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Director

Legislative Services Office Idaho State Legislature

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MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee
FROM: Senior Legislative Research Analyst - Ryan Bush
DATE: September 26, 2013
SUBJECT: Department of Health and Welfare - Criminal History and Background Checks

IDAPA 16.05.06 - Rules Pertaining To Criminal History & Background Checks - Application & Fingerprint Requirements (Docket No. 16-0506-1302)

IDAPA 16.05.06 - Rules Pertaining To Criminal History & Background Checks (Fee Rule) - Fee Assessed for Missed Appointments (Docket No. 16-0506-1303)

(1) 16.05.06 - Rules Pertaining To Criminal History & Background Checks - Application & Fingerprint Requirements (Docket No. 16-0506-1302)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.05.06 - Rules Pertaining To Criminal History & Background Checks - Application & Fingerprint Requirements. The Department states that this rulemaking provides clarification of the criminal history and background check application and fingerprint submission requirements and process. In addition, this rulemaking accomplishes the following:

- (1) Provides an appeal process for individuals whose records are disputed;
- (2) Updates the list of disqualifying crimes to include sexual exploitation by a medical care provider and updates the reasons for unconditional and conditional denials;
- (3) Clarifies when clearance may be revoked and actions for noncompliance;
- (4) Clarifies the changes that employers must report to the Department; and
- (5) Provides that a fee may be assessed for a missed fingerprint appointment.

The Department states that negotiated rulemaking was not conducted because it was not feasible. The Department states that it did ask employers that use the Department's website for criminal history and background checks for their input. There is no fiscal impact associated with this rulemaking.

The proposed rule appears to be within the statutory authority granted to the Department in Sections 56-202(b), 56-1004 and 56-1004A, Idaho Code.

(2) 16.05.06 - Rules Pertaining To Criminal History & Background Checks (Fee Rule) - Fee Assessed for Missed Appointments (Docket No. 16-0506-1303)

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The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.05.06 - Rules Pertaining To Criminal History & Background Checks (Fee Rule) - Fee Assessed for Missed Appointments. The Department states that this rulemaking provides for a fee of twenty dollars (\$20) to be assessed for missed fingerprint appointments by those required by the Department to have a criminal history and background check. This rulemaking also provides that no fee shall be paid if an appointment is canceled with twenty-four hours notice, provides for a waiver of the fee and provides that completion of the criminal history and background check may be delayed pending receipt of the fee.

The Department states that negotiated rulemaking was not conducted because applicants are required to cover the cost of a criminal history and background check. The Department states that it did ask employers for input on whether a fee would help alleviate missed appointments. The Department estimates that it will collect \$26,000 in receipts for this fee and that this will result in a reduction in state general funds of \$12,700 and federal funds of \$13,300.

The proposed rule appears to be within the statutory authority granted to the Department in Sections 56-202(b), 56-1004, 56-1004A and 56-1007, Idaho Code.

cc: Department of Health and Welfare - Criminal History and Background Checks
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