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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**56th Legislature, 1st Session, 2023**

<b>Bill Number</b>	<u>HB337</u>	<b>Sponsor</b>	<u>Serrato</u>
<b>Tracking Number</b>	<u>.224274.3SA</u>	<b>Committee Referrals</b>	<u>HHHC/HJC</u>
<b>Short Title</b>	<u>Early Childhood Dept. Background Checks</u>		
<b>Analyst</b>	<u>Hoxie</u>	<b>Original Date</b>	<u>2/21/2023</u>
		<b>Last Updated</b>	<u></u>

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**BILL SUMMARY**

Synopsis of Bill

House Bill 337 (HB337) amends Section 9-29-2 NMSA 1978 - the statute authorizing the Early Childhood Education and Care Department (ECECD) to conduct criminal history record checks – to include additional individuals subject to a department criminal history record check.

Under HB337, staff members and volunteers of department-contracted providers must undergo background checks during the application process for licensure, during the application process for registering as a child care facility, or when applying to work at a licensed child care facility or child care home program.

HB337 expands the responsibilities of ECECD relating to individuals who the department will be authorized to collect criminal history record information.

The bill provides several definitions relating to criminal history record checks. HB337 defines:

- Child care facility licensing as the process the department follows to license child care centers, group child care homes, family child care homes, and out-of-school time programs;
- Child care home program as a program developed by the department to license or register homes or residencies to provide child care services to children;
- Department-contracted providers as individuals or entities that enter into contracts with the department to provide child care services; and
- Registered home program as the program for an independent primary.

The bill has an effective date of July 1, 2023.

**FISCAL IMPACT**

The bill does not contain an appropriation.

**SUBSTANTIVE ISSUES**

**Compliance with the Federal Bureau of Investigation (FBI).** ECECD notes the current criminal history record check process under current statute was insufficient to meet FBI requirements. If the process is not corrected, the department cannot access the federal background check system, precluding ECDCD from performing the statutorily required criminal history record checks on early childhood center employees and volunteers.

Provisions of HB337 bring the statutory process for a criminal history record check in alignment with FBI requirements.

### **ADMINISTRATIVE IMPLICATIONS**

Provisions of HB337 will likely require ECECD to promulgate new rules governing background checks to ensure alignment.

### **OTHER SIGNIFICANT ISSUES**

Federal law requires all states to implement state and federal criminal background checks, including fingerprints for child care providers. The comprehensive background check must include a fingerprint check of the FBI database to ensure providers do not have a history of convictions that could put children's health and safety at risk. The background checks must be submitted before the provider is hired. In New Mexico, all child care providers in licensed child care homes and registered child care homes must have a background check completed every five years. The background check includes state and federal criminal records, sex offender registry, abuse checks, and other reasonably reliable information about an applicant's criminal background.

### **RELATED BILLS**

HB337 relates to SB383, Public Ed Background Check Process, which emends several sections of the School Personnel Act relating to criminal history record checks of public school employees.

### **SOURCES OF INFORMATION**

- LESC Files
- ECECD

**EH/bc/cf/mb**