
ENGROSSED SUBSTITUTE SENATE BILL 5774

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Kohl-Welles, Brandland and Shin; by request of Department of Social and Health Services)

READ FIRST TIME 02/23/07.

1 AN ACT Relating to revising background check processes; amending
2 RCW 26.33.190, 26.44.030, and 43.43.842; reenacting and amending RCW
3 74.15.030; adding a new section to chapter 43.43 RCW; creating new
4 sections; and providing an expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.43 RCW
7 to read as follows:

8 (1) In order to determine the character, competence, and
9 suitability of any applicant or service provider to have unsupervised
10 access, the secretary may require a fingerprint-based background check
11 through the Washington state patrol and the federal bureau of
12 investigation at anytime, but shall require a fingerprint-based
13 background check when the applicant or service provider has resided in
14 the state less than three consecutive years before application, and:

15 (a) Is an applicant or service provider providing services to
16 children or people with developmental disabilities under RCW 74.15.030;

17 (b) Is an individual residing in an applicant or service provider's
18 home, facility, entity, agency, or business or who is authorized by the

1 department to provide services to children or people with developmental
2 disabilities under RCW 74.15.030; or

3 (c) Is an applicant or service provider providing in-home services
4 funded by:

5 (i) Medicaid personal care under RCW 74.09.520;

6 (ii) Community options program entry system waiver services under
7 RCW 74.39A.030;

8 (iii) Chore services under RCW 74.39A.110; or

9 (iv) Other home and community long-term care programs, established
10 pursuant to chapters 74.39 and 74.39A RCW, administered by the
11 department.

12 (2) The secretary shall require a fingerprint-based background
13 check through the Washington state patrol identification and criminal
14 history section and the federal bureau of investigation when the
15 department seeks to approve an applicant or service provider for a
16 foster or adoptive placement of children in accordance with federal and
17 state law.

18 (3) Any secure facility operated by the department under chapter
19 71.09 RCW shall require applicants and service providers to undergo a
20 fingerprint-based background check through the Washington state patrol
21 identification and criminal history section and the federal bureau of
22 investigation.

23 (4) Service providers and service provider applicants who are
24 required to complete a fingerprint-based background check may be hired
25 for a one hundred twenty-day provisional period as allowed under law or
26 program rules when:

27 (a) A fingerprint-based background check is pending; and

28 (b) The applicant or service provider is not disqualified based on
29 the immediate result of the background check.

30 (5) Fees charged by the Washington state patrol and the federal
31 bureau of investigation for fingerprint-based background checks shall
32 be paid by the department for applicants or service providers
33 providing:

34 (a) Services to people with a developmental disability under RCW
35 74.15.030;

36 (b) In-home services funded by medicaid personal care under RCW
37 74.09.520;

- 1 (c) Community options program entry system waiver services under
2 RCW 74.39A.030;
- 3 (d) Chore services under RCW 74.39A.110;
- 4 (e) Services under other home and community long-term care
5 programs, established pursuant to chapters 74.39 and 74.39A RCW,
6 administered by the department;
- 7 (f) Services in, or to residents of, a secure facility under RCW
8 71.09.115; and
- 9 (g) Foster care when fees create a hardship as required under RCW
10 74.15.030.
- 11 (6) Service providers licensed under RCW 74.15.030 must pay fees
12 charged by the Washington state patrol and the federal bureau of
13 investigation for conducting fingerprint-based background checks.
- 14 (7) Children's administration service providers licensed under RCW
15 74.15.030 may not pass on the cost of the background check fees to
16 their applicants unless the individual is determined to be disqualified
17 due to the background information.
- 18 (8) The department shall develop rules identifying the financial
19 responsibility of service providers, applicants, and the department for
20 paying the fees charged by law enforcement to roll, print, or scan
21 fingerprints-based for the purpose of a Washington state patrol or
22 federal bureau of investigation fingerprint-based background check.
- 23 (9) The department shall confirm that an applicant or service
24 provider is a United States citizen or an eligible noncitizen.
25 Citizenship or eligibility status may be confirmed through verification
26 of the applicant's or service provider's social security number.
- 27 (10) For purposes of this section, unless the context plainly
28 indicates otherwise:
- 29 (a) "Applicant" means a current or prospective department or
30 service provider employee, volunteer, student, intern, researcher,
31 contractor, or any other individual who will or may have unsupervised
32 access because of the nature of the work or services he or she
33 provides. "Applicant" includes but is not limited to any individual
34 who will or may have unsupervised access and is:
- 35 (i) Applying for a license or certification from the department;
- 36 (ii) Seeking a contract with the department or a service provider;
- 37 (iii) Applying for employment, promotion, reallocation, or
38 transfer;

1 (iv) An individual that a department client or guardian of a
2 department client chooses to hire or engage to provide services to
3 himself or herself or another vulnerable adult, juvenile, or child and
4 who might be eligible to receive payment from the department for
5 services rendered; or

6 (v) A department applicant who will or may work in a department-
7 covered position.

8 (b) "Authorized" means the department grants an applicant, home, or
9 facility permission to:

10 (i) Conduct licensing, certification, or contracting activities;

11 (ii) Have unsupervised access to vulnerable adults, juveniles, and
12 children;

13 (iii) Receive payments from a department program; or

14 (iv) Work or serve in a department-covered position.

15 (c) "Department" means the department of social and health
16 services.

17 (d) "Secretary" means the secretary of the department of social and
18 health services.

19 (e) "Secure facility" has the meaning provided in RCW 71.09.020.

20 (f) "Service provider" means entities, facilities, agencies,
21 businesses, or individuals who are licensed, certified, authorized, or
22 regulated by, receive payment from, or have contracts or agreements
23 with the department to provide services to vulnerable adults,
24 juveniles, or children. "Service provider" includes individuals whom
25 a department client or guardian of a department client may choose to
26 hire or engage to provide services to himself or herself or another
27 vulnerable adult, juvenile, or child and who might be eligible to
28 receive payment from the department for services rendered. "Service
29 provider" does not include those certified under chapter 70.96A RCW.

30 **Sec. 2.** RCW 26.33.190 and 1991 c 136 s 3 are each amended to read
31 as follows:

32 (1) Any person may at any time request an agency, the department,
33 an individual approved by the court, or a qualified salaried court
34 employee to prepare a preplacement report. A certificate signed under
35 penalty of perjury by the person preparing the report specifying his or
36 her qualifications as required in this chapter shall be attached to or
37 filed with each preplacement report and shall include a statement of

1 training or experience that qualifies the person preparing the report
2 to discuss relevant adoption issues. A person may have more than one
3 preplacement report prepared. All preplacement reports shall be filed
4 with the court in which the petition for adoption is filed.

5 (2) The preplacement report shall be a written document setting
6 forth all relevant information relating to the fitness of the person
7 requesting the report as an adoptive parent. The report shall be based
8 on a study which shall include an investigation of the home
9 environment, family life, health, facilities, and resources of the
10 person requesting the report. The report shall include a list of the
11 sources of information on which the report is based. The report shall
12 include a recommendation as to the fitness of the person requesting the
13 report to be an adoptive parent. The report shall also verify that the
14 following issues were discussed with the prospective adoptive parents:

15 (a) The concept of adoption as a lifelong developmental process and
16 commitment;

17 (b) The potential for the child to have feelings of identity
18 confusion and loss regarding separation from the birth parents;

19 (c) Disclosure of the fact of adoption to the child;

20 (d) The child's possible questions about birth parents and
21 relatives; and

22 (e) The relevance of the child's racial, ethnic, and cultural
23 heritage.

24 (3) All preplacement reports shall include (~~(an investigation)~~) a
25 background check of the conviction records, pending charges, or
26 disciplinary board final decisions of prospective adoptive parents.
27 The (~~(investigation)~~) background check shall include an examination of
28 state and national criminal identification data provided by the
29 Washington state patrol criminal identification system (~~(as described~~
30 ~~in chapter 43.43 RCW)~~) including, but not limited to, a fingerprint-
31 based background check of national crime information databases for any
32 person being investigated. It shall also include a review of any child
33 abuse and neglect history of any adult living in the prospective
34 adoptive parents' home. The background check of the child abuse and
35 neglect history shall include a review of the child abuse and neglect
36 registries of all states in which the prospective adoptive parents or
37 any other adult living in the home have lived during the five years
38 preceding the date of the preplacement report.

1 (4) An agency, the department, or a court approved individual may
2 charge a reasonable fee based on the time spent in conducting the study
3 and preparing the preplacement report. The court may set a reasonable
4 fee for conducting the study and preparing the report when a court
5 employee has prepared the report. An agency, the department, a court
6 approved individual, or the court may reduce or waive the fee if the
7 financial condition of the person requesting the report so warrants.
8 An agency's, the department's, or court approved individual's, fee is
9 subject to review by the court upon request of the person requesting
10 the report.

11 (5) The person requesting the report shall designate to the agency,
12 the department, the court approved individual, or the court in writing
13 the county in which the preplacement report is to be filed. If the
14 person requesting the report has not filed a petition for adoption, the
15 report shall be indexed in the name of the person requesting the report
16 and a cause number shall be assigned. A fee shall not be charged for
17 filing the report. The applicable filing fee may be charged at the
18 time a petition governed by this chapter is filed. Any subsequent
19 preplacement reports shall be filed together with the original report.

20 (6) A copy of the completed preplacement report shall be delivered
21 to the person requesting the report.

22 (7) A person may request that a report not be completed. A
23 reasonable fee may be charged for the value of work done.

24 **Sec. 3.** RCW 26.44.030 and 2005 c 417 s 1 are each amended to read
25 as follows:

26 (1)(a) When any practitioner, county coroner or medical examiner,
27 law enforcement officer, professional school personnel, registered or
28 licensed nurse, social service counselor, psychologist, pharmacist,
29 licensed or certified child care providers or their employees, employee
30 of the department, juvenile probation officer, placement and liaison
31 specialist, responsible living skills program staff, HOPE center staff,
32 or state family and children's ombudsman or any volunteer in the
33 ombudsman's office has reasonable cause to believe that a child has
34 suffered abuse or neglect, he or she shall report such incident, or
35 cause a report to be made, to the proper law enforcement agency or to
36 the department as provided in RCW 26.44.040.

1 (b) When any person, in his or her official supervisory capacity
2 with a nonprofit or for-profit organization, has reasonable cause to
3 believe that a child has suffered abuse or neglect caused by a person
4 over whom he or she regularly exercises supervisory authority, he or
5 she shall report such incident, or cause a report to be made, to the
6 proper law enforcement agency, provided that the person alleged to have
7 caused the abuse or neglect is employed by, contracted by, or
8 volunteers with the organization and coaches, trains, educates, or
9 counsels a child or children or regularly has unsupervised access to a
10 child or children as part of the employment, contract, or voluntary
11 service. No one shall be required to report under this section when he
12 or she obtains the information solely as a result of a privileged
13 communication as provided in RCW 5.60.060.

14 Nothing in this subsection (1)(b) shall limit a person's duty to
15 report under (a) of this subsection.

16 For the purposes of this subsection, the following definitions
17 apply:

18 (i) "Official supervisory capacity" means a position, status, or
19 role created, recognized, or designated by any nonprofit or for-profit
20 organization, either for financial gain or without financial gain,
21 whose scope includes, but is not limited to, overseeing, directing, or
22 managing another person who is employed by, contracted by, or
23 volunteers with the nonprofit or for-profit organization.

24 (ii) "Regularly exercises supervisory authority" means to act in
25 his or her official supervisory capacity on an ongoing or continuing
26 basis with regards to a particular person.

27 (c) The reporting requirement also applies to department of
28 corrections personnel who, in the course of their employment, observe
29 offenders or the children with whom the offenders are in contact. If,
30 as a result of observations or information received in the course of
31 his or her employment, any department of corrections personnel has
32 reasonable cause to believe that a child has suffered abuse or neglect,
33 he or she shall report the incident, or cause a report to be made, to
34 the proper law enforcement agency or to the department as provided in
35 RCW 26.44.040.

36 (d) The reporting requirement shall also apply to any adult who has
37 reasonable cause to believe that a child who resides with them, has
38 suffered severe abuse, and is able or capable of making a report. For

1 the purposes of this subsection, "severe abuse" means any of the
2 following: Any single act of abuse that causes physical trauma of
3 sufficient severity that, if left untreated, could cause death; any
4 single act of sexual abuse that causes significant bleeding, deep
5 bruising, or significant external or internal swelling; or more than
6 one act of physical abuse, each of which causes bleeding, deep
7 bruising, significant external or internal swelling, bone fracture, or
8 unconsciousness.

9 (e) The report must be made at the first opportunity, but in no
10 case longer than forty-eight hours after there is reasonable cause to
11 believe that the child has suffered abuse or neglect. The report must
12 include the identity of the accused if known.

13 (2) The reporting requirement of subsection (1) of this section
14 does not apply to the discovery of abuse or neglect that occurred
15 during childhood if it is discovered after the child has become an
16 adult. However, if there is reasonable cause to believe other children
17 are or may be at risk of abuse or neglect by the accused, the reporting
18 requirement of subsection (1) of this section does apply.

19 (3) Any other person who has reasonable cause to believe that a
20 child has suffered abuse or neglect may report such incident to the
21 proper law enforcement agency or to the department of social and health
22 services as provided in RCW 26.44.040.

23 (4) The department, upon receiving a report of an incident of
24 alleged abuse or neglect pursuant to this chapter, involving a child
25 who has died or has had physical injury or injuries inflicted upon him
26 or her other than by accidental means or who has been subjected to
27 alleged sexual abuse, shall report such incident to the proper law
28 enforcement agency. In emergency cases, where the child's welfare is
29 endangered, the department shall notify the proper law enforcement
30 agency within twenty-four hours after a report is received by the
31 department. In all other cases, the department shall notify the law
32 enforcement agency within seventy-two hours after a report is received
33 by the department. If the department makes an oral report, a written
34 report must also be made to the proper law enforcement agency within
35 five days thereafter.

36 (5) Any law enforcement agency receiving a report of an incident of
37 alleged abuse or neglect pursuant to this chapter, involving a child
38 who has died or has had physical injury or injuries inflicted upon him

1 or her other than by accidental means, or who has been subjected to
2 alleged sexual abuse, shall report such incident in writing as provided
3 in RCW 26.44.040 to the proper county prosecutor or city attorney for
4 appropriate action whenever the law enforcement agency's investigation
5 reveals that a crime may have been committed. The law enforcement
6 agency shall also notify the department of all reports received and the
7 law enforcement agency's disposition of them. In emergency cases,
8 where the child's welfare is endangered, the law enforcement agency
9 shall notify the department within twenty-four hours. In all other
10 cases, the law enforcement agency shall notify the department within
11 seventy-two hours after a report is received by the law enforcement
12 agency.

13 (6) Any county prosecutor or city attorney receiving a report under
14 subsection (5) of this section shall notify the victim, any persons the
15 victim requests, and the local office of the department, of the
16 decision to charge or decline to charge a crime, within five days of
17 making the decision.

18 (7) The department may conduct ongoing case planning and
19 consultation with those persons or agencies required to report under
20 this section, with consultants designated by the department, and with
21 designated representatives of Washington Indian tribes if the client
22 information exchanged is pertinent to cases currently receiving child
23 protective services. Upon request, the department shall conduct such
24 planning and consultation with those persons required to report under
25 this section if the department determines it is in the best interests
26 of the child. Information considered privileged by statute and not
27 directly related to reports required by this section must not be
28 divulged without a valid written waiver of the privilege.

29 (8) Any case referred to the department by a physician licensed
30 under chapter 18.57 or 18.71 RCW on the basis of an expert medical
31 opinion that child abuse, neglect, or sexual assault has occurred and
32 that the child's safety will be seriously endangered if returned home,
33 the department shall file a dependency petition unless a second
34 licensed physician of the parents' choice believes that such expert
35 medical opinion is incorrect. If the parents fail to designate a
36 second physician, the department may make the selection. If a
37 physician finds that a child has suffered abuse or neglect but that
38 such abuse or neglect does not constitute imminent danger to the

1 child's health or safety, and the department agrees with the
2 physician's assessment, the child may be left in the parents' home
3 while the department proceeds with reasonable efforts to remedy
4 parenting deficiencies.

5 (9) Persons or agencies exchanging information under subsection (7)
6 of this section shall not further disseminate or release the
7 information except as authorized by state or federal statute.
8 Violation of this subsection is a misdemeanor.

9 (10) Upon receiving reports of alleged abuse or neglect, the
10 department or law enforcement agency may interview children. The
11 interviews may be conducted on school premises, at day-care facilities,
12 at the child's home, or at other suitable locations outside of the
13 presence of parents. Parental notification of the interview must occur
14 at the earliest possible point in the investigation that will not
15 jeopardize the safety or protection of the child or the course of the
16 investigation. Prior to commencing the interview the department or law
17 enforcement agency shall determine whether the child wishes a third
18 party to be present for the interview and, if so, shall make reasonable
19 efforts to accommodate the child's wishes. Unless the child objects,
20 the department or law enforcement agency shall make reasonable efforts
21 to include a third party in any interview so long as the presence of
22 the third party will not jeopardize the course of the investigation.

23 (11) Upon receiving a report of alleged child abuse and neglect,
24 the department or investigating law enforcement agency shall have
25 access to all relevant records of the child in the possession of
26 mandated reporters and their employees.

27 (12) In investigating and responding to allegations of child abuse
28 and neglect, the department may conduct background checks as authorized
29 by state and federal law.

30 (13) The department shall maintain investigation records and
31 conduct timely and periodic reviews of all cases constituting abuse and
32 neglect. The department shall maintain a log of screened-out
33 nonabusive cases.

34 ((+13+)) (14) The department shall use a risk assessment process
35 when investigating alleged child abuse and neglect referrals. The
36 department shall present the risk factors at all hearings in which the
37 placement of a dependent child is an issue. Substance abuse must be a

1 risk factor. The department shall, within funds appropriated for this
2 purpose, offer enhanced community-based services to persons who are
3 determined not to require further state intervention.

4 ~~((14))~~ (15) Upon receipt of a report of alleged abuse or neglect
5 the law enforcement agency may arrange to interview the person making
6 the report and any collateral sources to determine if any malice is
7 involved in the reporting.

8 ~~((15))~~ (16) The department shall make reasonable efforts to learn
9 the name, address, and telephone number of each person making a report
10 of abuse or neglect under this section. The department shall provide
11 assurances of appropriate confidentiality of the identification of
12 persons reporting under this section. If the department is unable to
13 learn the information required under this subsection, the department
14 shall only investigate cases in which: (a) The department believes
15 there is a serious threat of substantial harm to the child; (b) the
16 report indicates conduct involving a criminal offense that has, or is
17 about to occur, in which the child is the victim; or (c) the department
18 has, after investigation, a report of abuse or neglect that has been
19 founded with regard to a member of the household within three years of
20 receipt of the referral.

21 **Sec. 4.** RCW 43.43.842 and 1998 c 10 s 4 are each amended to read
22 as follows:

23 (1)(a) The secretary of social and health services and the
24 secretary of health shall adopt additional requirements for the
25 licensure or relicensure of agencies, facilities, and licensed
26 individuals who provide care and treatment to vulnerable adults,
27 including nursing pools registered under chapter 18.52C RCW. These
28 additional requirements shall ensure that any person associated with a
29 licensed agency or facility having unsupervised access with a
30 vulnerable adult shall not be the respondent in an active protective
31 order under RCW 74.34.130, nor have been: (i) Convicted of a crime
32 against persons as defined in RCW 43.43.830, except as provided in this
33 section; (ii) convicted of crimes relating to financial exploitation as
34 defined in RCW 43.43.830, except as provided in this section; or (iii)
35 found in any disciplinary board final decision to have abused a
36 vulnerable adult under RCW 43.43.830(~~or (iv) the subject in a~~
37 ~~protective proceeding under chapter 74.34 RCW~~)).

1 (b) A person associated with a licensed agency or facility who has
2 unsupervised access with a vulnerable adult shall make the disclosures
3 specified in RCW 43.43.834(2). The person shall make the disclosures
4 in writing, sign, and swear to the contents under penalty of perjury.
5 The person shall, in the disclosures, specify all crimes against
6 children or other persons, all crimes relating to financial
7 exploitation, and all crimes relating to drugs as defined in RCW
8 43.43.830, committed by the person.

9 (2) The rules adopted under this section shall permit the licensee
10 to consider the criminal history of an applicant for employment in a
11 licensed facility when the applicant has one or more convictions for a
12 past offense and:

13 (a) The offense was simple assault, assault in the fourth degree,
14 or the same offense as it may be renamed, and three or more years have
15 passed between the most recent conviction and the date of application
16 for employment;

17 (b) The offense was prostitution, or the same offense as it may be
18 renamed, and three or more years have passed between the most recent
19 conviction and the date of application for employment;

20 (c) The offense was theft in the third degree, or the same offense
21 as it may be renamed, and three or more years have passed between the
22 most recent conviction and the date of application for employment;

23 (d) The offense was theft in the second degree, or the same offense
24 as it may be renamed, and five or more years have passed between the
25 most recent conviction and the date of application for employment;

26 (e) The offense was forgery, or the same offense as it may be
27 renamed, and five or more years have passed between the most recent
28 conviction and the date of application for employment.

29 The offenses set forth in (a) through (e) of this subsection do not
30 automatically disqualify an applicant from employment by a licensee.
31 Nothing in this section may be construed to require the employment of
32 any person against a licensee's judgment.

33 (3) In consultation with law enforcement personnel, the secretary
34 of social and health services and the secretary of health shall
35 investigate, or cause to be investigated, the conviction record and the
36 protection proceeding record information under this chapter of the
37 staff of each agency or facility under their respective jurisdictions
38 seeking licensure or relicensure. An individual responding to a

1 criminal background inquiry request from his or her employer or
2 potential employer shall disclose the information about his or her
3 criminal history under penalty of perjury. The secretaries shall use
4 the information solely for the purpose of determining eligibility for
5 licensure or relicensure. Criminal justice agencies shall provide the
6 secretaries such information as they may have and that the secretaries
7 may require for such purpose.

8 **Sec. 5.** RCW 74.15.030 and 2006 c 265 s 402 and 2006 c 54 s 8 are
9 each reenacted and amended to read as follows:

10 The secretary shall have the power and it shall be the secretary's
11 duty:

12 (1) In consultation with the children's services advisory
13 committee, and with the advice and assistance of persons representative
14 of the various type agencies to be licensed, to designate categories of
15 facilities for which separate or different requirements shall be
16 developed as may be appropriate whether because of variations in the
17 ages, sex and other characteristics of persons served, variations in
18 the purposes and services offered or size or structure of the agencies
19 to be licensed hereunder, or because of any other factor relevant
20 thereto;

21 (2) In consultation with the children's services advisory
22 committee, and with the advice and assistance of persons representative
23 of the various type agencies to be licensed, to adopt and publish
24 minimum requirements for licensing applicable to each of the various
25 categories of agencies to be licensed.

26 The minimum requirements shall be limited to:

27 (a) The size and suitability of a facility and the plan of
28 operation for carrying out the purpose for which an applicant seeks a
29 license;

30 ~~(b) ((The character, suitability and competence of an agency and
31 other persons associated with an agency directly responsible for the
32 care and treatment of children, expectant mothers or developmentally
33 disabled persons.~~

34 ~~In consultation with law enforcement personnel, the secretary shall
35 investigate the conviction record or pending charges and dependency
36 record information under chapter 43.43 RCW of each agency and its staff
37 seeking licensure or relicensure.~~

1 ~~No unfounded allegation of child abuse or neglect as defined in RCW~~
2 ~~26.44.020 may be disclosed to a child placing agency, private adoption~~
3 ~~agency, or any other provider licensed under this chapter. In order to~~
4 ~~determine the suitability of applicants for an agency license,~~
5 ~~licensees, their employees, and other persons who have unsupervised~~
6 ~~access to children in care, and who have not resided in the state of~~
7 ~~Washington during the three year period before being authorized to care~~
8 ~~for children shall be fingerprinted. The fingerprints shall be~~
9 ~~forwarded to the Washington state patrol and federal bureau of~~
10 ~~investigation for a criminal history records check. The fingerprint~~
11 ~~criminal history records checks will be at the expense of the licensee~~
12 ~~except that in the case of a foster family home, if this expense would~~
13 ~~work a hardship on the licensee, the department shall pay the expense.~~

14 ~~The licensee may not pass this cost on to the employee or~~
15 ~~prospective employee, unless the employee is determined to be~~
16 ~~unsuitable due to his or her criminal history record. The secretary~~
17 ~~shall use the information solely for the purpose of determining~~
18 ~~eligibility for a license and for determining the character,~~
19 ~~suitability, and competence of those persons or agencies, excluding~~
20 ~~parents, not required to be licensed who are authorized to care for~~
21 ~~children, expectant mothers, and developmentally disabled persons.~~
22 ~~Criminal justice agencies shall provide the secretary such information~~
23 ~~as they may have and that the secretary may require for such purpose:~~

24 ~~(e)) Obtaining background information and any out-of-state~~
25 ~~equivalent, to determine whether the applicant or service provider is~~
26 ~~disqualified and to determine the character, competence, and~~
27 ~~suitability of an agency, the agency's employees, volunteers, and other~~
28 ~~persons associated with an agency;~~

29 ~~(c) Conducting background checks for those who will or may have~~
30 ~~unsupervised access to children, expectant mothers, or individuals with~~
31 ~~a developmental disability;~~

32 ~~(d) Obtaining child protective services information or records~~
33 ~~maintained in the department case management information system. No~~
34 ~~unfounded allegation of child abuse or neglect as defined in RCW~~
35 ~~26.44.020 may be disclosed to a child-placing agency, private adoption~~
36 ~~agency, or any other provider licensed under this chapter;~~

37 ~~(e) Submitting a fingerprint-based background check through the~~

1 Washington state patrol under chapter 10.97 RCW and through the federal
2 bureau of investigation for:
3 (i) Agencies and their staff, volunteers, students, and interns
4 when the agency is seeking license or relicense;
5 (ii) Foster care and adoption placements; and
6 (iii) Any adult living in a home where a child may be placed;
7 (f) If any adult living in the home has not resided in the state of
8 Washington for the preceding five years, the department shall review
9 any child abuse and neglect registries maintained by any state where
10 the adult has resided over the preceding five years;
11 (g) The cost of fingerprint background check fees will be paid as
12 required in section 1 of this act;
13 (h) National and state background information must be used solely
14 for the purpose of determining eligibility for a license and for
15 determining the character, suitability, and competence of those persons
16 or agencies, excluding parents, not required to be licensed who are
17 authorized to care for children or expectant mothers;
18 (i) The number of qualified persons required to render the type of
19 care and treatment for which an agency seeks a license;
20 ~~((d))~~ (j) The safety, cleanliness, and general adequacy of the
21 premises to provide for the comfort, care and well-being of children,
22 expectant mothers or developmentally disabled persons;
23 ~~((e))~~ (k) The provision of necessary care, including food,
24 clothing, supervision and discipline; physical, mental and social well-
25 being; and educational, recreational and spiritual opportunities for
26 those served;
27 ~~((f))~~ (l) The financial ability of an agency to comply with
28 minimum requirements established pursuant to chapter 74.15 RCW and RCW
29 74.13.031; and
30 ~~((g))~~ (m) The maintenance of records pertaining to the admission,
31 progress, health and discharge of persons served;
32 (3) To investigate any person, including relatives by blood or
33 marriage except for parents, for character, suitability, and competence
34 in the care and treatment of children, expectant mothers, and
35 developmentally disabled persons prior to authorizing that person to
36 care for children, expectant mothers, and developmentally disabled
37 persons. However, if a child is placed with a relative under RCW
38 13.34.065 or 13.34.130, and if such relative appears otherwise suitable

1 and competent to provide care and treatment the criminal history
2 background check required by this section need not be completed before
3 placement, but shall be completed as soon as possible after placement;

4 (4) On reports of alleged child abuse and neglect, to investigate
5 agencies in accordance with chapter 26.44 RCW, including child day-care
6 centers and family day-care homes, to determine whether the alleged
7 abuse or neglect has occurred, and whether child protective services or
8 referral to a law enforcement agency is appropriate;

9 (5) To issue, revoke, or deny licenses to agencies pursuant to
10 chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the
11 category of care which an agency is authorized to render and the ages,
12 sex and number of persons to be served;

13 (6) To prescribe the procedures and the form and contents of
14 reports necessary for the administration of chapter 74.15 RCW and RCW
15 74.13.031 and to require regular reports from each licensee;

16 (7) To inspect agencies periodically to determine whether or not
17 there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the
18 requirements adopted hereunder;

19 (8) To review requirements adopted hereunder at least every two
20 years and to adopt appropriate changes after consultation with affected
21 groups for child day-care requirements and with the children's services
22 advisory committee for requirements for other agencies;

23 (9) To engage in negotiated rule making pursuant to RCW
24 34.05.310(2)(a) with the exclusive representative of the family child
25 care licensees selected in accordance with RCW 74.15.--- (section 6,
26 chapter 54, Laws of 2006) and with other affected interests before
27 adopting requirements that affect family child care licensees; and

28 (10) To consult with public and private agencies in order to help
29 them improve their methods and facilities for the care of children,
30 expectant mothers and developmentally disabled persons.

31 NEW SECTION. **Sec. 6.** Federal and state law require the balancing
32 of the privacy interests of individuals with the government's interest
33 in the protection of children and vulnerable adults. The legislature
34 finds that the balancing of these interests may be skewed in favor of
35 the privacy rights of individuals. Therefore, a work group is created
36 to research the current laws regarding background checks for
37 prospective employees of public and private entities which work with

1 vulnerable adults or children. The legislature finds that a
2 comprehensive background check which includes both civil and criminal
3 information is a valuable tool in safeguarding vulnerable adults and
4 children from preventable risk.

5 NEW SECTION. **Sec. 7.** (1) The department of social and health
6 services shall convene a work group to review the current federal and
7 state laws and administrative rules and practices with respect to
8 sharing confidential information.

9 (2)(a) The work group shall include but not be limited to the
10 following members, chosen by the chief executive officer of each
11 entity:

12 (i) A representative of the department of social and health
13 services;

14 (ii) A representative of the department of early learning;

15 (iii) A representative of the department of health;

16 (iv) A representative of the office of the superintendent of public
17 instruction;

18 (v) A representative of the department of licensing;

19 (vi) A representative of the Washington state patrol;

20 (vii) A representative from the Washington state bar association;

21 (viii) A representative of the Washington association of sheriffs
22 and police chiefs;

23 (ix) A representative of the Washington association of criminal
24 defense attorneys;

25 (x) A representative from the administrative office of the courts;
26 and

27 (xi) A representative from the department of information services.

28 (b) The work group shall also include as nonvoting ex officio
29 members:

30 (i) One member from each of the two largest caucuses of the senate,
31 appointed by the president of the senate; and

32 (ii) One member from each of the two largest caucuses of the house
33 of representatives, appointed by the speaker of the house of
34 representatives.

35 (c) Additional voting members may be invited to participate as
36 determined by the work group.

1 (3) Appointments to the work group shall be completed within thirty
2 days of the effective date of this section.

3 (4) The work group may form an executive committee, create
4 subcommittees, designate alternative representatives, and define other
5 procedures, as needed, for operation of the work group.

6 (5) Legislative members of the work group shall be reimbursed for
7 travel expenses under RCW 44.04.120. Nonlegislative members, except
8 those representing an employee or organization, are entitled to be
9 reimbursed for travel expenses in accordance with RCW 43.03.050 and
10 43.03.060.

11 (6) The secretary of the department of social and health services
12 or the secretary's designee shall serve as chair of the work group.

13 (7) The department of social and health services shall provide
14 staff support to the work group.

15 (8) The work group shall:

16 (a) Provide an interim report to the legislature and the governor
17 by December 1, 2007; and

18 (b) Make recommendations to the legislature and the governor by
19 July 1, 2008, regarding improving current processes for sharing
20 information, including but not limited to the feasibility of creating
21 a clearinghouse of information.

22 (9) This section expires November 30, 2008.

23 NEW SECTION. **Sec. 8.** If specific funding for the purposes of
24 sections 6 and 7 of this act, referencing sections 6 and 7 of this act
25 by bill or chapter number and section number, is not provided by June
26 30, 2007, in the omnibus appropriations act, sections 6 and 7 of this
27 act are null and void.

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