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

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

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

(1) School districts, educational service districts, the Washington state center for childhood deafness and hearing loss, the state school for the blind, and their contractors hiring employees who will have regularly scheduled unsupervised access to children or developmentally disabled persons shall require a record check through the Washington state patrol criminal identification system under RCW 43.43.830 through 43.43.834, 10.97.030, and 10.97.050 and through the federal bureau of investigation before hiring an employee. The record check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card. The requesting entity may provide a copy of the record report to the applicant at the applicant's request. When necessary, applicants may be employed on a conditional basis pending completion of the investigation. If the applicant has had a record check within the previous two years, the district, the Washington state center for childhood deafness and hearing loss, the state school for the blind, or contractor may waive
the requirement. Except as provided in subsection (2) of this section, the district, pursuant to chapter 41.59 or 41.56 RCW, the Washington state center for childhood deafness and hearing loss, the state school for the blind, or contractor hiring the employee shall determine who shall pay costs associated with the record check.

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

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

(i) Groups of five or fewer children under twelve years of age;
(ii) Groups of three or fewer children between twelve and eighteen years of age; or
(iii) Developmentally disabled persons.

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

(i) Another employee or volunteer from the same school or organization; or
(ii) Any relative or guardian of any of the children or developmentally disabled persons to which the prospective employee or volunteer has access during the course of his or her involvement with the school or organization.

(4)) Individuals who hold a valid portable background check clearance card issued by the department of children, youth, and families consistent with RCW 43.216.270 can meet the requirements in subsection (1) of this section by providing a true and accurate copy of their Washington state patrol and federal bureau of investigation background report results to the office of the superintendent of public instruction.
(4)(a) For purposes of this subsection, "school" means school districts, educational service districts, the Washington state center for childhood deafness and hearing loss, the state school for the blind, federal bureau of Indian affairs-funded schools, charter schools established under chapter 28A.710 RCW, schools that are the subject of a state-tribal education compact under chapter 28A.715 RCW, and their contractors.

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

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

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

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

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

(i) May only deny a prospective volunteer based on the prospective volunteer's criminal history, after considering the following factors:
(A) Whether any criminal conviction involved a minor child victim; and

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

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

Received a certificate of restoration under RCW 9.97.020 regarding all of the prospective volunteer's past criminal convictions; and

signed a disclosure statement indicating there has been no conviction since the issue date of the certificate of restoration; and

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

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

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

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

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