involving rape or  
11 sexual assault, kidnapping, arson, physical assault or battery, or a drug-related offense committed  
12 during the previous 5 years, or any other violent or sexually related misdemeanor or against a child,  
13 including child abuse, child endangerment, sexual assault, or a misdemeanor involving child sexual  
14 abuse images, or of a crime which shows that the person might be reasonably expected to pose a  
15 threat to a child, such as a violent crime or a sexually-related crime against an adult, the  
16 department shall:

17 (a) If the person is the applicant or owner, revoke or deny the license.

18 (b) If the person is a board member, household member, or child care institution or child  
19 care agency personnel, or any other person having regular contact with the enrolled children inform  
20 the child care institution or child care agency that the person is ineligible for employment and give  
21 the program an opportunity to take immediate corrective action to remove the person from the  
22 program, and, in conjunction with the department, to develop a corrective action plan, approved by  
23 the department, which shall ensure that the person will not be on the premises of the child care  
24 institution or child care agency and shall have no contact with children enrolled in the child care  
25 institution or child care agency.

26 (c) Suspend, deny, or revoke the license or permit if the child care institution or child  
27 care agency refuses to take corrective action as indicated in subparagraph (b), or subsequently fails  
28 to comply with the corrective action plan approved by the department.

29 VI. If any person whose name has been submitted for this check has been convicted of a  
30 felony offense or violent crime deemed directly or indirectly harmful to children in child residential  
31 care, crimes against minors or adults, except crimes as provided in paragraph V, or is the subject of  
32 a founded complaint of child abuse or neglect, the department may deny, revoke, or suspend a  
33 license or permit pending the development and implementation of a corrective action plan approved  
34 by the department. The department shall conduct an investigation in accordance with rules adopted  
35 under this subdivision to determine whether the person is ineligible for employment. The  
36 investigation shall include an opportunity for the person to present evidence on his or her behalf to  
37 show that the person does not pose a threat to the safety of children.

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1           VII.(a) Once the department has made a determination that the individual required to  
2 complete a criminal record check under paragraph I-a is eligible for employment, the department  
3 shall issue a ~~[child care]~~ **residential child care** employment eligibility card, which shall be valid  
4 for 5 years provided that no disqualifying convictions are subsequently submitted, and the individual  
5 remains eligible as described in ~~[RSA 170-E:7, II-a(b)]~~ **paragraph V**. The ~~[state]~~ **department** may  
6 require additional background checks to be completed based upon ~~[conviction information submitted]~~  
7 **reliable information that the individual received one or more additional convictions**  
8 **subsequent to the previous criminal record submission. If the department receives**  
9 **confirmation from a law enforcement agency that an individual has been charged with a**  
10 **crime as described in paragraph III or V, the department shall suspend the individuals**  
11 **residential child care eligibility card and inform the agency that the individual is**  
12 **ineligible for employment and give the agency an opportunity to take immediate corrective**  
13 **action to remove the individual from the agency, and, in conjunction with the department,**  
14 **to develop a corrective action plan, approved by the department, which shall ensure that**  
15 **the individual will not be on the premises of the program and shall have no contact with**  
16 **children enrolled in the program while charges are pending.**

17           (b) The fee for a **residential child care** employment eligibility card shall be \$50, and the  
18 card shall be valid for 5 years from the date of issuance, **or a prorated amount of \$10 per year**  
19 **from the most recently completed criminal background check.** The fee for a replacement card  
20 shall be \$15.

21           VIII. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the  
22 confidentiality of information collected under this section and to the release, if any, of such  
23 information.

24           313:3 New Section; Child Day Care Licensing; State Registry and Criminal Records Check;  
25 Child Care Licensing Fund Established. Amend RSA 170-E by inserting after section 7 the following  
26 new section:

27           170-E:7-a Child Care Licensing Fund Established. There is hereby established a nonlapsing  
28 fund to be known as the child care licensing fund, which shall be administered by the commissioner  
29 of the department of health and human services and which shall be kept distinct and separate from  
30 all other funds. All fees for state registry and criminal records checks collected by the department  
31 pursuant to RSA 170-E:7 and RSA 170-E:29-a shall be deposited in the fund and all moneys in the  
32 fund shall be continually appropriated to the department of health and human services for the  
33 purpose of paying costs associated with administering the provisions of this chapter.

34           313:4 New Subparagraph; State Treasurer and State Accounts; Application of Receipts. Amend  
35 RSA 6:12, I(b) by inserting after subparagraph (343) the following new subparagraph:

36                   (344) Moneys deposited into the child care licensing fund established in RSA 170-  
37 E:7-a.

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1        313:5 Effective Date. This act shall take effect July 1, 2019.

Approved: August 02, 2019  
Effective Date: July 01, 2019

# Amendments

Sen. Gray, Dist 6  
February 19, 2019  
2019-0569s  
05/04

Amendment to SB 246-FN

1 Amend the bill by inserting after section 2 the following and renumbering the original section 3 to  
2 read as 5:

3

4 3 New Section; Child Day Care Licensing; State Registry and Criminal Records Check; Child  
5 Care Licensing Fund Established. Amend RSA 170-E by inserting after section 7 the following new  
6 section:

7 170-E:7-a Child Care Licensing Fund Established. There is hereby established a nonlapsing  
8 fund to be known as the child care licensing fund, which shall be administered by the commissioner  
9 of the department of health and human services and which shall be kept distinct and separate from  
10 all other funds. All fees for state registry and criminal records checks collected by the department  
11 pursuant to RSA 170-E:7 and RSA 170-E:29-a shall be deposited in the fund and all moneys in the  
12 fund shall be continually appropriated to the department of health and human services for the  
13 purpose of paying costs associated with administering the provisions of this chapter.

14 4 New Subparagraph; State Treasurer and State Accounts; Application of Receipts. Amend  
15 RSA 6:12, I(b) by inserting after subparagraph (343) the following new subparagraph:

16 (344) Moneys deposited into the child care licensing fund established in RSA 170-  
17 E:7-a.

2019-0569s

AMENDED ANALYSIS

This bill revises the state registry and criminal records check requirements for employees and others associated with residential child care agencies and child day care providers. The bill also establishes the child care licensing fund in the department of health and human services.

The bill is a request of the department of health and human services.

UNAPPROVED

Amendment to SB 246-FN

1 Amend the bill by inserting after section 2 the following and renumbering the original section 3 to  
2 read as 5:

3

4 3 New Section; Child Day Care Licensing; State Registry and Criminal Records Check; Child  
5 Care Licensing Fund Established. Amend RSA 170-E by inserting after section 7 the following new  
6 section:

7 170-E:7-a Child Care Licensing Fund Established. There is hereby established a nonlapsing  
8 fund to be known as the child care licensing fund, which shall be administered by the commissioner  
9 of the department of health and human services and which shall be kept distinct and separate from  
10 all other funds. All fees for state registry and criminal records checks collected by the department  
11 pursuant to RSA 170-E:7 and RSA 170-E:29-a shall be deposited in the fund and all moneys in the  
12 fund shall be continually appropriated to the department of health and human services for the  
13 purpose of paying costs associated with administering the provisions of this chapter.

14 4 New Subparagraph; State Treasurer and State Accounts; Application of Receipts. Amend  
15 RSA 6:12, I(b) by inserting after subparagraph (343) the following new subparagraph:

16 (344) Moneys deposited into the child care licensing fund established in RSA 170-  
17 E:7-a.



**Amendment to SB 246-FN**

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2019-0613s

**AMENDED ANALYSIS**

This bill revises the state registry and criminal records check requirements for employees and others associated with residential child care agencies and child day care providers. The bill also establishes the child care licensing fund in the department of health and human services.

The bill is a request of the department of health and human services.

Senate Finance  
March 12, 2019  
2019-0997s  
05/06

Amendment to SB 246-FN

1 Amend RSA 170-E:29-a, VII(b) as inserted by section 2 of the bill by replacing it with the following:

2

3 (b) The fee for a *residential* child care employment eligibility card shall be \$50, and  
4 the card shall be valid for 5 years from the date of issuance, *or a prorated amount of \$10 per*  
5 *year from the most recently completed criminal background check.* The fee for a  
6 replacement card shall be \$15.

# Committee Minutes

# SENATE CALENDAR NOTICE

## Executive Departments and Administration

Sen Sharon Carson, Chair  
 Sen Kevin Cavanaugh, Vice Chair  
 Sen Cindy Rosenwald, Member  
 Sen Shannon Chandley, Member  
 Sen John Reagan, Member

Date: February 14, 2019

### HEARINGS

	Wednesday	02/20/2019
	(Day)	(Date)
Executive Departments and Administration		LOB 101
(Name of Committee)		(Time)
9:00 a.m.	SB 235-FN	relative to sexual harassment complaints in the general court and authorizing an independent human resources professional.
9:20 a.m.	SB 246-FN	relative to licensing of child daycare, residential care, and child-placing agencies.
9:45 a.m.	SB 234-FN	establishing the position of director of the office of outdoor recreation industry development in the department of business and economic affairs.
10:00 a.m.	SB 110	relative to the investigations by the state fire marshal.
10:15 a.m.	SB 112	establishing a committee to study procedures governing the hiring and payment of bail bondsmen.

### EXECUTIVE SESSION MAY FOLLOW

**Sponsors:**

<b>SB 235-FN</b>	Sen. Soucy	Sen. Hennessey	
Sen. Feltes			
<b>SB 246-FN</b>	Sen. Bradley	Sen. Fuller Clark	
Sen. Gray			
<b>SB 234-FN</b>	Sen. Birdsell	Sen. Carson	Sen. Cavanaugh
Sen. Bradley	Sen. Feltes	Sen. Fuller Clark	Sen. Hennessey
Sen. Chandley	Sen. Morgan	Sen. Rosenwald	Sen. Ward
Sen. Levesque	Rep. Suzanne Smith	Rep. Butler	
Sen. Watters			
<b>SB 110</b>	Sen. Cavanaugh	Rep. Goley	Rep. Doucette
Sen. Carson	Rep. S. Beaudoin		
Rep. Baldasaro			
<b>SB 112</b>	Sen. Fuller Clark	Rep. Goley	
Sen. Carson			

Jennifer Horgan 271-2609

Sharon M Carson  
Chairman

**Senate Executive Departments and Administration  
Committee**

*Jennifer Horgan 271-2609*

**SB 246-FN**, relative to licensing of child daycare, residential care, and child-placing agencies.

**Hearing Date:** February 20, 2019

**Time Opened:** 9:24 a.m.

**Time Closed:** 9:37 a.m.

**Members of the Committee Present:** Senators Carson, Cavanaugh, Rosenwald, Chandley and Reagan

**Members of the Committee Absent :** None

**Bill Analysis:** This bill revises the state registry and criminal records check requirements for employees and others associated with residential child care agencies and child day care providers. The bill also establishes the child care licensing fund in the department of health and human services.

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The bill is a request of the department of health and human services.

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**Sponsors:**

Sen. Gray

Sen. Bradley

Sen. Fuller Clark

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**Who supports the bill:** Senator Gray; Senator Fuller Clark; John Williams, DHHS; Melissa Clement, DHHS; Jeff Kellett, State Police; Rebecca Woitkowski, New Futures/Kids Count

**Who opposes the bill:** No one

**Summary of testimony presented in support:**

**Senator Gray**

- This is a request of the Department of Health and Human Services.
- The bill is trying to ensure that the State is complying with federal law.

**John Williams (DHHS) (provided written testimony)**

- This bill is addressing a requirement of an audit the Department underwent recently with the Department of Safety by the federal government.
- DHHS worked with DOS to ensure that the language meets the needs of DHHS, as a result of this federal audit, but also with the FBI standards on the types of information they are trying to obtain.
- The Department is at risk of losing 5% of their block grant, which equals roughly \$2million if they don't go forward with this.
- The policy behind this strengthens NH's ability to screen people working in childcare settings.
- Provided amendment 0569s on behalf of Senator Gray.

- The amendment makes a request for a treasury account in DHHS be set up for certain fees from licensure to offset the costs for making the IT changes the audit is requiring.
- Has a copy of the deliverables from the audit if the Committee would like it.
- That fund will not fulfill all of the financial obligations and therefore, it may have to worked on through the budget process.

**Melissa Clement (DHHS)**

- This bill is trying to bring the statute with compliance for the child development block grant eligibility.
- In order to be in compliance, the State needs to do out-of-state criminal background checks in every state an individual has resided in the past five years.
- Currently, doing the abuse and neglect registry checks and the FBI checks, but not the out-of-state background check.
- The Department is under a corrective action plan for not being in compliance.
- DHHS has also recently undergone a security audit with State Police, where it was determined that the database where DHHS houses criminal background information is not considered secure enough.
- Need a new IT system to address those concerns and that is going to cost money and need maintenance.
- The Department will need additional funds to do that and believes the funds from the employment eligibility card would help in doing that.
- Senator Reagan asked if a budget request has been made for the IT update.
  - The audit was completed in December; they are working towards that.
  - Mr. Williams stated that this came forward after the agency submission of the budget. Is working closely with the Governor's office to get this in the budget, but if it is not then looking to have it added during the budget process.
- Senator Reagan asked who pays for an employment eligibility card.
  - The individual who receives the card or a childcare provider. It is a five-year card.
- Senator Rosenwald asked about the costs for the cards.
  - The card is \$50 and a replacement card is \$10.
- Senator Rosenwald asked about the number of replacement cards that have been dispersed.
  - Maureen Chaukley (DHHS) stated that they have done five replacement cards since January 2018.
- Senator Rosenwald asked if the bill is going to Finance.
  - Senator Carson responded that it will.

**Summary of testimony presented in opposition:**

None

jch

Date Hearing Report completed: February 26, 2019

Sen Sharon Carson (C)  
Sen Cindy Rosenwald  
Sen Shannon Chandley  
Rep Patrick Long  
Rep Skip Berrien  
Rep Kimberly Rice  
Rep Elaine French

**COMMITTEE OF CONFERENCE  
NOTICE**

Date: June 13, 2019

Wednesday		06/19/2019
(Day)		(Date)
SB 246-FN	103, SH	10:10 a.m.
(Committee of Conference)	(Place)	(Time)

10:10 a.m. SB 246-FN

*relative to licensing of child daycare, residential care, and child-placing agencies.*

Sen Sharon Carson  
District 14  
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Chairman

POC is Deb Chroniak 271-3091

# Speakers





# Testimony

New Hampshire  
2018 Noncriminal Justice Information Technology Security (NCJITS)  
Audit Findings and Response

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The NCJITS audit resulted in 10 findings of noncompliance for the New Hampshire Department of Health and Human Services, Office of Operations Support, Child Care Licensing. Pursuant to applicable laws, regulations, rules, policies, and procedures, these findings are currently subject to the formal sanctions process.

1. **Contracted Noncriminal Justice Services: Ensure the local agencies request and receive written permission from the State Compact Officer or Chief Administrator prior to executing a contract or agreement that permits a contractor to access national criminal history record information (CHRI).**

The following local agency did not request or receive written permission from the State Compact Officer or Chief Administrator prior to outsourcing noncriminal justice functions that allowed the contractor unescorted access to CHRI:

- New Hampshire Department of Health and Human Services, Office of Operations Support, Child Care Licensing – At the time of audit, the agency was saving CHRI unencrypted to a network file share (R:\ drive). The New Hampshire DoIT maintains the agencies network infrastructure and had unescorted administrative access to the file share and the CHRI stored. DoIT personnel are not authorized to view CHRI unescorted/unencrypted.

Entities which perform administrative functions on behalf of an authorized recipient may not have access to CHRI without either: 1) implementation of the Security and Management Control Outsourcing Standard for Non-Channelers pursuant to Title 28, Code of Federal Regulations, Part 906; 2) implementation of a Management Control Agreement or a Security Addendum pursuant to Title 28, Code of Federal Regulations, Section 20.33 (a) (6) or (7) (only applicable to criminal justice agencies where the entity is performing criminal justice and noncriminal justice functions); or 3) use of a recognized alternate statutory authority which permits access to CHRI by such entities.

It is noted if the State Compact Officer or Chief Administrator does not approve this access, the authorized recipient must discontinue such access and remove all CJ I from all unauthorized systems or physical locations listed above within a three year audit cycle.

2. **Standards of Discipline: Ensure the local agencies employ a formal sanctions process for personnel failing to comply with established information security policies and procedures.**

New Hampshire  
2018 Noncriminal Justice Information Technology Security (NCJITS)  
Audit Findings and Response

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The following local agency did not have a written policy for the discipline of *CJIS Security Policy* violators:

- New Hampshire Department of Health and Human Services, Office of Operations Support, Child Care Licensing.
- 3. **Security Awareness Training: Ensure the local agencies provide security awareness training to all personnel who have unescorted access to CJI within six months of assignment and at least once every two years.**

The CSA and the following local agency did not ensure personnel, who managed or had unescorted access to CJI, received security awareness training:

- New Hampshire Department of Health and Human Services, Office of Operations Support, Child Care Licensing – unescorted custodial personnel (Level 1).
- 4. **Physical Security: Ensure local agencies document and implement all physical protection policy requirements.**

The following local agency did not have a written physical protection policy:

- New Hampshire Department of Health and Human Services, Office of Operations Support, Child Care Licensing.
- 5. **Media Disposal: Ensure the CSA and the local agencies document and implement all media disposal policies.**

The CSA and the following local agency did not overwrite at least three times or degauss digital media which stored or processed CJI prior to releasing it from the criminal justice agency:

- New Hampshire Department of Health and Human Services, Office of Operations Support, Child Care Licensing – The agency did not overwrite at least three times, degauss, or encrypt to at least 256 bit National Institute of Standards and Technology (NIST) Federal Information Processing Standard (FIPS) 197 hard drives used to store CJI prior to release to a subcontracted party of DoIT for digital media destruction.

The following local agency did not have a written policy for sanitization and destruction process of physical and digital media:

New Hampshire  
2018 Noncriminal Justice Information Technology Security (NCJITS)  
Audit Findings and Response

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- New Hampshire Department of Health and Human Services, Office of Operations Support, Child Care Licensing.
6. **Identification/UserID: Ensure the CSA and the local agencies documents and implements all identification policy requirements.**

The New Hampshire Department of Health and Human Services, Office of Operations Support, Child Care Licensing did not have a written policy to document the validation process of system accounts with access to CJJ.

7. **Authentication: Ensure the CSA and the local agencies' passwords used for authentication follow the secure password attributes.**

The CSA and the following local agency did not comply with the authentication policy:

- New Hampshire Department of Health and Human Services, Office of Operations Support, Child Care Licensing – Domain passwords, used to access CJJ, could be identical to the previous ten (10) passwords.

8. **Event Logging: Ensure the CSA and the local agencies implement all audit and accountability controls for information systems accessing CJJ.**

The CSA and the following local agency did not ensure successful and unsuccessful log-on attempts, password changes, and/or attempts to access, create, write, delete, or change permission on a user account, file, directory, or other system resource were recorded in the audit logs of the information systems accessing CJJ:

- New Hampshire Department of Health and Human Services, Office of Operations Support, Child Care Licensing.

9. **Encryption: Ensure CJJ transmitted outside the boundary of the physically secure location is immediately protected via encryption to comply with *CJIS Security Policy* requirements.**

The following local agency did not encrypt all network segments which access or transmit CJJ with at least 128-bit National Institute for Standards and Technology (NIST) certified encryption to comply with the Federal Information Processing Standard (FIPS) 140-2 requirement:

- New Hampshire Department of Health and Human Services, Office of Operations Support, Child Care Licensing – The agency was accessing CHRI via a

New Hampshire  
2018 Noncriminal Justice Information Technology Security (NCJITS)  
Audit Findings and Response

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network file share (R:\ drive) using the unencrypted statewide wide area network (WAN) between where the data was stored at the datacenter and the authorized users. Neither the network segment (state WAN) nor the data was encrypted between physically secure locations. In addition, the agency was unable to verify that backups, containing CHRI, transmitted across the state WAN, were encrypted with at least 128-bit NIST certified encryption. Also, the agency allowed network access to CHRI via Wi-Fi but could not verify with a certificate or certificate number that the encryption was FIPS 140-2 compliant.

**10. Personal Firewalls: Ensure the CSA and the local agencies implement personal firewalls on their wireless access devices.**

The following local agency was unable to verify that a personal firewall was implemented on mobile devices utilizing a full-feature operating system to access information systems containing CJJ for remote maintenance:

- New Hampshire Department of Health and Human Services, Office of Operations Support, Child Care Licensing.

# Voting Sheets

# Senate Executive Departments and Administration Committee

## EXECUTIVE SESSION

Bill # SB246

Hearing date: \_\_\_\_\_

Executive session date: \_\_\_\_\_

Motion of: OS69s

VOTE: 5-0

<u>Made by</u> Carson <input type="checkbox"/>	<u>Seconded</u> Carson <input type="checkbox"/>	<u>Reported</u> Carson <input type="checkbox"/>
<u>Senator:</u> Cavanaugh <input type="checkbox"/>	<u>by Senator:</u> Cavanaugh <input type="checkbox"/>	<u>by Senator:</u> Cavanaugh <input type="checkbox"/>
Chandley <input type="checkbox"/>	Chandley <input type="checkbox"/>	Chandley <input type="checkbox"/>
Reagan <input checked="" type="checkbox"/>	Reagan <input type="checkbox"/>	Reagan <input type="checkbox"/>
Rosenwald <input type="checkbox"/>	Rosenwald <input checked="" type="checkbox"/>	Rosenwald <input type="checkbox"/>

Motion of: OTPA

VOTE: 5-0

<u>Made by</u> Carson <input type="checkbox"/>	<u>Seconded</u> Carson <input type="checkbox"/>	<u>Reported</u> Carson <input type="checkbox"/>
<u>Senator:</u> Cavanaugh <input type="checkbox"/>	<u>by Senator:</u> Cavanaugh <input type="checkbox"/>	<u>by Senator:</u> Cavanaugh <input type="checkbox"/>
Chandley <input type="checkbox"/>	Chandley <input type="checkbox"/>	Chandley <input type="checkbox"/>
Reagan <input checked="" type="checkbox"/>	Reagan <input type="checkbox"/>	Reagan <input type="checkbox"/>
Rosenwald <input type="checkbox"/>	Rosenwald <input checked="" type="checkbox"/>	Rosenwald <input type="checkbox"/>

*Consent*

*Reagan → Rosenwald 5-0*

<u>Committee Member</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Reported out by</u>
Senator Carson, Chairman	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Cavanaugh, Vice-Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Chandley	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Reagan	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Senator Rosenwald	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

\*Amendments: \_\_\_\_\_

Notes: \_\_\_\_\_



# Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE  
FOR THE CONSENT CALENDAR

Thursday, February 21, 2019

THE COMMITTEE ON Executive Departments and Administration

to which was referred SB 246-FN

AN ACT

relative to licensing of child daycare, residential  
care, and child-placing agencies.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 0613s

Senator John Reagan  
For the Committee

This bill is a request of the Department of Health and Human Services and revises the state registry and criminal records check requirements for employees and others associated with residential child care agencies and child day care providers. These changes are necessary in order for the State to be in compliance with federal standards and to continue receiving federal funds.

Jennifer Horgan 271-2609

FOR THE CONSENT CALENDAR

**EXECUTIVE DEPARTMENTS AND ADMINISTRATION**

**SB 246-FN**, relative to licensing of child daycare, residential care, and child-placing agencies.

Ought to Pass with Amendment, Vote 5-0.

Senator John Reagan for the committee.

This bill is a request of the Department of Health and Human Services and revises the state registry and criminal records check requirements for employees and others associated with residential child care agencies and child day care providers. These changes are necessary in order for the State to be in compliance with federal standards and to continue receiving federal funds.

STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE

Tuesday, March 12, 2019

THE COMMITTEE ON Finance

to which was referred **SB 246-FN**

**AN ACT** relative to licensing of child daycare, residential  
care, and child-placing agencies.

Having considered the same, the committee recommends that the Bill

**OUGHT TO PASS WITH AMENDMENT**

**BY A VOTE OF: 5-0**

**AMENDMENT # 0997s**

Senator Cindy Rosenwald  
For the Committee

Deb Martone 271-4980

**Docket of SB246****Bill Title:** relative to licensing of child daycare, residential care, and child-placing agencies.**Official Docket of SB246.:**

<b>Date</b>	<b>Body</b>	<b>Description</b>
1/23/2019	S	<b>Introduced</b> 01/03/2019 and Referred to Executive Departments and Administration; <b>SJ 4</b>
2/14/2019	S	<b>Hearing:</b> 02/20/2019, Room 101, LOB, 09:20 am; <b>SC 11</b>
2/21/2019	S	Committee Report: Ought to Pass with Amendment <b>#2019-0613s</b> , 03/07/2019; Vote 5-0; CC; <b>SC 12</b>
3/7/2019	S	Committee Amendment <b>#2019-0613s</b> , AA, VV; 03/07/2019; <b>SJ 7</b>
3/7/2019	S	<b>Ought to Pass with Amendment</b> 2019-0613s, MA, VV; Refer to Finance Rule 4-5; 03/07/2019; <b>SJ 7</b>
3/13/2019	S	Committee Report: Ought to Pass with Amendment <b>#2019-0997s</b> , 03/21/2019; <b>SC 14</b>
3/21/2019	S	Committee Amendment <b>#2019-0997s</b> , AA, VV; 03/21/2019; <b>SJ 9</b>
3/21/2019	S	<b>Ought to Pass with Amendment</b> 2019-0997s, MA, VV; OT3rdg; 03/21/2019; <b>SJ 9</b>
3/28/2019	H	Introduced 03/20/2019 and referred to Children and Family Law <b>HJ 11 P. 72</b>
4/10/2019	H	Public Hearing: 04/16/2019 10:00 am LOB 206
4/24/2019	H	Executive Session: 04/30/2019 01:00 pm LOB 206
5/1/2019	H	Committee Report: Ought to Pass with Amendment <b>#2019-1746h</b> for 05/08/2019 ( <b>Vote 15-1; RC</b> ) <b>HC 23 P. 8</b>
5/8/2019	H	Amendment <b>#2019-1746h</b> : AA VV 05/08/2019 <b>HJ 15 P. 14</b>
5/8/2019	H	<b>Ought to Pass with Amendment</b> 2019-1746h: MA VV 05/08/2019 <b>HJ 15 P. 14</b>
5/8/2019	H	Referred to Ways and Means 05/08/2019 <b>HJ 15 P. 14</b>
5/8/2019	H	Full Committee Work Session: 05/14/2019 11:30 am LOB 202
5/16/2019	H	Full Committee Work Session: 05/22/2019 10:00 am LOB 202
5/15/2019	H	Executive Session: 05/28/2019 10:00 am LOB 202
5/29/2019	H	Committee Report: Ought to Pass for 06/05/2019 (Vote 20-0; RC) <b>HC 27 P. 23</b>
6/6/2019	H	<b>Ought to Pass:</b> MA VV 06/06/2019 <b>HJ 18 P. 36</b>
6/13/2019	S	Without Objection, Sen. Carson Withdraws the recommendation to Concur, MA; 06/13/2019; <b>SJ 20</b>
6/13/2019	S	Sen. Carson Moved Nonconcur with the House Amendment; Requests C of C, MA, VV; 06/13/2019; <b>SJ 20</b>
6/13/2019	S	President Appoints: Senators Carson, Rosenwald, Chandley; 06/13/2019; <b>SJ 20</b>
6/13/2019	H	House Accedes to Senate Request for CofC (Rep. Long): MA VV 06/13/2019 <b>HJ 19 P. 9</b>
6/13/2019	H	Speaker Appoints: Reps. Long, Berrien, Rice, French 06/13/2019 <b>HJ 19 P. 9</b>
6/19/2019	S	Committee of Conference Meeting: 06/19/2019, 10:10 am, Room 103, SH

6/20/2019	H	Conference Committee Report # <b>2019-2600c</b> Filed 06/13/2019; House Amendment + New Amendment
6/27/2019	H	Conference Committee Report 2600c: Adopted, VV 06/27/2019 <b>HJ 20 P. 6</b>
6/27/2019	S	Conference Committee Report # <b>2019-2600c</b> , Adopted, VV; 06/27/2019; <b>SJ 21</b>
7/12/2019	H	Enrolled 06/27/2019 <b>HJ 20 P. 56</b>
7/10/2019	S	Enrolled (In recess 06/27/2019); <b>SJ 21</b>
8/5/2019	S	Signed by the Governor on 08/02/2019; Chapter 313; Effective 07/01/2019

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NH House

NH Senate

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# Other Referrals

# Senate Inventory Checklist for Archives

Bill Number: SB 246-FN

Senate Committee: E, D+A

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

### Bill Hearing Documents: {Legislative Aides}

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

### Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

- amendment # 0569       - amendment # 0613

\_\_\_\_\_ - amendment # \_\_\_\_\_      \_\_\_\_\_ - amendment # \_\_\_\_\_

Executive Session Sheet

Committee Report

### Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

\_\_\_\_\_ - amendment # \_\_\_\_\_      \_\_\_\_\_ - amendment # \_\_\_\_\_

\_\_\_\_\_ - amendment # \_\_\_\_\_      \_\_\_\_\_ - amendment # \_\_\_\_\_

### Post Floor Action: (if applicable) {Clerk's Office}

Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference): 2600

\_\_\_\_\_ Enrolled Bill Amendment(s)

\_\_\_\_\_ Governor's Veto Message

### All available versions of the bill: {Clerk's Office}

as amended by the senate      \_\_\_\_\_ as amended by the house

final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

\_\_\_\_\_  
Committee Aide

\_\_\_\_\_  
Date

Senate Clerk's Office jm



## Senate Inventory Checklist for Archives

Bill Number: SB 246-FN

Senate Committee: Finance

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

### Bill Hearing Documents: {Legislative Aides}

- Bill version as it came to the committee
- All Calendar Notices
- Hearing Sign-up sheet(s)
- Prepared testimony, presentations, & other submissions handed in at the public hearing
- Hearing Report
- Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

### Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

- amendment # 0997       - amendment # \_\_\_\_\_
- amendment # \_\_\_\_\_       - amendment # \_\_\_\_\_
- Executive Session Sheet
- Committee Report

### Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

- amendment # \_\_\_\_\_       - amendment # \_\_\_\_\_
- amendment # \_\_\_\_\_       - amendment # \_\_\_\_\_

### Post Floor Action: (if applicable) {Clerk's Office}

- Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference): 2600
- Enrolled Bill Amendment(s)
- Governor's Veto Message

### All available versions of the bill: {Clerk's Office}

- as amended by the senate       as amended by the house
- final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

\_\_\_\_\_  
Committee Aide

\_\_\_\_\_  
Date

Senate Clerk's Office jm

June 19, 2019  
2019-2600-CofC  
05/04

1 Committee of Conference Report on SB 246-FN, relative to licensing of child daycare, residential  
2 care, and child-placing agencies.

3

4 Recommendation:

5

6 That the Senate recede from its position of nonconcurrency with the House amendment, and  
7 concur with the House amendment, and

8 That the Senate and House adopt the following new amendment to the bill as amended by the  
9 House, and pass the bill as so amended:

10

11 Amend RSA 170-E:7, I-II as inserted by section 1 of the bill by replacing them with the following:

12

13 I. Child day care *agencies and* providers who are required to be licensed or registered  
14 according to the provisions of this chapter shall ~~[, prior to the date an individual is responsible for~~  
15 ~~the care of, or has regular contact with children, and upon adding new household members or other~~  
16 ~~individuals who will have regular contact with children,]~~ submit to the department[,] the names,  
17 birth names, *aliases*, birth dates, and *resident* addresses during the preceding 5 years of ~~[such~~  
18 ~~individuals]~~ *all owners, household members, and directors prior to the issuance of a permit*  
19 *or license*, and ~~[other information]~~ *subsequent to licensure, for all individuals as* required by  
20 the department ~~[as prescribed by]~~ *in* rules adopted ~~[by the commissioner]~~ under RSA 541-A.

21

22 I-a. The persons described in paragraph I shall *complete a Federal Bureau of*  
23 *Investigation fingerprint check using the biometric identification system through a*  
24 *qualified law enforcement agency or an authorized employee of the division of state police,*  
25 *department of safety and* ~~[submit directly to the department of safety a criminal history records~~  
26 ~~release form, as provided by the New Hampshire division of state police, which authorizes]~~  
27 *authorize* the release of the person's criminal records, if any, to the department. ~~[The person shall~~  
28 ~~complete a Federal Bureau of Investigation fingerprint check using the Integrated Automated~~  
29 ~~Fingerprint Identification System through a qualified law enforcement agency or an authorized~~  
30 ~~employee of the department of safety. The department of safety shall complete the criminal history~~  
31 ~~records check and forward such record, if any, to the department.]~~ In the event that the first set of  
32 fingerprints is invalid due to insufficient pattern, a second set of fingerprints shall be necessary to  
33 complete the criminal history records check. If, after 2 attempts, a set of fingerprints is invalid due  
34 to insufficient pattern, the department may, in lieu of the criminal history records check, accept  
35 police clearances from every city, town, or county where the person has lived during the past 5  
years.

Committee of Conference Report on SB 246-FN

- Page 2 -

36 II.(a) For every name submitted on an application, in the registration process, and for each  
37 individual for whom information is required to be submitted pursuant to paragraph I, the  
38 department shall search for such persons against the New Hampshire sex offender and abuse and  
39 neglect registries, *and* the sex offender [~~and abuse and neglect~~] registries of each state where the  
40 individual resided in the past 5 years[~~and the National Sex Offender Registry~~]. *The individual*  
41 *shall submit all forms and any required payments to the department to request from each*  
42 *state a check of the criminal history repository and abuse and neglect registry offices*  
43 *where the individual resided in the past 5 years.*

44 (b) [~~The department of safety shall submit the criminal history record information~~  
45 ~~authorization form to the New Hampshire division of state police, which~~] *Under the authority of*  
46 *the Child Care and Development Block Grant Act of 2014, the division of state police shall*  
47 *conduct [a] the criminal history records check pursuant to paragraph I-a, through its records*  
48 *and through the Federal Bureau of Investigation, to include a check of the National Sex*  
49 *Offender Registry file in the National Crime Information Center records.* Upon completion  
50 of the background investigation, the division of state police shall release copies of the criminal  
51 conviction records to the department *and shall indicate whether the individual is registered*  
52 *on the National Sex Offender Registry file in the National Crime Information Center*  
53 *records.* The department shall maintain the confidentiality of all criminal history records  
54 information received [~~pursuant to this paragraph~~].

55 (c) The costs of criminal history record *and abuse and neglect registry* checks shall  
56 be borne by the child day care *agency or* provider; provided, that the child day care *agency or*  
57 provider may require an applicant to pay the actual costs of the criminal history check *and abuse*  
58 *and neglect registry checks* of the employee.

59 (d) *Any individual who refuses to consent to the criminal background check or*  
60 *knowingly makes a materially false statement in connection with such criminal*  
61 *background checks shall be ineligible for employment.*

62

63 Amend RSA 170-E:29-a, I-II as inserted by section 2 of the bill by replacing them with the following:

64

65 I. Child care institutions and child care agencies, with the exception of foster family homes,  
66 that are required to be licensed according to the provisions of this chapter shall *submit to the*  
67 *department the names, birth names, aliases, birth dates, and resident addresses during*  
68 *the previous 5 years of all owners, household members, and program directors prior to the*  
69 *issuance of a permit or license and* prior to making a final offer of employment, [~~to a person who~~  
70 ~~will be responsible for the care of, or who will have regular contact with children, and upon adding~~  
71 ~~a new household member, or other persons who will have regular contact with children, submit to~~  
72 ~~the department, the names, birth names, birth dates, and addresses during the preceding 5 years of~~

Committee of Conference Report on SB 246-FN

- Page 3 -

73 ~~such persons and other information]~~ *for all individuals as* required by the department [as  
74 ~~prescribed by]~~ *in* rules adopted [by the commissioner] under RSA 541-A.

75 I-a. The persons described in paragraph I shall ~~[submit directly to the department of safety~~  
76 ~~a criminal history record information authorization form as provided by the New Hampshire~~  
77 ~~division of state police, which authorizes]~~ *complete a Federal Bureau of Investigation*  
78 *fingerprint check using the biometric identification system through a qualified law*  
79 *enforcement agency or an authorized employee of the division of state police, department*  
80 *of safety and authorize* the release of the person's criminal records, if any, to the department.  
81 ~~[The persons shall complete a Federal Bureau of Investigation fingerprint check using the~~  
82 ~~Integrated Automated Fingerprint Identification System through a qualified law enforcement~~  
83 ~~agency or an authorized employee of the department of safety. The department of safety shall~~  
84 ~~complete the criminal history records check and forward such record, if any, to the department.]~~ In  
85 the event that the first set of fingerprints is invalid due to insufficient pattern, a second set of  
86 fingerprints shall be necessary to complete the criminal history records check. If, after 2 attempts,  
87 a set of fingerprints is invalid due to insufficient pattern, the department may, in lieu of the  
88 criminal history records check, accept police clearances from every city, town, or county where the  
89 person has lived during the past 5 years.

90 II.(a) For every name submitted on an application and for each person for whom  
91 information is required to be submitted pursuant to paragraph I, the department shall search for  
92 such persons against the New Hampshire sex offender and abuse and neglect registries, *and* the  
93 sex offender and abuse and neglect registries of each state where the individual resided in the past  
94 5 years~~[and the National Sex Offender Registry]~~. *The individual shall submit all forms and*  
95 *any required payments to the department to request from each state a check of the abuse*  
96 *and neglect registry records where the individual resided in the past 5 years.*

97 (b) ~~[The department of safety shall submit the criminal history records release form to~~  
98 ~~the New Hampshire division of state police, which]~~ *Under the authority of the Child Care and*  
99 *Development Block Grant Act of 2014, the division of state police shall conduct [a] the*  
100 *criminal history records check pursuant to paragraph I-a,* through its records and through the  
101 *Federal Bureau of Investigation, to include a check of the National Sex Offender Registry file*  
102 *in the National Crime Information Center records.* Upon completion of the background  
103 investigation, the division of state police shall release copies of the criminal conviction records to the  
104 department *and shall indicate whether the individual is registered on the National Sex*  
105 *Offender Registry file in the National Crime Information Center records.* The department  
106 shall maintain the confidentiality of all criminal history records information received ~~[pursuant to~~  
107 ~~this paragraph]~~.

108 (c) The costs of criminal history record *and abuse and neglect registry* checks shall  
109 be borne by the licensee; provided, that the licensee may require an applicant to pay the actual costs

Committee of Conference Report on SB 246-FN

- Page 4 -

110 of the criminal history check *and abuse and neglect registry checks* of the employee.  
111 *(d) Any individual who refuses to consent to the criminal background check or*  
112 *knowingly makes a materially false statement in connection with such criminal*  
113 *background checks shall be ineligible for employment.*

The signatures below attest to the authenticity of this Report on SB 246-FN, relative to licensing of child daycare, residential care, and child-placing agencies.

Conferees on the Part of the Senate

Conferees on the Part of the House

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Sen. Carson, Dist. 14

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Rep. Long, Hills. 10

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Sen. Rosenwald, Dist. 13

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Rep. Berrien, Rock. 18

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Sen. Chandley, Dist. 11

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Rep. Rice, Hills. 37

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Rep. French, Graf. 14