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**SUBSTITUTE SENATE BILL 5421**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** Senate Committee on Human Services & Corrections (originally sponsored by Senator Fraser)

Read first time 02/17/95.

1 AN ACT Relating to background checks; and amending RCW 43.43.830  
2 and 43.43.832.

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

4 **Sec. 1.** RCW 43.43.830 and 1994 c 108 s 1 are each amended to read  
5 as follows:

6 Unless the context clearly requires otherwise, the definitions in  
7 this section apply throughout RCW 43.43.830 through 43.43.840.

8 (1) "Applicant" means:

9 (a) Any prospective employee who will or may have unsupervised  
10 access to children under sixteen years of age or developmentally  
11 disabled persons or vulnerable adults during the course of his or her  
12 employment or involvement with the business or organization;

13 (b) Any prospective volunteer who will have regularly scheduled  
14 unsupervised access to children under sixteen years of age,  
15 developmentally disabled persons, or vulnerable adults during the  
16 course of his or her employment or involvement with the business or  
17 organization under circumstances where such access will or may involve  
18 groups of (i) five or fewer children under twelve years of age, (ii)

1 three or fewer children between twelve and sixteen years of age, (iii)  
2 developmentally disabled persons, or (iv) vulnerable adults; or

3 (c) Any prospective adoptive parent, as defined in RCW 26.33.020.

4 (2) "Business or organization" means a business or organization  
5 licensed in this state, any agency of the state, or other governmental  
6 entity, that educates, trains, treats, supervises, houses, or provides  
7 recreation to developmentally disabled persons, vulnerable adults, or  
8 children under sixteen years of age, including but not limited to  
9 public housing authorities, school districts, and educational service  
10 districts.

11 (3) "Civil adjudication" means a specific court finding of sexual  
12 abuse or exploitation or physical abuse in a dependency action under  
13 RCW 13.34.040 or in a domestic relations action under Title 26 RCW. In  
14 the case of vulnerable adults, civil adjudication means a specific  
15 court finding of abuse or financial exploitation in a protection  
16 proceeding under chapter 74.34 RCW. It does not include administrative  
17 proceedings. The term "civil adjudication" is further limited to court  
18 findings that identify as the perpetrator of the abuse a named  
19 individual, over the age of eighteen years, who was a party to the  
20 dependency or dissolution proceeding or was a respondent in a  
21 protection proceeding in which the finding was made and who contested  
22 the allegation of abuse or exploitation.

23 (4) "Conviction record" means "conviction record" information as  
24 defined in RCW 10.97.030(3) relating to a crime against children or  
25 other persons committed by either an adult or a juvenile. It does not  
26 include a conviction for an offense that has been the subject of an  
27 expungement, pardon, annulment, certificate of rehabilitation, or other  
28 equivalent procedure based on a finding of the rehabilitation of the  
29 person convicted, or a conviction that has been the subject of a  
30 pardon, annulment, or other equivalent procedure based on a finding of  
31 innocence. It does include convictions for offenses for which the  
32 defendant received a deferred or suspended sentence, unless the record  
33 has been expunged according to law.

34 (5) "Crime against children or other persons" means a conviction of  
35 any of the following offenses: Aggravated murder; first or second  
36 degree murder; first or second degree kidnaping; first, second, or  
37 third degree assault; first, second, or third degree assault of a  
38 child; first, second, or third degree rape; first, second, or third  
39 degree rape of a child; first or second degree robbery; first degree

1 arson; first degree burglary; first or second degree manslaughter;  
2 first or second degree extortion; indecent liberties; incest; vehicular  
3 homicide; first degree promoting prostitution; communication with a  
4 minor; unlawful imprisonment; simple assault; sexual exploitation of  
5 minors; first or second degree criminal mistreatment; child abuse or  
6 neglect as defined in RCW 26.44.020; first or second degree custodial  
7 interference; malicious harassment; first, second, or third degree  
8 child molestation; first or second degree sexual misconduct with a  
9 minor; first or second degree rape of a child; patronizing a juvenile  
10 prostitute; child abandonment; promoting pornography; selling or  
11 distributing erotic material to a minor; custodial assault; violation  
12 of child abuse restraining order; child buying or selling;  
13 prostitution; felony indecent exposure; criminal abandonment; or any of  
14 these crimes as they may be renamed in the future.

15 (6) "Crimes relating to financial exploitation" means a conviction  
16 for first, second, or third degree extortion; first, second, or third  
17 degree theft; first or second degree robbery; forgery; or any of these  
18 crimes as they may be renamed in the future.

19 (7) "Disciplinary board final decision" means any final decision  
20 issued by (~~the disciplinary board~~) a disciplining authority under  
21 chapter 18.130 RCW or the (~~director of the department of licensing~~)  
22 secretary of the department of health for the following businesses or  
23 professions:

- 24 (a) Chiropractic;
- 25 (b) Dentistry;
- 26 (c) Dental hygiene;
- 27 (d) Massage;
- 28 (e) Midwifery;
- 29 (f) Naturopathy;
- 30 (g) Osteopathy;
- 31 (h) Physical therapy;
- 32 (i) Physicians;
- 33 (j) Practical nursing;
- 34 (k) Registered nursing; and
- 35 (l) Psychology( ~~and~~
- 36 ~~(m) Real estate brokers and salesmen~~)).

37 "Disciplinary board final decision", for real estate brokers and  
38 salespersons, means any final decision issued by the director of the  
39 department of licensing for real estate brokers and salespersons.

1 (8) "Unsupervised" means not in the presence of:

2 (a) Another employee or volunteer from the same business or  
3 organization as the applicant; or

4 (b) Any relative or guardian of any of the children or  
5 developmentally disabled persons to which the applicant has access  
6 during the course of his or her employment or involvement with the  
7 business or organization.

8 (9) "Vulnerable adult" means (~~(a person sixty years of age or older~~  
9 ~~who has the functional, mental, or physical inability to care for~~  
10 ~~himself or herself or a patient in a state hospital as defined in~~  
11 ~~chapter 72.23 RCW)) "vulnerable adult" as defined in chapter 74.34 RCW,  
12 except that for the purposes of requesting and receiving background  
13 checks pursuant to RCW 43.43.832, it shall also include adults of any  
14 age who lack the functional, mental, or physical ability to care for  
15 themselves.~~

16 (10) "Financial exploitation" means the illegal or improper use of  
17 a vulnerable adult or that adult's resources for another person's  
18 profit or advantage.

19 (11) "Agency" means any person, firm, partnership, association,  
20 corporation, or facility which receives, provides services to, houses  
21 or otherwise cares for vulnerable adults.

22 **Sec. 2.** RCW 43.43.832 and 1993 c 281 s 51 are each amended to read  
23 as follows:

24 (1) The legislature finds that businesses and organizations  
25 providing services to children, developmentally disabled persons, and  
26 vulnerable adults need adequate information to determine which  
27 employees or licensees to hire or engage. The legislature further  
28 finds that many developmentally disabled individuals and vulnerable  
29 adults desire to hire their own employees directly and also need  
30 adequate information to determine which employees or licensees to hire  
31 or engage. Therefore, the Washington state patrol criminal  
32 identification system may disclose, upon the request of a business or  
33 organization as defined in RCW 43.43.830, a developmentally disabled  
34 person, or a vulnerable adult as defined in RCW 43.43.830, an  
35 applicant's record for convictions of offenses against children or  
36 other persons, convictions for crimes relating to financial  
37 exploitation, but only if the victim was a vulnerable adult,  
38 adjudications of child abuse in a civil action, the issuance of a

1 protection order against the respondent under chapter 74.34 RCW, and  
2 disciplinary board final decisions and any subsequent criminal charges  
3 associated with the conduct that is the subject of the disciplinary  
4 board final decision. When necessary, applicants may be employed on a  
5 conditional basis pending completion of such a background  
6 investigation.

7 (2) The legislature also finds that the state board of education  
8 may request of the Washington state patrol criminal identification  
9 system information regarding a certificate applicant's record for  
10 convictions under subsection (1) of this section.

11 (3) The legislature also finds that law enforcement agencies, the  
12 office of the attorney general, prosecuting authorities, and the  
13 department of social and health services may request this same  
14 information to aid in the investigation and prosecution of child,  
15 developmentally disabled person, and vulnerable adult abuse cases and  
16 to protect children and adults from further incidents of abuse.

17 (4) The legislature further finds that the department of social and  
18 health services, when considering persons for state positions directly  
19 responsible for the care, supervision, or treatment of children,  
20 developmentally disabled persons, or vulnerable adults or when  
21 licensing or authorizing such persons or agencies pursuant to its  
22 authority under chapter 74.15, 18.51, 18.20, or 72.23 RCW, or any  
23 later-enacted statute which purpose is to license or regulate a  
24 facility which handles vulnerable adults, must consider the information  
25 listed in subsection (1) of this section. However, when necessary,  
26 persons may be employed on a conditional basis pending completion of  
27 the background investigation. The Washington personnel resources board  
28 shall adopt rules to accomplish the purposes of this subsection as it  
29 applies to state employees.

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