

CERTIFICATION OF ENROLLMENT

SENATE BILL 6404

65th Legislature
2018 Regular Session

Passed by the Senate February 13, 2018
Yeas 47 Nays 0

President of the Senate

Passed by the House March 1, 2018
Yeas 97 Nays 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6404** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 6404

Passed Legislature - 2018 Regular Session

State of Washington

65th Legislature

2018 Regular Session

By Senators Wellman, Mullet, Fain, Hunt, and Kuderer; by request of Department of Early Learning

Read first time 01/16/18. Referred to Committee on Early Learning & K-12 Education.

1 AN ACT Relating to background checks for persons providing child
2 care services; reenacting and amending RCW 43.216.270; and providing
3 an effective date.

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

5 **Sec. 1.** RCW 43.216.270 and 2017 3rd sp.s. c 33 s 6 and 2017 3rd
6 sp.s. c 6 s 206 are each reenacted and amended to read as follows:

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

18 (2) In order to determine the suitability of individuals newly
19 applying for an agency license, new licensees, their new employees,
20 and other persons who newly have unsupervised access to children in
21 care, shall be fingerprinted.

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

4 (b)(i) All individuals applying for first-time agency licenses,
5 all new employees, and other persons who have not been previously
6 qualified by the department to have unsupervised access to children
7 in care must be fingerprinted and obtain a criminal history record
8 check pursuant to this section.

9 (ii) Persons required to be fingerprinted and obtain a criminal
10 history record check pursuant to this section must pay for the cost
11 of this check as follows: The fee established by the Washington state
12 patrol for the criminal background history check, including the cost
13 of obtaining the fingerprints; and a fee paid to the department for
14 the cost of administering the individual-based/portable background
15 check clearance registry. The fee paid to the department must be
16 deposited into the individual-based/portable background check
17 clearance account established in RCW 43.216.273. The licensee may,
18 but need not, pay these costs on behalf of a prospective employee or
19 reimburse the prospective employee for these costs. The licensee and
20 the prospective employee may share these costs.

21 (c) The secretary shall use the fingerprint criminal history
22 record check information solely for the purpose of determining
23 eligibility for a license and for determining the character,
24 suitability, and competence of those persons or agencies, excluding
25 parents, not required to be licensed who are authorized to care for
26 children.

27 (d) Criminal justice agencies shall provide the secretary such
28 information as they may have and that the secretary may require for
29 such purpose.

30 (e) No later than July 1, 2013, all agency licensees holding
31 licenses prior to July 1, 2012, persons who were employees before
32 July 1, 2012, and persons who have been qualified by the department
33 before July 1, 2012, to have unsupervised access to children in care,
34 must submit a new background application to the department. The
35 department must require persons submitting a new background
36 application pursuant to this subsection (2)(e) to pay a fee to the
37 department for the cost of administering the individual-based/
38 portable background check clearance registry. This fee must be paid
39 into the individual-based/portable background check clearance account
40 established in RCW 43.216.273. The licensee may, but need not, pay

1 these costs on behalf of a prospective employee or reimburse the
2 prospective employee for these costs. The licensee and the
3 prospective employee may share these costs.

4 (f) The department shall issue a background check clearance card
5 or certificate to the applicant if after the completion of a
6 background check the department concludes the applicant is qualified
7 for unsupervised access to children in child care. The background
8 check clearance card or certificate is valid for three years from the
9 date of issuance. A valid card or certificate must be accepted by a
10 potential employer as proof that the applicant has successfully
11 completed a background check as required under this chapter. For
12 purposes of renewal of the background clearance card or certificate,
13 all agency licensees holding a license, persons who are employees,
14 and persons who have been previously qualified by the department,
15 must submit a new background application to the department on a date
16 to be determined by the department. The fee requirements applicable
17 to this section also apply to background clearance renewal
18 applications.

19 (g) The original applicant for an agency license, licensees,
20 their employees, and other persons who have unsupervised access to
21 children in care shall submit a new background check application to
22 the department, on a form and by a date as determined by the
23 department.

24 (h) The payment requirements applicable to (a) through (g) of
25 this subsection do not apply to persons who:

26 (i) Provide regularly scheduled care for a child or children in
27 the home of the provider or in the home of the child or children for
28 periods of less than twenty-four hours or, if necessary due to the
29 nature of the parent's work, for periods equal to or greater than
30 twenty-four hours;

31 (ii) Receive child care subsidies; and

32 (iii) Are exempt from licensing under this chapter.

33 (i) The applicant and agency shall maintain on-site for
34 inspection a copy of the background check clearance card or
35 certificate.

36 ((+i)) (j) Individuals who have been issued a background check
37 clearance card or certificate shall report nonconviction and
38 conviction information to the department within twenty-four hours of
39 the event constituting the nonconviction or conviction information.

1 (~~(j)~~) (k) The department shall investigate and conduct a
2 redetermination of an applicant's or licensee's background clearance
3 if the department receives a complaint or information from
4 individuals, a law enforcement agency, or other federal, state, or
5 local government agency. Subject to the requirements contained in RCW
6 43.216.325 and 43.216.327 and based on a determination that an
7 individual lacks the appropriate character, suitability, or
8 competence to provide child care or early learning services to
9 children, the department may: (i) Invalidate the background card or
10 certificate; or (ii) suspend, modify, or revoke any license
11 authorized by this chapter.

12 (3) To satisfy the shared background check requirements of the
13 department of children, youth, and families, the office of the
14 superintendent of public instruction, and the department of social
15 and health services, each department shall share federal fingerprint-
16 based background check results as permitted under the law. The
17 purpose of this provision is to allow these departments to fulfill
18 their joint background check responsibility of checking any
19 individual who may have unsupervised access to vulnerable adults,
20 children, or juveniles. These departments may not share the federal
21 background check results with any other state agency or person.

22 (4) Individuals who have completed a fingerprint background check
23 as required by the office of the superintendent of public
24 instruction, consistent with RCW 28A.400.303, and have been
25 continuously employed by the same school district or educational
26 service district, can meet the requirements in subsection (2) of this
27 section by providing a true and accurate copy of their Washington
28 state patrol and federal bureau of investigation background check
29 report results to the department or if the school district or the
30 educational service district provides an affidavit to the department
31 that the individual has been authorized to work by the school
32 district or educational service district after completing a record
33 check consistent with RCW 28A.400.303. The department may require
34 that additional background checks be completed that do not require
35 additional fingerprinting and may charge a fee for these additional
36 background checks.

37 NEW SECTION. **Sec. 2.** This act takes effect July 1, 2018.

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