

SENATE BILL NO. 351

INTRODUCED BY A. OLSON

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO CRIMINAL BACKGROUND CHECKS; PROVIDING FOR CRIMINAL BACKGROUND CHECKS OF RESIDENTS IN HOMES WHERE A POTENTIAL EMERGENCY PLACEMENT MAY BE MADE; PROVIDING REQUIREMENTS FOR EMERGENCY PLACEMENT OF A CHILD IN A HOME; PROVIDING REQUIREMENTS FOR CONDUCTING BACKGROUND CHECKS; AND PROVIDING RULEMAKING AUTHORITY."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Criminal background checks of adults residing in potential emergency**

**placements authorized.** (1) (a) If a child is removed from the child's parental or custodial home for protective care pursuant to this part and an emergency placement is offered, the department or an authorized tribe may request, in accordance with the procedures set forth in 28 CFR 901.1 through 901.4, that each adult 18 years of age or older who is residing in a home where the potential emergency placement is to be made consent to a preliminary state and federal name-based background check that must be followed within 15 calendar days from the date that the name-based background search was conducted with the submission of fingerprints to the state repository, as defined in 44-5-103, for a fingerprint-based background check conducted in accordance with subsection (2) of this section.

(b) If a name-based background check demonstrates that none of the adults residing in the home where the emergency placement is to be made has been convicted of a disqualifying criminal offense, the department or authorized tribe may place the child in the home pending the outcome of the fingerprint-based background check.

(c) If an adult refuses to consent to the department's or an authorized tribe's request for a name-based and fingerprint-based background check, the department or authorized tribe may not place the child in a home in which the adult resides, or if the child was already placed in the home, the department or authorized tribe shall immediately remove the child from the home.

(2) An adult who consents to a name-based and fingerprint-based background check pursuant to subsection (1) shall submit to the department or an authorized tribe a complete set of fingerprints and written



1 permission authorizing the department or the authorized tribe to submit the fingerprints to the state repository for  
2 processing of the state and federal background check. Results of the name-based and fingerprint-based  
3 background check must be provided to the quality assurance division of the department of public health and  
4 human services or to an authorized tribe.

5 (3) If the department or an authorized tribe elects to perform an initial name-based background check  
6 and a fingerprint-based background check pursuant to this section, the department or the authorized tribe may  
7 not make an emergency placement or continue an emergency placement in a home in which an adult resident  
8 has been convicted of a disqualifying criminal offense.

9 (4) The state repository and the federal bureau of investigation may charge a reasonable fee for  
10 processing a fingerprint-based criminal background check.

11 (5) If an emergency placement is denied as a result of a name-based background check of a resident  
12 and the resident contests the denial, the resident may within 15 calendar days of the denial submit to the  
13 department or authorized tribe a complete set of fingerprints with written permission allowing the department or  
14 authorized tribe to submit the fingerprints to the state repository for processing of the state and federal  
15 background check.

16 (6) The department shall by rule designate those criminal offenses that constitute a disqualifying criminal  
17 offense under this section, which may include but are not limited to felony convictions for violent crimes, crimes  
18 involving children, family members, or the elderly or disabled, and crimes involving drugs in which the conviction  
19 occurred within a certain period of time.

20 (7) For the purposes of this section, the following definitions apply:

21 (a) "Authorized tribe" means the tribal child services unit and its approved designees responsible for  
22 overseeing foster care licensing for an Indian tribe located within the borders of Montana that has in place a valid  
23 tribal fingerprint program user agreement with the Montana department of justice.

24 (b) "Emergency placement" means an instance in which the department or an authorized tribe provides  
25 protective services and places a child in the home of private individuals, including but not limited to family,  
26 neighbors, or friends of the child.

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28 **NEW SECTION. Section 2. Notification to tribal governments.** The secretary of state shall send a  
29 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell  
30 Chippewa tribe.

