

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1419

Chapter 253, Laws of 2011

62nd Legislature
2011 Regular Session

BACKGROUND CHECKS--DEPARTMENTS OF EARLY LEARNING AND SOCIAL AND
HEALTH SERVICES

EFFECTIVE DATE: 07/22/11

Passed by the House April 15, 2011
Yeas 96 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 12, 2011
Yeas 46 Nays 1

BRAD OWEN

President of the Senate

Approved May 5, 2011, 9:53 a.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1419** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

May 6, 2011

**Secretary of State
State of Washington**

HOUSE BILL 1419

AS AMENDED BY THE SENATE

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By Representatives Kagi, Roberts, and Dickerson; by request of
Department of Early Learning

Read first time 01/20/11. Referred to Committee on Early Learning &
Human Services.

1 AN ACT Relating to allowing the department of early learning and
2 the department of social and health services to share background check
3 information; and amending RCW 43.20A.710, 43.43.837, 43.215.200,
4 43.215.215, 43.43.830, and 43.43.832.

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

6 **Sec. 1.** RCW 43.20A.710 and 2009 c 580 s 5 are each amended to read
7 as follows:

8 (1) The secretary shall investigate the conviction records, pending
9 charges and disciplinary board final decisions of:

10 (a) Any current employee or applicant seeking or being considered
11 for any position with the department who will or may have unsupervised
12 access to children, vulnerable adults, or individuals with mental
13 illness or developmental disabilities. This includes, but is not
14 limited to, positions conducting comprehensive assessments, financial
15 eligibility determinations, licensing and certification activities,
16 investigations, surveys, or case management; or for state positions
17 otherwise required by federal law to meet employment standards;

18 (b) Individual providers who are paid by the state and providers
19 who are paid by home care agencies to provide in-home services

1 involving unsupervised access to persons with physical, mental, or
2 developmental disabilities or mental illness, or to vulnerable adults
3 as defined in chapter 74.34 RCW, including but not limited to services
4 provided under chapter 74.39 or 74.39A RCW; and

5 (c) Individuals or businesses or organizations for the care,
6 supervision, case management, or treatment of children, persons with
7 developmental disabilities, or vulnerable adults, including but not
8 limited to services contracted for under chapter 18.20, 70.127, 70.128,
9 72.36, or 74.39A RCW or Title 71A RCW.

10 (2) (~~The investigation may include an examination of state and~~
11 ~~national criminal identification data.~~) The secretary shall require a
12 fingerprint-based background check through both the Washington state
13 patrol and the federal bureau of investigation as provided in RCW
14 43.43.837. Unless otherwise authorized by law, the secretary shall use
15 the information solely for the purpose of determining the character,
16 suitability, and competence of (~~these~~) the applicant(~~s~~).

17 (3) Except as provided in subsection (4) of this section, an
18 individual provider or home care agency provider who has resided in the
19 state less than three years before applying for employment involving
20 unsupervised access to a vulnerable adult as defined in chapter 74.34
21 RCW must be fingerprinted for the purpose of investigating conviction
22 records through both the Washington state patrol and the federal bureau
23 of investigation. This subsection applies only with respect to the
24 provision of in-home services funded by medicaid personal care under
25 RCW 74.09.520, community options program entry system waiver services
26 under RCW 74.39A.030, or chore services under RCW 74.39A.110. However,
27 this subsection does not supersede RCW 74.15.030(2)(b).

28 (4) Long-term care workers, as defined in RCW 74.39A.009, who are
29 hired after January 1, 2012, are subject to background checks under RCW
30 74.39A.055, except that the department may require a background check
31 at any time under RCW 43.43.837. For the purposes of this subsection,
32 "background check" includes, but is not limited to, a fingerprint check
33 submitted for the purpose of investigating conviction records through
34 both the Washington state patrol and the federal bureau of
35 investigation.

36 (5) An individual provider or home care agency provider hired to
37 provide in-home care for and having unsupervised access to a vulnerable
38 adult as defined in chapter 74.34 RCW must have no conviction for a

1 disqualifying crime under RCW 43.43.830 and 43.43.842. An individual
2 or home care agency provider must also have no conviction for a crime
3 relating to drugs as defined in RCW 43.43.830. This subsection applies
4 only with respect to the provision of in-home services funded by
5 medicaid personal care under RCW 74.09.520, community options program
6 entry system waiver services under RCW 74.39A.030, or chore services
7 under RCW 74.39A.110.

8 (6) The secretary shall provide the results of the state background
9 check on long-term care workers, including individual providers, to the
10 persons hiring them or to their legal guardians, if any, for their
11 determination of the character, suitability, and competence of the
12 applicants. If the person elects to hire or retain an individual
13 provider after receiving notice from the department that the applicant
14 has a conviction for an offense that would disqualify the applicant
15 from having unsupervised access to persons with physical, mental, or
16 developmental disabilities or mental illness, or to vulnerable adults
17 as defined in chapter 74.34 RCW, then the secretary shall deny payment
18 for any subsequent services rendered by the disqualified individual
19 provider.

20 (7) Criminal justice agencies shall provide the secretary such
21 information as they may have and that the secretary may require for
22 such purpose.

23 **Sec. 2.** RCW 43.43.837 and 2009 c 580 s 6 are each amended to read
24 as follows:

25 (1) Except as provided in subsection (2) of this section, in order
26 to determine the character, competence, and suitability of any
27 applicant or service provider to have unsupervised access, the
28 secretary may require a fingerprint-based background check through both
29 the Washington state patrol and the federal bureau of investigation at
30 any time, but shall require a fingerprint-based background check when
31 the applicant or service provider has resided in the state less than
32 three consecutive years before application, and:

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

35 (b) Is an individual residing in an applicant or service provider's
36 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) Long-term care workers, as defined in RCW 74.39A.009, who are
13 hired after January 1, 2012, are subject to background checks under RCW
14 74.39A.055.

15 (3) To satisfy the shared background check requirements provided
16 for in RCW 43.215.215 and 43.20A.710, the department of early learning
17 and the department of social and health services shall share federal
18 fingerprint-based background check results as permitted under the law.
19 The purpose of this provision is to allow both departments to fulfill
20 their joint background check responsibility of checking any individual
21 who may have unsupervised access to vulnerable adults, children, or
22 juveniles. Neither department may share the federal background check
23 results with any other state agency or person.

24 (4) The secretary shall require a fingerprint-based background
25 check through the Washington state patrol identification and criminal
26 history section and the federal bureau of investigation when the
27 department seeks to approve an applicant or service provider for a
28 foster or adoptive placement of children in accordance with federal and
29 state law.

30 ((+4)) (5) Any secure facility operated by the department under
31 chapter 71.09 RCW shall require applicants and service providers to
32 undergo a fingerprint-based background check through the Washington
33 state patrol identification and criminal history section and the
34 federal bureau of investigation.

35 ((+5)) (6) Service providers and service provider applicants who
36 are required to complete a fingerprint-based background check may be
37 hired for a one hundred twenty-day provisional period as allowed under
38 law or program rules when:

1 (a) A fingerprint-based background check is pending; and
2 (b) The applicant or service provider is not disqualified based on
3 the immediate result of the background check.

4 ~~((+6+))~~ (7) Fees charged by the Washington state patrol and the
5 federal bureau of investigation for fingerprint-based background checks
6 shall be paid by the department for applicants or service providers
7 providing:

8 (a) Services to people with a developmental disability under RCW
9 74.15.030;

10 (b) In-home services funded by medicaid personal care under RCW
11 74.09.520;

12 (c) Community options program entry system waiver services under
13 RCW 74.39A.030;

14 (d) Chore services under RCW 74.39A.110;

15 (e) Services under other home and community long-term care
16 programs, established pursuant to chapters 74.39 and 74.39A RCW,
17 administered by the department;

18 (f) Services in, or to residents of, a secure facility under RCW
19 71.09.115; and

20 (g) Foster care as required under RCW 74.15.030.

21 ~~((+7+))~~ (8) Service providers licensed under RCW 74.15.030 must pay
22 fees charged by the Washington state patrol and the federal bureau of
23 investigation for conducting fingerprint-based background checks.

24 ~~((+8+))~~ (9) Children's administration service providers licensed
25 under RCW 74.15.030 may not pass on the cost of the background check
26 fees to their applicants unless the individual is determined to be
27 disqualified due to the background information.

28 ~~((+9+))~~ (10) The department shall develop rules identifying the
29 financial responsibility of service providers, applicants, and the
30 department for paying the fees charged by law enforcement to roll,
31 print, or scan fingerprints-based for the purpose of a Washington state
32 patrol or federal bureau of investigation fingerprint-based background
33 check.

34 ~~((+10+))~~ (11) For purposes of this section, unless the context
35 plainly indicates otherwise:

36 (a) "Applicant" means a current or prospective department or
37 service provider employee, volunteer, student, intern, researcher,
38 contractor, or any other individual who will or may have unsupervised

1 access because of the nature of the work or services he or she
2 provides. "Applicant" includes but is not limited to any individual
3 who will or may have unsupervised access and is:

4 (i) Applying for a license or certification from the department;
5 (ii) Seeking a contract with the department or a service provider;
6 (iii) Applying for employment, promotion, reallocation, or
7 transfer;

8 (iv) An individual that a department client or guardian of a
9 department client chooses to hire or engage to provide services to
10 himself or herself or another vulnerable adult, juvenile, or child and
11 who might be eligible to receive payment from the department for
12 services rendered; or

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

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

17 (i) Conduct licensing, certification, or contracting activities;
18 (ii) Have unsupervised access to vulnerable adults, juveniles, and
19 children;

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

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

22 (c) "Department" means the department of social and health
23 services.

24 (d) "Secretary" means the secretary of the department of social and
25 health services.

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

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

1 **Sec. 3.** RCW 43.215.200 and 2007 c 415 s 3 are each amended to read
2 as follows:

3 It shall be the director's duty with regard to licensing:

4 (1) In consultation and with the advice and assistance of persons
5 representative of the various type agencies to be licensed, to
6 designate categories of child care facilities for which separate or
7 different requirements shall be developed as may be appropriate whether
8 because of variations in the ages and other characteristics of the
9 children served, variations in the purposes and services offered or
10 size or structure of the agencies to be licensed, or because of any
11 other factor relevant thereto;

12 (2) In consultation and with the advice and assistance of parents
13 or guardians, and persons representative of the various type agencies
14 to be licensed, to adopt and publish minimum requirements for licensing
15 applicable to each of the various categories of agencies to be licensed
16 under this chapter;

17 (3) In consultation with law enforcement personnel, the director
18 shall investigate the conviction record or pending charges of each
19 agency and its staff seeking licensure or relicensure, and other
20 persons having unsupervised access to children in care;

21 (4) To satisfy the shared background check requirements provided
22 for in RCW 43.215.215 and 43.20A.710, the department of early learning
23 and the department of social and health services shall share federal
24 fingerprint-based background check results as permitted under the law.
25 The purpose of this provision is to allow both departments to fulfill
26 their joint background check responsibility of checking any individual
27 who may have unsupervised access to vulnerable adults, children, or
28 juveniles. Neither department may share the federal background check
29 results with any other state agency or person.

30 (5) To issue, revoke, or deny licenses to agencies pursuant to this
31 chapter. Licenses shall specify the category of care that an agency is
32 authorized to render and the ages and number of children to be served;

33 (~~(+5)~~) (6) To prescribe the procedures and the form and contents
34 of reports necessary for the administration of this chapter and to
35 require regular reports from each licensee;

36 (~~(+6)~~) (7) To inspect agencies periodically to determine whether
37 or not there is compliance with this chapter and the requirements
38 adopted under this chapter;

1 ~~((7))~~ (8) To review requirements adopted under this chapter at
2 least every two years and to adopt appropriate changes after
3 consultation with affected groups for child day care requirements; and
4 ~~((8))~~ (9) To consult with public and private agencies in order to
5 help them improve their methods and facilities for the care and early
6 learning of children.

7 **Sec. 4.** RCW 43.215.215 and 2007 c 415 s 5 are each amended to read
8 as follows:

9 (1) In determining whether an individual is of appropriate
10 character, suitability, and competence to provide child care and early
11 learning services to children, the department may consider the history
12 of past involvement of child protective services or law enforcement
13 agencies with the individual for the purpose of establishing a pattern
14 of conduct, behavior, or inaction with regard to the health, safety, or
15 welfare of a child. No report of child abuse or neglect that has been
16 destroyed or expunged under RCW 26.44.031 may be used for such
17 purposes. No unfounded or inconclusive allegation of child abuse or
18 neglect as defined in RCW 26.44.020 may be disclosed to a provider
19 licensed under this chapter.

20 (2) In order to determine the suitability of applicants for an
21 agency license, licensees, their employees, and other persons who have
22 unsupervised access to children in care, and who have not resided in
23 the state of Washington during the three-year period before being
24 authorized to care for children, shall be fingerprinted.

25 (a) The fingerprints shall be forwarded to the Washington state
26 patrol and federal bureau of investigation for a criminal history
27 record check.

28 (b) The fingerprint criminal history record checks shall be at the
29 expense of the licensee. The licensee may not pass this cost on to the
30 employee or prospective employee, unless the employee is determined to
31 be unsuitable due to his or her criminal history record.

32 (c) The director shall use the information solely for the purpose
33 of determining eligibility for a license and for determining the
34 character, suitability, and competence of those persons or agencies,
35 excluding parents, not required to be licensed who are authorized to
36 care for children.

1 (d) Criminal justice agencies shall provide the director such
2 information as they may have and that the director may require for such
3 purpose.

4 (3) To satisfy the shared background check requirements of the
5 department of early learning and the department of social and health
6 services, each department shall share federal fingerprint-based
7 background check results as permitted under the law. The purpose of
8 this provision is to allow both departments to fulfill their joint
9 background check responsibility of checking any individual who may have
10 unsupervised access to vulnerable adults, children, or juveniles.
11 Neither department may share the federal background check results with
12 any other state agency or person.

13 **Sec. 5.** RCW 43.43.830 and 2007 c 387 s 9 are each amended to read
14 as follows:

15 Unless the context clearly requires otherwise, the definitions in
16 this section apply throughout RCW 43.43.830 through 43.43.845.

17 (1) "Applicant" means:

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

22 (b) Any prospective volunteer who will have regularly scheduled
23 unsupervised access to children under sixteen years of age,
24 developmentally disabled persons, or vulnerable adults during the
25 course of his or her employment or involvement with the business or
26 organization under circumstances where such access will or may involve
27 groups of (i) five or fewer children under twelve years of age, (ii)
28 three or fewer children between twelve and sixteen years of age, (iii)
29 developmentally disabled persons, or (iv) vulnerable adults;

30 (c) Any prospective adoptive parent, as defined in RCW 26.33.020;
31 or

32 (d) Any prospective custodian in a nonparental custody proceeding
33 under chapter 26.10 RCW.

34 (2) "Business or organization" means a person, business, or
35 organization licensed in this state, any agency of the state, or other
36 governmental entity, that educates, trains, treats, supervises, houses,
37 or provides recreation to developmentally disabled persons, vulnerable

1 adults, or children under sixteen years of age, or that provides child
2 day care, early learning, or early learning childhood education
3 services, including but not limited to public housing authorities,
4 school districts, and educational service districts.

5 (3) "Civil adjudication proceeding" is a judicial or administrative
6 adjudicative proceeding that results in a finding of, or upholds an
7 agency finding of, domestic violence, abuse, sexual abuse, neglect,
8 abandonment, violation of a professional licensing standard regarding
9 a child or vulnerable adult, or exploitation or financial exploitation
10 of a child or vulnerable adult under any provision of law, including
11 but not limited to chapter 13.34, 26.44, or 74.34 RCW, or rules adopted
12 under chapters 18.51 and 74.42 RCW. "Civil adjudication proceeding"
13 also includes judicial or administrative findings that become final due
14 to the failure of the alleged perpetrator to timely exercise a legal
15 right to administratively challenge such findings.

16 (4) "Conviction record" means "conviction record" information as
17 defined in RCW 10.97.030 and 10.97.050 relating to a crime committed by
18 either an adult or a juvenile. It does not include a conviction for an
19 offense that has been the subject of an expungement, pardon, annulment,
20 certificate of rehabilitation, or other equivalent procedure based on
21 a finding of the rehabilitation of the person convicted, or a
22 conviction that has been the subject of a pardon, annulment, or other
23 equivalent procedure based on a finding of innocence. It does include
24 convictions for offenses for which the defendant received a deferred or
25 suspended sentence, unless the record has been expunged according to
26 law.

27 (5) "Crime against children or other persons" means a conviction of
28 any of the following offenses: Aggravated murder; first or second
29 degree murder; first or second degree kidnapping; first, second, or
30 third degree assault; first, second, or third degree assault of a
31 child; first, second, or third degree rape; first, second, or third
32 degree rape of a child; first or second degree robbery; first degree
33 arson; first degree burglary; first or second degree manslaughter;
34 first or second degree extortion; indecent liberties; incest; vehicular
35 homicide; first degree promoting prostitution; communication with a
36 minor; unlawful imprisonment; simple assault; sexual exploitation of
37 minors; first or second degree criminal mistreatment; endangerment with
38 a controlled substance; child abuse or neglect as defined in RCW

1 26.44.020; first or second degree custodial interference; first or
2 second degree custodial sexual misconduct; malicious harassment; first,
3 second, or third degree child molestation; first or second degree
4 sexual misconduct with a minor; (~~patronizing a juvenile prostitute~~)
5 commercial sexual abuse of a minor; child abandonment; promoting
6 pornography; selling or distributing erotic material to a minor;
7 custodial assault; violation of child abuse restraining order; child
8 buying or selling; prostitution; felony indecent exposure; criminal
9 abandonment; or any of these crimes as they may be renamed in the
10 future.

11 (6) "Crimes relating to drugs" means a conviction of a crime to
12 manufacture, delivery, or possession with intent to manufacture or
13 deliver a controlled substance.

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

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

19 (a) Another employee or volunteer from the same business or
20 organization as the applicant; or

21 (b) Any relative or guardian of any of the children or
22 developmentally disabled persons or vulnerable adults to which the
23 applicant has access during the course of his or her employment or
24 involvement with the business or organization.

25 With regard to peer counselors, "unsupervised" does not include
26 incidental contact with children under age sixteen at the location at
27 which the peer counseling is taking place. "Incidental contact" means
28 minor or casual contact with a child in an area accessible to and
29 within visual or auditory range of others. It could include passing a
30 child while walking down a hallway but would not include being alone
31 with a child for any period of time in a closed room or office.

32 (9) "Vulnerable adult" means "vulnerable adult" as defined in
33 chapter 74.34 RCW, except that for the purposes of requesting and
34 receiving background checks pursuant to RCW 43.43.832, it shall also
35 include adults of any age who lack the functional, mental, or physical
36 ability to care for themselves.

37 (10) "Financial exploitation" means "financial exploitation" as
38 defined in RCW 74.34.020.

1 (11) "Agency" means any person, firm, partnership, association,
2 corporation, or facility which receives, provides services to, houses
3 or otherwise cares for vulnerable adults, juveniles, or children, or
4 which provides child day care, early learning, or early childhood
5 education services.

6 (12) "Peer counselor" means a nonprofessional person who has equal
7 standing with another person, providing advice on a topic about which
8 the nonprofessional person is more experienced or knowledgeable, and
9 who is a counselor for a peer counseling program that contracts with or
10 is otherwise approved by the department, another state or local agency,
11 or the court.

12 **Sec. 6.** RCW 43.43.832 and 2007 c 387 s 10 are each amended to read
13 as follows:

14 (1) The legislature finds that businesses and organizations
15 providing services to children, developmentally disabled persons, and
16 vulnerable adults need adequate information to determine which
17 employees or licensees to hire or engage. The legislature further
18 finds that many developmentally disabled individuals and vulnerable
19 adults desire to hire their own employees directly and also need
20 adequate information to determine which employees or licensees to hire
21 or engage. Therefore, the Washington state patrol identification and
22 criminal history section shall disclose, upon the request of a business
23 or organization as defined in RCW 43.43.830, a developmentally disabled
24 person, or a vulnerable adult as defined in RCW 43.43.830 or his or her
25 guardian, an applicant's conviction record as defined in chapter 10.97
26 RCW.

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

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

1 (4) The legislature further finds that the secretary of the
2 department of social and health services must establish rules and set
3 standards to require specific action when considering the information
4 listed in subsection (1) of this section, and when considering
5 additional information including but not limited to civil adjudication
6 proceedings as defined in RCW 43.43.830 and any out-of-state
7 equivalent, in the following circumstances:

8 (a) When considering persons for state employment in positions
9 directly responsible for the supervision, care, or treatment of
10 children, vulnerable adults, or individuals with mental illness or
11 developmental disabilities;

12 (b) When considering persons for state positions involving
13 unsupervised access to vulnerable adults to conduct comprehensive
14 assessments, financial eligibility determinations, licensing and
15 certification activities, investigations, surveys, or case management;
16 or for state positions otherwise required by federal law to meet
17 employment standards;

18 (c) When licensing agencies or facilities with individuals in
19 positions directly responsible for the care, supervision, or treatment
20 of children, developmentally disabled persons, or vulnerable adults,
21 including but not limited to agencies or facilities licensed under
22 chapter 74.15 or 18.51 RCW;

23 (d) When contracting with individuals or businesses or
24 organizations for the care, supervision, case management, or treatment,
25 including peer counseling, of children, developmentally disabled
26 persons, or vulnerable adults, including but not limited to services
27 contracted for under chapter 18.20, (~~(18.487)~~) 70.127, 70.128, 72.36,
28 or 74.39A RCW or Title 71A RCW;

29 (e) When individual providers are paid by the state or providers
30 are paid by home care agencies to provide in-home services involving
31 unsupervised access to persons with physical, mental, or developmental
32 disabilities or mental illness, or to vulnerable adults as defined in
33 chapter 74.34 RCW, including but not limited to services provided under
34 chapter 74.39 or 74.39A RCW.

35 (5) The director of the department of early learning shall
36 investigate the conviction records, pending charges, and other
37 information including civil adjudication proceeding records of current
38 employees and of any person actively being considered for any position

1 with the department who will or may have unsupervised access to
2 children, or for state positions otherwise required by federal law to
3 meet employment standards. "Considered for any position" includes
4 decisions about (a) initial hiring, layoffs, reallocations, transfers,
5 promotions, or demotions, or (b) other decisions that result in an
6 individual being in a position that will or may have unsupervised
7 access to children as an employee, an intern, or a volunteer.

8 (6) The director of the department of early learning shall adopt
9 rules and investigate conviction records, pending charges, and other
10 information including civil adjudication proceeding records, in the
11 following circumstances:

12 (a) When licensing or certifying agencies with individuals in
13 positions that will or may have unsupervised access to children who are
14 in child day care, in early learning programs, or receiving early
15 childhood education services, including but not limited to licensees,
16 agency staff, interns, volunteers, contracted providers, and persons
17 living on the premises who are sixteen years of age or older;

18 (b) When authorizing individuals who will or may have unsupervised
19 access to children who are in child day care, in early learning
20 programs, or receiving early childhood learning education services in
21 licensed or certified agencies, including but not limited to licensees,
22 agency staff, interns, volunteers, contracted providers, and persons
23 living on the premises who are sixteen years of age or older;

24 (c) When contracting with any business or organization for
25 activities that will or may have unsupervised access to children who
26 are in child day care, in early learning programs, or receiving early
27 childhood learning education services;

28 (d) When establishing the eligibility criteria for individual
29 providers to receive state paid subsidies to provide child day care or
30 early learning services that will or may involve unsupervised access to
31 children.

32 (7) Whenever a state conviction record check is required by state
33 law, persons may be employed or engaged as volunteers or independent
34 contractors on a conditional basis pending completion of the state
35 background investigation. Whenever a national criminal record check
36 through the federal bureau of investigation is required by state law,
37 a person may be employed or engaged as a volunteer or independent
38 contractor on a conditional basis pending completion of the national

1 check. The Washington personnel resources board shall adopt rules to
2 accomplish the purposes of this subsection as it applies to state
3 employees.

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

10 (b) Completed criminal background inquiry information may be shared
11 by a willing health care facility only if the following conditions are
12 satisfied: The licensed health care facility sharing the criminal
13 background inquiry information is reasonably known to be the person's
14 most recent employer, no more than twelve months has elapsed from the
15 date the person was last employed at a licensed health care facility to
16 the date of their current employment application, and the criminal
17 background information is no more than two years old.

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

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

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

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

37 (g) For the purposes of this subsection, "health care facility"

1 means a nursing home licensed under chapter 18.51 RCW, a boarding home
2 licensed under chapter 18.20 RCW, or an adult family home licensed
3 under chapter 70.128 RCW.

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