CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5421

Chapter 250, Laws of 1995

54th Legislature
1995 Regular Session

BACKGROUND CHECKS--REVISIONS

EFFECTIVE DATE: 7/23/95

Passed by the Senate April 19, 1995
YEAS 47 NAYS 0

JOEL PRITCHARD
President of the Senate

Passed by the House April 6, 1995
YEAS 95 NAYS 0

CLYDE BALLARD
Speaker of the House of Representatives

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is SUBSTITUTE SENATE BILL 5421 as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN
Secretary

Approved May 5, 1995

FILED

May 5, 1995 - 10:20 a.m.

MIKE LOWRY
Governor of the State of Washington

Secretary of State
State of Washington
AN ACT Relating to background checks; and amending RCW 43.43.830 and 43.43.832.

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

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

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

(1) "Applicant" means:

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

(b) Any prospective volunteer who will have regularly scheduled unsupervised access to children under sixteen years of age, developmentally disabled persons, or vulnerable adults during the course of his or her employment or involvement with the business or organization under circumstances where such access will or may involve groups of (i) five or fewer children under twelve years of age, (ii)
three or fewer children between twelve and sixteen years of age, (iii)
developmentally disabled persons, or (iv) vulnerable adults; or
(c) Any prospective adoptive parent, as defined in RCW 26.33.020.
(2) "Business or organization" means a business or organization
licensed in this state, any agency of the state, or other governmental
entity, that educates, trains, treats, supervises, houses, or provides
recreation to developmentally disabled persons, vulnerable adults, or
children under sixteen years of age, including but not limited to
public housing authorities, school districts, and educational service
districts.
(3) "Civil adjudication" means a specific court finding of sexual
abuse or exploitation or physical abuse in a dependency action under
RCW 13.34.040 or in a domestic relations action under Title 26 RCW. In
the case of vulnerable adults, civil adjudication means a specific
court finding of abuse or financial exploitation in a protection
proceeding under chapter 74.34 RCW. It does not include administrative
proceedings. The term "civil adjudication" is further limited to court
findings that identify as the perpetrator of the abuse a named
individual, over the age of eighteen years, who was a party to the
dependency or dissolution proceeding or was a respondent in a
protection proceeding in which the finding was made and who contested
the allegation of abuse or exploitation.
(4) "Conviction record" means "conviction record" information as
defined in RCW 10.97.030(3) relating to a crime against children or
other persons committed by either an adult or a juvenile. It does not
include a conviction for an offense that has been the subject of an
expungement, pardon, annulment, certificate of rehabilitation, or other
equivalent procedure based on a finding of the rehabilitation of the
person convicted, or a conviction that has been the subject of a
pardon, annulment, or other equivalent procedure based on a finding of
innocence. It does include convictions for offenses for which the
defendant received a deferred or suspended sentence, unless the record
has been expunged according to law.
(5) "Crime against children or other persons" means a conviction of
any of the following offenses: Aggravated murder; first or second
degree murder; first or second degree kidnaping; first, second, or
third degree assault; first, second, or third degree assault of a
child; first, second, or third degree rape; first, second, or third
degree rape of a child; first or second degree robbery; first degree
arson; first degree burglary; first or second degree manslaughter; first or second degree extortion; indecent liberties; incest; vehicular homicide; first degree promoting prostitution; communication with a minor; unlawful imprisonment; simple assault; sexual exploitation of minors; first or second degree criminal mistreatment; child abuse or neglect as defined in RCW 26.44.020; first or second degree custodial interference; malicious harassment; first, second, or third degree child molestation; first or second degree sexual misconduct with a minor; first or second degree rape of a child; patronizing a juvenile prostitute; child abandonment; promoting pornography; selling or distributing erotic material to a minor; custodial assault; violation of child abuse restraining order; child buying or selling; prostitution; felony indecent exposure; criminal abandonment; or any of these crimes as they may be renamed in the future.

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

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

(a) Chiropractic;
(b) Dentistry;
(c) Dental hygiene;
(d) Massage;
(e) Midwifery;
(f) Naturopathy;
(g) Osteopathy;
(h) Physical therapy;
(i) Physicians;
(j) Practical nursing;
(k) Registered nursing; and
(l) Psychology((; and
(m) Real estate brokers and salesmen)).
"Disciplinary board final decision", for real estate brokers and salespersons, means any final decision issued by the director of the department of licensing for real estate brokers and salespersons.
(8) "Unsupervised" means not in the presence of:
   (a) Another employee or volunteer from the same business or organization as the applicant; or
   (b) Any relative or guardian of any of the children or developmentally disabled persons or vulnerable adults to which the applicant has access during the course of his or her employment or involvement with the business or organization.

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

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

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

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

(1) The legislature finds that businesses and organizations providing services to children, developmentally disabled persons, and vulnerable adults need adequate information to determine which employees or licensees to hire or engage. The legislature further finds that many developmentally disabled individuals and vulnerable adults desire to hire their own employees directly and also need adequate information to determine which employees or licensees to hire or engage. Therefore, the Washington state patrol criminal identification system may disclose, upon the request of a business or organization as defined in RCW 43.43.830, a developmentally disabled person, or a vulnerable adult as defined in RCW 43.43.830 or his or her guardian, an applicant’s record for convictions of offenses against children or other persons, convictions for crimes relating to financial exploitation, but only if the victim was a vulnerable adult, adjudications of child abuse in a civil action, the issuance of a
1 protection order against the respondent under chapter 74.34 RCW, and
disciplinary board final decisions and any subsequent criminal charges
associated with the conduct that is the subject of the disciplinary
board final decision. When necessary, applicants may be employed on a
conditional basis pending completion of such a background
investigation.

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

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

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

Passed the Senate April 19, 1995.
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