

2 SHB 1990 - S COMM AMD

3 By Committee on Human Services & Corrections

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5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 43.43.832 and 1997 c 392 s 524 are each amended to
8 read as follows:

9 (1) The legislature finds that businesses and organizations
10 providing services to children, developmentally disabled persons, and
11 vulnerable adults need adequate information to determine which
12 employees or licensees to hire or engage. The legislature further
13 finds that many developmentally disabled individuals and vulnerable
14 adults desire to hire their own employees directly and also need
15 adequate information to determine which employees or licensees to hire
16 or engage. Therefore, the Washington state patrol criminal
17 identification system shall disclose, upon the request of a business or
18 organization as defined in RCW 43.43.830, a developmentally disabled
19 person, or a vulnerable adult as defined in RCW 43.43.830 or his or her
20 guardian, an applicant's record for convictions of offenses against
21 children or other persons, convictions for crimes relating to financial
22 exploitation, but only if the victim was a vulnerable adult,
23 adjudications of child abuse in a civil action, the issuance of a
24 protection order against the respondent under chapter 74.34 RCW, and
25 disciplinary board final decisions and any subsequent criminal charges
26 associated with the conduct that is the subject of the disciplinary
27 board final decision.

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

32 (3) The legislature also finds that law enforcement agencies, the
33 office of the attorney general, prosecuting authorities, and the
34 department of social and health services may request this same
35 information to aid in the investigation and prosecution of child,

1 developmentally disabled person, and vulnerable adult abuse cases and
2 to protect children and adults from further incidents of abuse.

3 (4) The legislature further finds that the department of social and
4 health services must consider the information listed in subsection (1)
5 of this section in the following circumstances:

6 (a) When considering persons for state positions directly
7 responsible for the care, supervision, or treatment of children,
8 developmentally disabled persons, or vulnerable adults; for state
9 positions involving unsupervised access to persons in those groups to
10 conduct comprehensive assessments, financial eligibility
11 determinations, licensing and certification activities, investigations,
12 surveys, or case management; or for state positions otherwise required
13 by federal law to meet employment standards;

14 (b) When licensing agencies or facilities with individuals in
15 positions directly responsible for the care, supervision, or treatment
16 of children, developmentally disabled persons, or vulnerable adults,
17 including but not limited to agencies or facilities licensed under
18 chapter 74.15 or 18.51 RCW;

19 (c) When contracting with individuals or businesses or
20 organizations for the care, supervision, case management, or treatment
21 of children, developmentally disabled persons, or vulnerable adults,
22 including but not limited to services contracted for under chapter
23 18.20, 18.48, 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A RCW.

24 (5) Whenever a state conviction record check is required by state
25 law, persons may be employed or engaged as volunteers or independent
26 contractors on a conditional basis pending completion of the state
27 background investigation. Whenever a national criminal record check
28 through the federal bureau of investigation is required by state law,
29 a person may be employed or engaged as a volunteer or independent
30 contractor on a conditional basis pending completion of the national
31 check. The Washington personnel resources board shall adopt rules to
32 accomplish the purposes of this subsection as it applies to state
33 employees.

34 (6)(a) For purposes of facilitating timely access to criminal
35 background information and to reasonably minimize the number of
36 requests made under this section, recognizing that certain health care
37 providers change employment frequently, health care facilities may,
38 upon request from another health care facility, share copies of
39 completed criminal background inquiry information.

1 (b) Completed criminal background inquiry information may be shared
2 by a willing health care facility only if the following conditions are
3 satisfied: The licensed health care facility sharing the criminal
4 background inquiry information is reasonably known to be the person's
5 most recent employer, no more than twelve months has elapsed from the
6 date the person was last employed at a licensed health care facility to
7 the date of their current employment application, and the criminal
8 background information is no more than two years old.

9 (c) If criminal background inquiry information is shared, the
10 health care facility employing the subject of the inquiry must require
11 the applicant to sign a disclosure statement indicating that there has
12 been no conviction or finding as described in RCW 43.43.842 since the
13 completion date of the most recent criminal background inquiry.

14 (d) Any health care facility that knows or has reason to believe
15 that an applicant has or may have a disqualifying conviction or finding
16 as described in RCW 43.43.842, subsequent to the completion date of
17 their most recent criminal background inquiry, shall be prohibited from
18 relying on the applicant's previous employer's criminal background
19 inquiry information. A new criminal background inquiry shall be
20 requested pursuant to RCW 43.43.830 through 43.43.842.

21 (e) Health care facilities that share criminal background inquiry
22 information shall be immune from any claim of defamation, invasion of
23 privacy, negligence, or any other claim in connection with any
24 dissemination of this information in accordance with this subsection.

25 (f) Health care facilities shall transmit and receive the criminal
26 background inquiry information in a manner that reasonably protects the
27 subject's rights to privacy and confidentiality.

28 (g) For the purposes of this subsection, "health care facility"
29 means a nursing home licensed under chapter 18.51 RCW, a boarding home
30 licensed under chapter 18.20 RCW, or an adult family home licensed
31 under chapter 70.128 RCW.

32 **Sec. 2.** RCW 43.20A.710 and 1997 c 392 s 525 are each amended to
33 read as follows:

34 (1) The secretary shall investigate the conviction records, pending
35 charges or disciplinary board final decisions of:

36 (a) Persons being considered for state employment in positions
37 directly responsible for the supervision, care, or treatment of

1 children, vulnerable adults, or individuals with mental illness or
2 developmental disabilities; and

3 (b) Individual providers who are paid by the state for in-home
4 services and hired by individuals with physical disabilities,
5 developmental disabilities, mental illness, or mental impairment,
6 including but not limited to services provided under chapter 74.39A
7 RCW.

8 (2) The investigation may include an examination of state and
9 national criminal identification data. The secretary shall use the
10 information solely for the purpose of determining the character,
11 suitability, and competence of these applicants.

12 (3) The secretary shall provide the results of the state background
13 check on individual providers to the individuals with physical
14 disabilities, developmental disabilities, mental illness, or mental
15 impairment or to their legal guardians, if any, for their determination
16 of the character, suitability, and competence of the applicants. If an
17 individual elects to hire or retain an individual provider after
18 receiving notice from the department that the applicant has a
19 conviction for an offense that would disqualify the applicant from
20 employment with the department, then the secretary may deny payment for
21 any subsequent services rendered by the disqualified individual
22 provider.

23 (4) Criminal justice agencies shall provide the secretary such
24 information as they may have and that the secretary may require for
25 such purpose.

26 (5) When the background check of a person being considered for a
27 state position directly responsible for the care, supervision, or
28 treatment of children or vulnerable adults, or for a position involving
29 unsupervised access to persons in those groups would disqualify the
30 person from the position, the secretary may make an exception to the
31 disqualification requirements of RCW 43.43.832 through 43.43.842.
32 Exceptions, when made, shall be made upon request, on a case-by-case
33 basis, and may only be made if the secretary determines that the
34 circumstances of the disqualifying event and the conduct of the person
35 in the period since the disqualifying event indicate that the person
36 does not present a risk to children or vulnerable adults.

37 (6) When the background check of an individual, business, or
38 organization being considered for a contract for the care, supervision,
39 case management, or treatment of children or vulnerable adults, or for

1 a position involving unsupervised access to persons in those groups
2 would disqualify the individual, business, or organization from the
3 contract, the secretary may make an exception to the disqualification
4 requirements of RCW 43.43.832 through 43.43.842. Exceptions, when
5 made, shall be made upon request, on a case-by-case basis, and may only
6 be made if the secretary determines that the circumstances of the
7 disqualifying event and the conduct of the person in the period since
8 the disqualifying event indicate that the person does not present a
9 risk to children or vulnerable adults.

10 NEW SECTION. Sec. 3. This act is necessary for the immediate
11 preservation of the public peace, health, or safety, or support of the
12 state government and its existing public institutions, and takes effect
13 immediately."

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17 On page 1, line 2 of the title, after "contractors;" strike the
18 remainder of the title and insert "amending RCW 43.43.832 and
19 43.20A.710; and declaring an emergency."

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