
SUBSTITUTE HOUSE BILL 1395

State of Washington

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2025 Regular Session

By House Postsecondary Education & Workforce (originally sponsored by Representatives Farivar, Fosse, Nance, Reeves, Simmons, Obras, Berry, Mena, Scott, Doglio, Macri, Peterson, Salahuddin, Parshley, Cortes, Paul, Alvarado, Ryu, Duerr, Reed, Ramel, Shavers, Wylie, Ormsby, Street, Hill, and Donaghy)

READ FIRST TIME 02/06/25.

1 AN ACT Relating to streamlining the home care worker background
2 check process; and amending RCW 43.20A.715 and 74.39A.056.

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

4 **Sec. 1.** RCW 43.20A.715 and 2023 c 470 s 3014 are each amended to
5 read as follows:

6 (1) Where the department is required to screen a long-term care
7 worker, contracted provider, or licensee through a background check
8 to determine whether the person has a history that would disqualify
9 the person from having unsupervised access to, working with, or
10 providing supervision, care, or treatment to vulnerable adults or
11 children, the department may not automatically disqualify a person on
12 the basis of a criminal record that includes a conviction of any of
13 the following crimes once the specified amount of time has passed for
14 the particular crime:

15 (a) Selling cannabis to a person under RCW 69.50.401 after three
16 years or more have passed between the most recent conviction and the
17 date the background check is processed;

18 (b) Theft in the first degree under RCW 9A.56.030 after 10 years
19 or more have passed between the most recent conviction and the date
20 the background check is processed;

1 (c) Robbery in the second degree under RCW 9A.56.210 after five
2 years or more have passed between the most recent conviction and the
3 date the background check is processed;

4 (d) Extortion in the second degree under RCW 9A.56.130 after five
5 years or more have passed between the most recent conviction and the
6 date the background check is processed;

7 (e) Assault in the second degree under RCW 9A.36.021 after five
8 years or more have passed between the most recent conviction and the
9 date the background check is processed; and

10 (f) Assault in the third degree under RCW 9A.36.031 after five
11 years or more have passed between the most recent conviction and the
12 date the background check is processed.

13 (2) The provisions of subsection (1) of this section do not apply
14 where the department is performing background checks for the
15 department of children, youth, and families.

16 (3) The provisions of subsection (1) of this section do not apply
17 to department employees or applicants for department positions except
18 for positions in the state-operated community residential program.

19 (4) Notwithstanding subsection (1) of this section, a long-term
20 care worker, contracted provider, or licensee may not provide, or be
21 paid to provide, care to children or vulnerable adults under the
22 medicare or medicaid programs if the worker is excluded from
23 participating in those programs by federal law.

24 (5) The department (~~(, a contracted provider, or a licensee)~~) or
25 an authorized entity, when conducting a character, competence, and
26 suitability review for the purpose of hiring, licensing, certifying,
27 contracting with, permitting, or continuing to permit a person to be
28 employed in any position caring for or having unsupervised access to
29 vulnerable adults or children, may, in its sole discretion, determine
30 whether to consider any of the convictions identified in subsection
31 (1) of this section. If the department or a consumer directed
32 employer as defined in RCW 74.39A.009 determines that an individual
33 with any of the convictions identified in subsection (1) of this
34 section is qualified to provide services to a department client as an
35 individual provider as defined in RCW 74.39A.240, the department or
36 the consumer directed employer must provide the client, and their
37 guardian if any, with the results of the state background check for
38 their determination of character, suitability, and competence of the
39 individual before the individual begins providing services. The
40 department (~~(, a contracted provider, or a licensee)~~) or an authorized

1 entity, when conducting a character, competence, and suitability
2 review for the purpose of hiring, licensing, certifying, contracting
3 with, permitting, or continuing to permit a person to be employed in
4 any position caring for or having unsupervised access to vulnerable
5 adults or children, has a rebuttable presumption that its exercise of
6 discretion under this section or the refusal to exercise such
7 discretion was appropriate. This subsection does not create a duty
8 for the department to conduct a character, competence, and
9 suitability review.

10 (6) (a) An employer or an authorized entity shall not conduct a
11 character, competence, and suitability review for individual
12 providers and home care agency providers, based on a name and date of
13 birth or fingerprint background check result, when:

14 (i) The employer or authorized entity has already conducted a
15 character, competence, and suitability review for the individual
16 provider or home care agency provider for a nonautomatically
17 disqualifying conviction, pending charge, or negative action found
18 during a previous background check, for which the employer or
19 authorized entity has previously conducted a character, competence,
20 and suitability review;

21 (ii) An individual provider or home care agency provider has
22 obtained a certificate of restoration of opportunity under RCW
23 9.97.020 for a nonautomatically disqualifying conviction; or

24 (iii) It is known to the employer or authorized entity that more
25 than 10 years have passed since the last nonautomatically
26 disqualifying conviction or negative action against the individual
27 provider or home care agency provider.

28 (b) The department shall develop rules to establish standards for
29 conducting character, competence, and suitability reviews under this
30 subsection (6), including parameters to prioritize the safety of
31 vulnerable adults and minors, clients' rights regarding individual
32 and home care agency providers' background check results, and an
33 equitable review process for individual providers and home care
34 agency providers.

35 (7) (a) Individual providers and home care agency providers who
36 are required to complete a character, competence, and suitability
37 review pursuant to a review required result following a name and date
38 of birth background check or fingerprint-based background check may
39 have unsupervised access to minors or vulnerable adults for a period
40 of up to 30 days while the character, competence, and suitability

1 review is being conducted by the department or the authorized entity
2 if the individual is not disqualified by reason of a name and date of
3 birth background check or fingerprint-based background check that
4 identifies a conviction, pending charge, or negative action as
5 described in RCW 43.43.842 and 43.20A.710(5), as well as any related
6 implementing rules adopted by the department of social and health
7 services, unless the character, competence, and suitability review
8 has been completed and concluded that the applicant may not have
9 unsupervised access to minors and vulnerable adults.

10 (b)(i) Prior to the provision of any care services by an
11 individual provider or home care agency provider during the 30-day
12 temporary practice period established in (a) of this subsection, the
13 parent or guardian of the minor, the vulnerable adult, or the
14 guardian of the vulnerable adult must be:

15 (A) Notified in writing that the character, competence, and
16 suitability review for the individual provider or home care agency
17 provider has not been completed; and

18 (B) Provided with an opportunity to decline the receipt of care
19 services from the individual provider or home care agency provider
20 and an explanation of the procedure for declining the receipt of
21 care.

22 (ii) The notice requirement of (b)(i) of this subsection does not
23 apply to any home care agency provider that has been employed by the
24 same employer since the previous name and date of birth background
25 check or fingerprint-based background check had been conducted.

26 (c)(i) If the character, competence, and suitability review is
27 not completed during the 30-day practice period established in (a) of
28 this subsection, the parent or guardian of the minor or the
29 vulnerable adult may choose to continue to receive services.

30 (ii) Prior to the continuation of any care services by an
31 individual provider or home care agency provider during the 30-day
32 temporary practice period established in (a) of this subsection, the
33 parent or guardian of the minor or the vulnerable adult must complete
34 an informed consent form which describes the charges and convictions
35 that appear on the state and federal background checks of the
36 individual provider or home care agency provider to attest that they
37 are aware of and understand the charges and convictions and agree to
38 continue to receive services.

39 (d) If the character, competence, and suitability review is not
40 completed during the 30-day practice period established in (a) of

1 this subsection, the authorized entity shall immediately report it to
2 the department and provide a written explanation of the reason why
3 the character, competence, and suitability review has not been
4 completed.

5 (8) For the purposes of the section:

6 (a) "Authorized entity" means a service provider, licensee,
7 contractor, or other public or private agency that:

8 (i) Is required to conduct background checks; and

9 (ii) Is authorized to conduct background checks through the
10 department's background check central unit.

11 (b) "Character, competence, and suitability review" means a
12 review process that the employer or an authorized entity uses to
13 decide whether a person has the character, competence, and
14 suitability to work in a position that may have unsupervised access
15 to minors or vulnerable adults.

16 (c) "Contracted provider" means a provider, and its employees,
17 contracted with the department or an area agency on aging to provide
18 services to department clients under programs under chapter 74.09,
19 74.39, 74.39A, or 71A.12 RCW. "Contracted provider" includes area
20 agencies on aging and their subcontractors who provide case
21 management.

22 ~~((b))~~ (d) "Fingerprint-based background check" means a search
23 of in-state criminal history records through the Washington state
24 patrol and national criminal history records through the federal
25 bureau of investigation.

26 (e) "Home care agency provider" means a long-term care worker
27 paid by a home care agency, as described in RCW 43.20A.710(1)(b).

28 (f) "Individual provider" has the same meaning as in RCW
29 74.39A.240.

30 (g) "Licensee" means a nonstate facility or setting that is
31 licensed or certified, or has applied to be licensed or certified, by
32 the department and includes the licensee and its employees.

33 (h) "Name and date of birth background check" means a search of
34 Washington state criminal history and negative action records using
35 the applicant's name and date of birth conducted by the department's
36 background check central unit.

37 (i) "Nonautomatically disqualifying" means, when used in
38 reference to a conviction, pending charge, or negative action, that
39 the conviction, pending charge, or negative action is one other than
40 a permanently disqualifying conviction, permanently disqualifying

1 negative action, or a time-limited permanently disqualifying
2 conviction or negative action after the defined amount of time has
3 passed, as described in RCW 43.43.842 and 43.20A.710(5), and related
4 department rules.

5 (j) "Review required result" means the result of a name and date
6 of birth background check or fingerprint-based background check for
7 an individual provider or a home care agency provider that requires
8 the employer or an authorized entity to determine if a character,
9 competence, and suitability review is necessary, based on subsection
10 (6)(a) of this section, and related implementing rules adopted by the
11 department.

12 **Sec. 2.** RCW 74.39A.056 and 2023 c 223 s 4 are each amended to
13 read as follows:

14 (1)(a) All long-term care workers shall be screened through state
15 and federal background checks in a uniform and timely manner to
16 verify that they do not have a history that would disqualify them
17 from working with vulnerable persons. The department must process
18 background checks for long-term care workers and, based on this
19 screening, inform employers, prospective employers, and others as
20 authorized by law, whether screened applicants are ineligible for
21 employment.

22 (b)(i) For long-term care workers hired on or after January 7,
23 2012, the background checks required under this section shall include
24 checking against the federal bureau of investigation fingerprint
25 identification records system or its successor program. The
26 department shall require these long-term care workers to submit
27 fingerprints for the purpose of investigating conviction records
28 through both the Washington state patrol and the federal bureau of
29 investigation. The department shall not pass on the cost of these
30 criminal background checks to the workers or their employers.

31 (ii) A long-term care worker who is not disqualified by the state
32 background check can work and have unsupervised access pending the
33 results of the federal bureau of investigation fingerprint background
34 check as allowed by rules adopted by the department.

35 (c)(i) Individual providers and home care agency providers must
36 complete a fingerprint-based background check required in this
37 section and RCW 43.43.837 only:

38 (A) Except as provided in (c)(ii) of this subsection, at the
39 point of initial hire;

1 (B) As required by federal law; and

2 (C) If there is a reasonable, good faith belief the employer or
3 authorized entity needs to conduct a fingerprint-based background
4 check, due to potential new findings in a fingerprint-based
5 background check, as documented in writing by the employer.

6 (ii) Notwithstanding the requirement of (c)(i)(A) of this
7 subsection, individual providers and home care agency providers may
8 not be required to complete a fingerprint-based background check
9 pursuant to (a) of this subsection and RCW 43.43.837 at the point of
10 initial hire if the individual provider or home care agency provider
11 had been previously employed by the same employer and has not lived
12 outside of Washington after the last fingerprint-based background
13 check.

14 (2) A provider may not be employed in the care of and have
15 unsupervised access to vulnerable adults if:

16 (a) The provider is on the vulnerable adult abuse registry or on
17 any other registry based upon a finding of abuse, abandonment,
18 neglect, or financial exploitation of a vulnerable adult;

19 (b) On or after October 1, 1998, the department of children,
20 youth, and families, or its predecessor agency, has made a founded
21 finding of abuse or neglect of a child against the provider. If the
22 provider has received a certificate of parental improvement under
23 chapter 74.13 RCW pertaining to the finding, the provider is not
24 disqualified under this section;

25 (c) A disciplining authority, including the department of health,
26 has made a finding of abuse, abandonment, neglect, or financial
27 exploitation of a minor or a vulnerable adult against the provider;
28 or

29 (d) A court has issued an order that includes a finding of fact
30 or conclusion of law that the provider has committed abuse,
31 abandonment, neglect, or financial exploitation of a minor or
32 vulnerable adult. If the provider has received a certificate of
33 parental improvement under chapter 74.13 RCW pertaining to the
34 finding of fact or conclusion of law, the provider is not
35 disqualified under this section.

36 (3)(a) A client who has elected to receive services from an
37 individual provider must be notified of the results of a background
38 check and of the client's right to request a copy of the background
39 check's results under (b) of this subsection.

1 (b) When a background check produces a review required result, as
2 defined in RCW 43.20A.715, the authorized entity must provide the
3 client who is the managing employer of the individual provider with a
4 copy of the background check results and the Washington state record
5 of arrests and prosecutions, if requested by the client. The
6 individual provider may choose to provide a copy of the federal
7 bureau of investigation record of arrests and prosecutions to the
8 client.

9 (4) The department shall establish, by rule, a state registry
10 which contains identifying information about long-term care workers
11 identified under this chapter who have final substantiated findings
12 of abuse, neglect, financial exploitation, or abandonment of a
13 vulnerable adult as defined in RCW 74.34.020. The rule must include
14 disclosure, disposition of findings, notification, findings of fact,
15 appeal rights, and fair hearing requirements. The department shall
16 disclose, upon request, final substantiated findings of abuse,
17 neglect, financial exploitation, or abandonment to any person so
18 requesting this information. This information must also be shared
19 with the department of health to advance the purposes of chapter
20 18.88B RCW.

21 ((4)) (5) For the purposes of this section((,—"provider"
22 means))):

23 (a) "Authorized entity" means a service provider, licensee,
24 contractor, or other public or private agency that:

25 (i) Is required to conduct background checks; and

26 (ii) Is authorized to conduct background checks through the
27 department's background check central unit.

28 (b) "Fingerprint-based background check" means a search of in-
29 state criminal history records through the Washington state patrol
30 and national criminal history records through the federal bureau of
31 investigation.

32 (c) "Home care agency provider" means a long-term care worker
33 paid by a home care agency, as described in RCW 43.20A.710(1)(b).

34 (d) "Provider" means:

35 (i) An individual provider ((as defined in RCW 74.39A.240));

36 ((b)) (ii) An employee, licensee, or contractor of any of the
37 following: A home care agency licensed under chapter 70.127 RCW; a
38 nursing home under chapter 18.51 RCW; an assisted living facility
39 under chapter 18.20 RCW; an enhanced services facility under chapter
40 70.97 RCW; a certified resident services and supports agency licensed

1 or certified under chapter 71A.12 RCW; an adult family home under
2 chapter 70.128 RCW; or any long-term care facility certified to
3 provide medicaid or medicare services; and

4 ~~((e))~~ (iii) Any contractor of the department who may have
5 unsupervised access to vulnerable adults.

6 ~~((5))~~ (6) The department shall adopt rules to implement this
7 section.

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