
SENATE BILL 6351

State of Washington

65th Legislature

2018 Regular Session

By Senators Van De Wege, Chase, and Keiser; by request of Health Care Authority

Read first time 01/12/18. Referred to Committee on Health & Long Term Care.

1 AN ACT Relating to authorizing the state health care authority to
2 require fingerprint-based background checks and conviction record
3 checks for the nonemergency medical transportation program; amending
4 RCW 43.43.837 and 43.43.838; and providing an effective date.

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

6 **Sec. 1.** RCW 43.43.837 and 2017 3rd sp.s. c 6 s 225 are each
7 amended to read as follows:

8 (1) Except as provided in subsection (2) of this section, in
9 order to determine the character, competence, and suitability of any
10 applicant or service provider to have unsupervised access, the
11 secretary of the department of social and health services and the
12 secretary of the department of children, youth, and families may
13 require a fingerprint-based background check through both the
14 Washington state patrol and the federal bureau of investigation at
15 any time, but shall require a fingerprint-based background check when
16 the applicant or service provider has resided in the state less than
17 three consecutive years before application, and:

18 (a) Is an applicant or service provider providing services to
19 children or people with developmental disabilities under RCW
20 74.15.030;

1 (b) Is an individual residing in an applicant or service
2 provider's home, facility, entity, agency, or business or who is
3 authorized by the department of social and health services or the
4 department of children, youth, and families to provide services to
5 children or people with developmental disabilities under RCW
6 74.15.030; or

7 (c) Is an applicant or service provider providing in-home
8 services funded by:

9 (i) Medicaid personal care under RCW 74.09.520;

10 (ii) Community options program entry system waiver services under
11 RCW 74.39A.030;

12 (iii) Chore services under RCW 74.39A.110; or

13 (iv) Other home and community long-term care programs,
14 established pursuant to chapters 74.39 and 74.39A RCW, administered
15 by the department of social and health services.

16 (2) Long-term care workers, as defined in RCW 74.39A.009, who are
17 hired after January 7, 2012, are subject to background checks under
18 RCW 74.39A.056.

19 (3) To satisfy the shared background check requirements provided
20 for in RCW 43.216.270 and 43.20A.710, the department of children,
21 youth, and families and the department of social and health services
22 shall share federal fingerprint-based background check results as
23 permitted under the law. The purpose of this provision is to allow
24 both departments to fulfill their joint background check
25 responsibility of checking any individual who may have unsupervised
26 access to vulnerable adults, children, or juveniles. Neither
27 department may share the federal background check results with any
28 other state agency or person.

29 (4) The secretary of the department of children, youth, and
30 families shall require a fingerprint-based background check through
31 the Washington state patrol identification and criminal history
32 section and the federal bureau of investigation when the department
33 seeks to approve an applicant or service provider for a foster or
34 adoptive placement of children in accordance with federal and state
35 law. Fees charged by the Washington state patrol and the federal
36 bureau of investigation for fingerprint-based background checks shall
37 be paid by the department of children, youth, and families for
38 applicant and service providers providing foster care as required in
39 RCW 74.15.030.

1 (5) Any secure facility operated by the department of social and
2 health services or the department of children, youth, and families
3 under chapter 71.09 RCW shall require applicants and service
4 providers to undergo a fingerprint-based background check through the
5 Washington state patrol identification and criminal history section
6 and the federal bureau of investigation.

7 (6) Service providers and service provider applicants who are
8 required to complete a fingerprint-based background check may be
9 hired for a one hundred twenty-day provisional period as allowed
10 under law or program rules when:

11 (a) A fingerprint-based background check is pending; and

12 (b) The applicant or service provider is not disqualified based
13 on the immediate result of the background check.

14 (7) Fees charged by the Washington state patrol and the federal
15 bureau of investigation for fingerprint-based background checks shall
16 be paid by the applicable department for applicants or service
17 providers providing:

18 (a) Services to people with a developmental disability under RCW
19 74.15.030;

20 (b) In-home services funded by medicaid personal care under RCW
21 74.09.520;

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

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

25 (e) Services under other home and community long-term care
26 programs, established pursuant to chapters 74.39 and 74.39A RCW,
27 administered by the department of social and health services or the
28 department of children, youth, and families; and

29 (f) Services in, or to residents of, a secure facility under RCW
30 71.09.115.

31 (8) Service providers licensed under RCW 74.15.030 must pay fees
32 charged by the Washington state patrol and the federal bureau of
33 investigation for conducting fingerprint-based background checks.

34 (9) Department of children, youth, and families service providers
35 licensed under RCW 74.15.030 may not pass on the cost of the
36 background check fees to their applicants unless the individual is
37 determined to be disqualified due to the background information.

38 (10) The department of social and health services and the
39 department of children, youth, and families shall develop rules
40 identifying the financial responsibility of service providers,

1 applicants, and the department for paying the fees charged by law
2 enforcement to roll, print, or scan fingerprints-based for the
3 purpose of a Washington state patrol or federal bureau of
4 investigation fingerprint-based background check.

5 (11) In order to determine the character, competence, and
6 suitability of an applicant or service provider to have unsupervised
7 access, the director of the state health care authority shall require
8 a fingerprint-based background check through both the Washington
9 state patrol and the federal bureau of investigation at any time when
10 services are to be provided under the nonemergency medical
11 transportation program.

12 (12) For purposes of this section, unless the context plainly
13 indicates otherwise:

14 (a) "Applicant" means a current or prospective department of
15 social and health services, department of children, youth, and
16 families, state health care authority, or service provider employee,
17 volunteer, student, intern, researcher, contractor, or any other
18 individual who will or may have unsupervised access because of the
19 nature of the work or services he or she provides. "Applicant"
20 includes but is not limited to any individual who will or may have
21 unsupervised access and is:

22 (i) Applying for a license or certification from the department
23 of social and health services or the department of children, youth,
24 and families;

25 (ii) Seeking a contract with the department of social and health
26 services, the department of children, youth, and families, or a
27 service provider;

28 (iii) Applying for employment, promotion, reallocation, or
29 transfer;

30 (iv) An individual that a department of social and health
31 services or ((the)) department of children, youth, and families
32 client or guardian of a department of social and health services or
33 department of children, youth, and families client chooses to hire or
34 engage to provide services to himself or herself or another
35 vulnerable adult, juvenile, or child and who might be eligible to
36 receive payment from the department of social and health services or
37 the department of children, youth, and families for services
38 rendered; or

1 (v) A department of social and health services or department of
2 children, youth, and families applicant who will or may work in a
3 department-covered position.

4 (b) "Authorized" means the department of social and health
5 services or the department of children, youth, and families grants an
6 applicant, home, or facility permission to:

7 (i) Conduct licensing, certification, or contracting activities;

8 (ii) Have unsupervised access to vulnerable adults, juveniles,
9 and children;

10 (iii) Receive payments from a department of social and health
11 services or department of children, youth, and families program; or

12 (iv) Work or serve in a department of social and health services
13 or department of children, youth, and families-covered position.

14 (c) "Secretary" means the secretary of the department of social
15 and health services.

16 (d) "Secure facility" has the meaning provided in RCW 71.09.020.

17 (e) "Service provider" means entities, facilities, agencies,
18 businesses, or individuals who are licensed, certified, authorized,
19 or regulated by, receive payment from, or have contracts or
20 agreements with the department of social and health services ~~((~~or~~))~~,
21 the department of children, youth, and families, or the state health
22 care authority to provide services to vulnerable adults, juveniles,
23 or children. "Service provider" includes individuals whom a
24 department of social and health services or department of children,
25 youth, and families client or guardian of a department of social and
26 health services or department of children, youth, and families client
27 may choose to hire or engage to provide services to himself or
28 herself or another vulnerable adult, juvenile, or child and who might
29 be eligible to receive payment from the department of social and
30 health services or the department of children, youth, and families
31 for services rendered. "Service provider" does not include those
32 certified under chapter 70.96A RCW.

33 **Sec. 2.** RCW 43.43.838 and 2017 3rd sp.s. c 6 s 226 are each
34 amended to read as follows:

35 (1) After January 1, 1988, and notwithstanding any provision of
36 RCW 43.43.700 through 43.43.810 to the contrary, the state patrol
37 shall furnish a transcript of the conviction record pertaining to any
38 person for whom the state patrol or the federal bureau of
39 investigation has a record upon the written request of:

- 1 (a) The subject of the inquiry;
- 2 (b) Any business or organization for the purpose of conducting
3 evaluations under RCW 43.43.832;
- 4 (c) The department of social and health services;
- 5 (d) Any law enforcement agency, prosecuting authority, or the
6 office of the attorney general;
- 7 (e) The department of social and health services for the purpose
8 of meeting responsibilities set forth in chapter 18.51, 18.20, or
9 72.23 RCW, or any later-enacted statute which purpose is to regulate
10 or license a facility which handles vulnerable adults; ~~((e))~~
- 11 (f) The department of children, youth, and families for the
12 purpose of meeting responsibilities in chapters 43.216 and 74.15 RCW.
13 However, access to conviction records pursuant to this subsection
14 (1)(f) does not limit or restrict the ability of ~~((the))~~ the
15 department of children, youth, and families to obtain additional
16 information regarding conviction records and pending charges as
17 provided in RCW 74.15.030(2)(b); or
- 18 (g) The state health care authority for the purpose of protecting
19 the vulnerable population served by the nonemergency medical
20 transportation program.

21 (2) The state patrol shall by rule establish fees for
22 disseminating records under this section to recipients identified in
23 subsection (1)(a) and (b) of this section. The state patrol shall
24 also by rule establish fees for disseminating records in the custody
25 of the national crime information center. The revenue from the fees
26 shall cover, as nearly as practicable, the direct and indirect costs
27 to the state patrol of disseminating the records. No fee shall be
28 charged to a nonprofit organization for the records check. Record
29 checks requested by school districts and educational service
30 districts using only name and date of birth will be provided free of
31 charge.

32 (3) No employee of the state, employee of a business or
33 organization, or the business or organization is liable for
34 defamation, invasion of privacy, negligence, or any other claim in
35 connection with any lawful dissemination of information under RCW
36 43.43.830 through 43.43.840 or 43.43.760.

37 (4) Before July 26, 1987, the state patrol shall adopt rules and
38 forms to implement this section and to provide for security and
39 privacy of information disseminated under this section, giving first
40 priority to the criminal justice requirements of this chapter. The

1 rules may include requirements for users, audits of users, and other
2 procedures to prevent use of civil adjudication record information or
3 criminal history record information inconsistent with this chapter.

4 (5) Nothing in RCW 43.43.830 through 43.43.840 shall authorize an
5 employer to make an inquiry not specifically authorized by this
6 chapter, or be construed to affect the policy of the state declared
7 in chapter 9.96A RCW.

8 NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act take effect
9 July 1, 2018.

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