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**HOUSE BILL 1833**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Representatives Dolan, Santos, Appleton, Fitzgibbon, Peterson, Ryu, Walen, Jenkins, Tharinger, Goodman, Davis, Doglio, and Macri

Read first time 02/01/19. Referred to Committee on Education.

1 AN ACT Relating to school volunteers; reenacting and amending RCW  
2 28A.400.303; and repealing RCW 28A.320.155.

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

4 **Sec. 1.** RCW 28A.400.303 and 2017 3rd sp.s. c 33 s 1 and 2017 3rd  
5 sp.s. c 6 s 220 are each reenacted and amended to read as follows:

6 (1) School districts, educational service districts, the  
7 Washington state center for childhood deafness and hearing loss, the  
8 state school for the blind, and their contractors hiring employees  
9 who will have regularly scheduled unsupervised access to children or  
10 developmentally disabled persons shall require a record check through  
11 the Washington state patrol criminal identification system under RCW  
12 43.43.830 through 43.43.834, 10.97.030, and 10.97.050 and through the  
13 federal bureau of investigation before hiring an employee. The record  
14 check shall include a fingerprint check using a complete Washington  
15 state criminal identification fingerprint card. The requesting entity  
16 may provide a copy of the record report to the applicant at the  
17 applicant's request. When necessary, applicants may be employed on a  
18 conditional basis pending completion of the investigation. If the  
19 applicant has had a record check within the previous two years, the  
20 district, the Washington state center for childhood deafness and  
21 hearing loss, the state school for the blind, or contractor may waive

1 the requirement. Except as provided in subsection (2) of this  
2 section, the district, pursuant to chapter 41.59 or 41.56 RCW, the  
3 Washington state center for childhood deafness and hearing loss, the  
4 state school for the blind, or contractor hiring the employee shall  
5 determine who shall pay costs associated with the record check.

6 (2) Federal bureau of Indian affairs-funded schools may use the  
7 process in subsection (1) of this section to perform record checks  
8 for their employees and applicants for employment.

9 ~~(3) ((a) School districts, educational service districts, the  
10 Washington state center for childhood deafness and hearing loss, the  
11 state school for the blind, federal bureau of Indian affairs-funded  
12 schools, charter schools established under chapter 28A.710 RCW,  
13 schools that are the subject of a state-tribal education compact  
14 under chapter 28A.715 RCW, and their contractors may use the process  
15 in subsection (1) of this section to perform record checks for any  
16 prospective volunteer who will have regularly scheduled unsupervised  
17 access to children under eighteen years of age or developmentally  
18 disabled persons, during the course of his or her involvement with  
19 the school or organization under circumstances where access will or  
20 may involve the following:~~

21 ~~(i) Groups of five or fewer children under twelve years of age;~~

22 ~~(ii) Groups of three or fewer children between twelve and  
23 eighteen years of age; or~~

24 ~~(iii) Developmentally disabled persons.~~

25 ~~(b) For purposes of (a) of this subsection, "unsupervised" means  
26 not in the presence of:~~

27 ~~(i) Another employee or volunteer from the same school or  
28 organization; or~~

29 ~~(ii) Any relative or guardian of any of the children or  
30 developmentally disabled persons to which the prospective employee or  
31 volunteer has access during the course of his or her involvement with  
32 the school or organization.~~

33 ~~(4))~~ Individuals who hold a valid portable background check  
34 clearance card issued by the department of children, youth, and  
35 families consistent with RCW 43.216.270 can meet the requirements in  
36 subsection (1) of this section by providing a true and accurate copy  
37 of their Washington state patrol and federal bureau of investigation  
38 background report results to the office of the superintendent of  
39 public instruction.

1 (4) (a) For purposes of this subsection, "school" means school  
2 districts, educational service districts, the Washington state center  
3 for childhood deafness and hearing loss, the state school for the  
4 blind, federal bureau of Indian affairs-funded schools, charter  
5 schools established under chapter 28A.710 RCW, schools that are the  
6 subject of a state-tribal education compact under chapter 28A.715  
7 RCW, and their contractors.

8 (b) A school may use the process in RCW 28A.400.303 to perform  
9 record checks for any prospective volunteer.

10 (c) (i) If a prospective volunteer alerts a school that the  
11 prospective volunteer has undergone a criminal records check in  
12 accordance with applicable state law, including RCW 10.97.050,  
13 28A.400.303, 28A.410.010, or 43.43.830 through 43.43.845, within the  
14 two years before the time the prospective volunteer is volunteering  
15 in the school, then the school may request that the prospective  
16 volunteer furnish the school with a copy of the criminal history  
17 record information or sign a release to the business, school,  
18 organization, criminal justice agency, or juvenile justice or care  
19 agency, or other state agency that originally obtained the criminal  
20 history record information to permit the record information to be  
21 shared with the school.

22 (ii) Once the school requests the criminal history record  
23 information from the business, school, organization, or agency, the  
24 criminal history record information must be furnished to the school.  
25 Any business, school, organization, agency, or its employee or  
26 official that shares the criminal history record information with the  
27 requesting school in accordance with this subsection (4) (c) is immune  
28 from criminal and civil liability for dissemination of the  
29 information.

30 (iii) If the business, school, organization or agency shares the  
31 criminal history record information, the school must require the  
32 prospective volunteer to sign a disclosure statement indicating that  
33 there has been no conviction since the completion date of the  
34 prospective volunteer's most recent criminal background inquiry.

35 (d) For volunteer positions in which there is no unsupervised  
36 access to a child under eighteen years of age or a person with a  
37 developmental disability, a school:

38 (i) May only deny a prospective volunteer based on the  
39 prospective volunteer's criminal history, after considering the  
40 following factors:

1 (A) Whether any criminal conviction involved a minor child  
2 victim; and

3 (B) The length of time that has elapsed since the prospective  
4 volunteer's last criminal conviction;

5 (ii) May not deny a prospective volunteer based on the  
6 volunteer's criminal history if the prospective volunteer has:

7 Received a certificate of restoration under RCW 9.97.020 regarding  
8 all of the prospective volunteer's past criminal convictions; and  
9 signed a disclosure statement indicating there has been no conviction  
10 since the issue date of the certificate of restoration; and

11 (iii) May not deny a prospective volunteer based on the  
12 prospective volunteer's criminal history if: The prospective  
13 volunteer's criminal conviction has been vacated under RCW 9.94A.640,  
14 9.95.240, 9.96.060, or a similar out-of-state statute, or if the  
15 conviction has been vacated pursuant to a governor's pardon; and the  
16 prospective volunteer has signed a disclosure statement indicating  
17 there has been no conviction since the date the conviction was  
18 vacated.

19 (e) For volunteer positions in which there is unsupervised access  
20 to a child under eighteen years of age or a person with a  
21 developmental disability, such as driving a team of students to an  
22 athletic or academic event, schools may deny a prospective volunteer  
23 based on the prospective volunteer's criminal history.

24 (5) The cost of record checks must include: The fees established  
25 by the Washington state patrol and the federal bureau of  
26 investigation for the criminal history background checks; a fee paid  
27 to the superintendent of public instruction for the cost of  
28 administering this section and RCW 28A.195.080 and 28A.410.010; and  
29 other applicable fees for obtaining the fingerprints.

30 NEW SECTION. Sec. 2. RCW 28A.320.155 (Criminal history record  
31 information—School volunteers) and 1999 c 21 s 1 are each repealed.

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