

WSR 22-13-070
EMERGENCY RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES

[Filed June 9, 2022, 1:05 p.m., effective June 9, 2022, 1:05 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend chapter 110-06 WAC to allow individuals to work supervised in the department of children, youth, and families' (DCYF) licensed early learning programs after submitting to the department their background check applications; allow license-exempt family, friend, and neighbor providers to be authorized for unsupervised access to children following name-based background checks while fingerprint-based background checks are pending; include an interstate background check for individuals who have lived outside of Washington state in the five years immediately preceding their application; and remove certain crimes that disqualify a subject individual from authorization.

Citation of Rules Affected by this Order: Amending WAC 110-06-0040, 110-06-0046, and 110-06-120.

Statutory Authority for Adoption: RCW 43.216.065.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Proclamation of the Governor 20-05 declared a State of Emergency in all counties in the state of Washington as a result of the outbreak of COVID-19. As of March 11, 2020, the World Health Organization has classified COVID-19 as a pandemic. Proclamation of the Governor 20-31 amends Proclamation 20-05 and waives and suspends fingerprint-based background checks before a person may be approved to have unsupervised access to children during the COVID-19 pandemic due to the potential risk of exposure to COVID-19 resulting from face-to-face contact in submitting fingerprints, limited access to fingerprinting as entities that receive and process fingerprints limit or suspend operations in order to limit exposure to COVID-19, and the unavailability of law enforcement agencies to process fingerprints during the pandemic. The ability to issue background check clearance authorizations before completing fingerprint-based background checks better enables DCYF to ensure the availability of stable and quality child care during the COVID-19 pandemic. The amendment to WAC 110-06-120 removes crimes that account for 33 percent of family, friends, and neighbors being disqualified from participation in working connections child care. The amendment is in accord with the federal disqualifying crimes list, significantly increases the number of individuals who may provide care, and will not pose a safety risk for children in care.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 9, 2022.

Brenda Villarreal
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-21-064 [22-10-022], filed 10/11/19 [4/25/22], effective 11/11/19 [5/6/22])

WAC 110-06-0040 Background clearance requirements. This section applies to all subject individuals (~~(other than)~~), except for in-home/relative providers.

(1) Subject individuals (~~(associated with early learning services applying for a first-time background check)~~) must complete the DCYF background check application process (~~(including)~~) on or before the dates described in WAC 110-06-0041, 110-06-0045, and at least once every three years thereafter. The background check process includes, but not limited to:

(a) (~~(Submitting)~~) Filing a completed background check application with the DCYF background check unit;

(b) Completing the required fingerprint process; (~~and~~)

(c) Completing the required interstate background check process for each state the subject individual has lived outside of Washington state in the five years preceding the background check application; and

(d) Paying all required fees as provided in WAC 110-06-0044.

(2) All subject individuals (~~(qualified by the department to have unsupervised access to children in care)~~) who are (~~(renewing their applications)~~) seeking renewals of their DCYF authorizations must:

(a) Submit (~~(the)~~) a new background check application (through) to DCYF;

(b) Submit payment of all required fees (~~(as provided)~~) described in WAC 110-06-0044; (and)

(c) Complete the required fingerprint process if the subject individual lives or has lived outside of Washington state since the previous background check was completed, or has not previously completed the fingerprint process required by this section; and

(d) Complete the required interstate background check process for each state the subject individual has lived outside of Washington state in the five years preceding the background check application.

(3) Each subject individual (~~(completing the DCYF)~~) who submits a background check ((process)) application and is seeking a background check authorization, or reauthorization, must disclose whether they have:

(a) Been convicted of any crime;

(b) Any pending criminal charges; and

(c) Been or are the subject to any negative action(~~(, as defined by WAC 110-06-0020.)~~)

(4) Subject individuals must not have unsupervised access to children in care unless they have obtained DCYF authorization under this chapter.

(5) Applicants may be approved to work supervised after submitting their background check application.

(6) ((A)) Subject individuals who ((has)) have been disqualified by DCYF must not be present on the premises when early learning services are provided to children.

[Statutory Authority: RCW 43.216.055, 43.216.065, 42 U.S.C. 9858, et seq. and 45 C.F.R. 98.43. WSR 19-21-064, § 110-06-0040, filed 10/11/19, effective 11/11/19. Statutory Authority: RCW 43.216.055, 43.216.065, chapter 43.216 RCW and 42 U.S.C. 9858 et seq.; 45 C.F.R. Part 98. WSR 19-01-111, § 110-06-0040, filed 12/18/18, effective 1/18/19. WSR 18-14-078, recodified as § 110-06-0040, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.070 and chapter 43.215 RCW. WSR 15-24-040, § 170-06-0040, filed 11/20/15, effective 1/1/16. Statutory Authority: RCW 43.215.200, 43.215.205, 43.215.215 through 43.215.218, 43.43.830, 43.43.832, chapter 43.215 and 43.43 RCW, and 2011 c 295. WSR 12-12-040, § 170-06-0040, filed 5/30/12, effective 7/1/12. Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. WSR 08-10-041, § 170-06-0040, filed 4/30/08, effective 5/31/08.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION (Amending WSR 19-01-111 [22-10-022], filed 12/18/18 [4/25/22], effective 1/18/19 [5/26/22])

WAC 110-06-0046 Requirements for license-exempt in-home/relative providers. (1) This section applies to license-exempt in-home providers. The background check process must be completed for:

(a) All license-exempt in-home/relative providers who apply to care for a ((WCCC)) consumer's child who is eligible to receive WCCC benefits; ((and))

(b) Any individual sixteen years of age or older who is residing with a license-exempt in-home/relative provider ((when)) if the provider cares for the child eligible to receive WCCC benefits in the provider's ((own)) home, and the home is not where the child ((does not reside.

~~(2) Additional background checks must be completed for individuals listed in subsection (1)(a) and (b) of this section when an individual sixteen years of age or older is newly residing)~~ resides; and

~~(c) Any individual sixteen years of age or older who begins to reside with a license-exempt in-home/relative provider ((when the provider)) after the date the provider begins to care((s)) for the child eligible to receive WCCC benefits in the provider's ((own)) home, and the home is not where the child ((does not)) resides.~~

~~((3) The background check process for license-exempt in-home/relative providers requires:))~~ (2) A subject individual who is seeking a background check authorization must complete the background check application process by:

(a) Submitting a completed background check application; ((and))

(b) Completing the required fingerprint process; and
(c) Completing the required interstate background check process for each state the subject individual has lived outside of Washington State in the five years preceding the background check application.

~~((4))~~ (3) Each subject individual completing the DCYF background check process must disclose whether they have:

- (a) ~~((Whether he or she has))~~ Been convicted of any crime;
- (b) ~~((Whether he or she has))~~ Any pending criminal charges; and
- (c) ~~((Whether he or she has))~~ Been or are the subject ~~((to))~~ of any negative actions ~~((, as defined by WAC 110-06-0020)).~~

~~((5))~~ (4) A subject individual must not have unsupervised access to children in care ~~((unless he or she has obtained))~~ before obtaining DCYF background check ~~((clearance))~~ authorization under this chapter.

(5) Applicants may be approved to have unsupervised access to children before the fingerprint-based background check is conducted.

(6) A subject individual who has been disqualified by DCYF must not be present on the premises when early learning services are provided to children.

(7) DCYF ~~((pays for))~~ will pay the cost of the background check process. The fees include:

- (a) Fingerprint process fees as defined by the Washington state patrol, Federal Bureau of Investigation, DSHS, and the DCYF fingerprint contractor; and
- (b) The DCYF administrative fee.

[Statutory Authority: RCW 43.216.055, 43.216.065, chapter 43.216 RCW and 42 U.S.C. 9858 et seq.; 45 C.F.R. Part 98. WSR 19-01-111, § 110-06-0046, filed 12/18/18, effective 1/18/19.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

[AMENDATORY SECTION] (Amending WSR 19-01-011 [22-10-022], filed 12/18/18 [4/25/22], effective 1/18/19 [5/26/22])

WAC 110-06-0120 Secretary's list. ~~((1))~~ A subject individual's conviction for any crimes listed in column (a) in the table below will permanently disqualify him or her from authorization to care for or have unsupervised access to children receiving early learning services.

(2) A subject individual's conviction for any crime listed in column (b) in the table below will disqualify him or her from authorization to care for or have unsupervised access to children receiving early learning services for a period of five years from the date of conviction.

| (a) Crimes that permanently disqualify a subject individual | (b) Crimes that disqualify a subject individual for five years from date of conviction |
|--------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| Abandonment of a child | Abandonment of a dependent person not against child |

| (a) Crimes that permanently disqualify a subject individual | (b) Crimes that disqualify a subject individual for five years from date of conviction |
|---------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| Arson | Assault 3 not domestic violence |
| Assault 1 | Assault 4/simple assault |
| Assault 2 | Burglary |
| Assault 3 domestic violence | Coercion |
| Assault of a child | Custodial assault |
| Bail jumping | Custodial sexual misconduct |
| | Extortion 2 |
| Child buying or selling | Forgery |
| Child molestation | Harassment |
| Commercial sexual abuse of a minor | |
| Communication with a minor for immoral purposes | Identity theft |
| Controlled substance homicide | Leading organized crime |
| Criminal mistreatment | Malicious explosion 3 |
| Custodial interference | Malicious mischief |
| Dealing in depictions of minor engaged in sexually explicit conduct | Malicious placement of an explosive 2 |
| Domestic violence (felonies only) | Malicious placement of an explosive 3 |
| Drive-by shooting | Malicious placement of imitation device 1 |
| Extortion 1 | Patronizing a prostitute |
| Harassment domestic violence | Possess explosive device |
| Homicide by abuse | Promoting pornography |
| Homicide by watercraft | Promoting prostitution 1 |
| Incendiary devices (possess, manufacture, dispose) | Promoting prostitution 2 |
| Incest | Promoting suicide attempt |
| Indecent exposure/public indecency (felonies only) | Prostitution |
| Indecent liberties | Reckless endangerment |
| Kidnapping | Residential burglary |
| Luring | Stalking |
| Malicious explosion 1 | Theft |
| Malicious explosion 2 | Theft-welfare |
| Malicious harassment | Unlawful imprisonment |
| Malicious mischief domestic violence | Unlawful use of a building for drug purposes |

| (a) Crimes that permanently disqualify a subject individual | (b) Crimes that disqualify a subject individual for five years from date of conviction |
|--------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| Malicious placement of an explosive ¹ | Violation of the Imitation Controlled Substances Act (manufacture/deliver/intent) |
| Manslaughter | Violation of the Uniform Controlled Substances Act (manufacture/deliver/intent) |
| Murder/aggravated murder | Violation of the Uniform Legend Drug Act (manufacture/deliver/intent) |
| | Violation of the Uniform Precursor Drug Act (manufacture/deliver/intent) |
| Possess depictions minor engaged in sexual conduct | |
| Rape | |
| Rape of child | |
| Robbery | |
| Selling or distributing erotic material to a minor | |
| Sending or bringing into the state depictions of a minor | |
| Sexual exploitation of minors | |
| Sexual misconduct with a minor | |
| Sexually violating human remains | |
| Use of machine gun in felony | |
| Vehicular assault | |
| Vehicular homicide (negligent homicide) | |
| Violation of child abuse restraining order | |
| Violation of civil anti-harassment protection order | |
| Violation of protection/contact/restraining order | |
| Voyeurism)) | |

(1) The crimes and conduct described in this section constitute the secretary's list.

(2) Subject to the requirements described in this chapter, the department must permanently disqualify a subject individual who has a conviction for any of the crimes listed in this subsection.

| <u>Citation</u> | <u>Description</u> |
|-----------------|----------------------------------------------------------------------------------|
| RCW 9A.42.060 | Abandonment of a dependent person in the first degree (if the victim is a child) |

| <u>Citation</u> | <u>Description</u> |
|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>RCW 9A.42.070</u> | <u>Abandonment of a dependent person in the second degree (if the victim is a child)</u> |
| <u>RCW 10.95.020</u> | <u>Aggravated murder</u> |
| <u>RCW 9A.48.020</u> | <u>Arson in the first degree</u> |
| <u>RCW 9A.48.030</u> | <u>Arson in the second degree</u> |
| <u>RCW 9A.36.011</u> | <u>Assault in the first degree</u> |
| <u>RCW 9A.36.021</u> | <u>Assault in the second degree</u> |
| <u>RCW 9A.36.031</u> | <u>Assault in the third degree (if causes bodily harm)</u> |
| <u>RCW 9A.36.120</u> | <u>Assault of a child in the first degree</u> |
| <u>RCW 9A.36.130</u> | <u>Assault of a child in the second degree</u> |
| <u>RCW 9A.36.140</u> | <u>Assault of a child in the third degree</u> |
| <u>RCW 9A.52.020</u> | <u>Burglary in the first degree (if child or spouse is assaulted)</u> |
| <u>RCW 9A.44.083</u> | <u>Child molestation in the first degree</u> |
| <u>RCW 9A.44.086</u> | <u>Child molestation in the second degree</u> |
| <u>RCW 9A.44.089</u> | <u>Child molestation in the third degree</u> |
| <u>RCW 9A.64.030</u> | <u>Child buying or selling</u> |
| <u>RCW 9.68A.100</u> | <u>Commercial sexual abuse of a minor</u> |
| <u>RCW 9.68A.090</u> | <u>Communication with minor for immoral purposes (if a felony)</u> |
| <u>RCW 69.50.415</u> | <u>Controlled substances homicide (if the victim is a child)</u> |
| <u>RCW 9A.42.020</u> | <u>Criminal mistreatment in the first degree (if the victim is a child)</u> |
| <u>RCW 9A.42.030</u> | <u>Criminal mistreatment in the second degree (if the victim is a child)</u> |
| <u>RCW 9A.36.100</u> | <u>Custodial assault (if causes bodily harm)</u> |
| <u>RCW 9A.40.060</u> | <u>Custodial interference in the first degree (if the victim is a child)</u> |
| <u>RCW 9A.40.070</u> | <u>Custodial interference in the second degree (if the victim is a child; and the conviction is the subject individual's second or subsequent conviction of custodial interference in the second degree)</u> |

| <u>Citation</u> | <u>Description</u> |
|----------------------|--------------------------------------------------------------------------------------------------------------------|
| <u>RCW 9A.44.160</u> | <u>Custodial sexual misconduct in the first degree (if the victim is a child)</u> |
| <u>RCW 9.68A.050</u> | <u>Dealing in depictions of minor engaged in sexually explicit conduct in the first degree or second degree</u> |
| <u>RCW 9A.36.045</u> | <u>Drive-by shooting (if the victim is a child)</u> |
| <u>RCW 9A.42.100</u> | <u>Endangerment with a controlled substance (if the victim is a child)</u> |
| <u>RCW 9A.56.120</u> | <u>Extortion in the first degree (if the victim is a child)</u> |
| <u>RCW 9A.56.130</u> | <u>Extortion in the second degree (if the victim is a child)</u> |
| <u>RCW 9A.36.080</u> | <u>Hate crime offense (if the victim is a child)</u> |
| <u>RCW 9A.32.055</u> | <u>Homicide by abuse (if the victim is a child)</u> |
| <u>RCW 9A.64.020</u> | <u>Incest in the first degree or second degree (if the victim is a child)</u> |
| <u>RCW 9A.88.010</u> | <u>Indecent exposure (if a felony and the victim is a child)</u> |
| <u>RCW 9A.44.100</u> | <u>Indecent liberties</u> |
| <u>RCW 9A.40.020</u> | <u>Kidnapping in the first degree</u> |
| <u>RCW 9A.40.030</u> | <u>Kidnapping in the second degree</u> |
| <u>RCW 9A.40.090</u> | <u>Luring (if the victim is a child)</u> |
| <u>RCW 9A.32.060</u> | <u>Manslaughter in the first degree (if the victim is a child)</u> |
| <u>RCW 9A.32.070</u> | <u>Manslaughter in the second degree (if the victim is a child)</u> |
| <u>RCW 9A.32.030</u> | <u>Murder in the first degree</u> |
| <u>RCW 9A.32.050</u> | <u>Murder in the second degree</u> |
| <u>RCW 9.68A.070</u> | <u>Possession of depictions of minor engaged in sexually explicit conduct in the first degree or second degree</u> |
| <u>RCW 9.68A.101</u> | <u>Promoting commercial sexual abuse of a minor</u> |
| <u>RCW 9.68.140</u> | <u>Promoting pornography (if the victim is a child)</u> |
| <u>RCW 9A.88.070</u> | <u>Promoting prostitution in the first degree (if the victim is a child)</u> |

| <u>Citation</u> | <u>Description</u> |
|----------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| <u>RCW 9.68A.102</u> | <u>Promoting travel for commercial sexual abuse of a minor</u> |
| <u>RCW 9A.44.040</u> | <u>Rape in the first degree</u> |
| <u>RCW 9A.44.050</u> | <u>Rape in the second degree</u> |
| <u>RCW 9A.44.060</u> | <u>Rape in the third degree</u> |
| <u>RCW 9A.44.073</u> | <u>Rape of a child in the first degree</u> |
| <u>RCW 9A.44.076</u> | <u>Rape of a child in the second degree</u> |
| <u>RCW 9A.44.079</u> | <u>Rape of a child in the third degree</u> |
| <u>RCW 9A.56.200</u> | <u>Robbery in the first degree (if the victim is a child)</u> |
| <u>RCW 9A.56.210</u> | <u>Robbery in the second degree (if the victim is a child)</u> |
| <u>RCW 9.68A.060</u> | <u>Sending, bringing into state depictions of minor engaged in sexually explicit conduct in the first degree or second degree</u> |
| <u>RCW 9.68A.040</u> | <u>Sexual exploitation of a minor</u> |
| <u>RCW 9A.44.093</u> | <u>Sexual misconduct with a minor in the first degree</u> |
| <u>RCW 9A.40.040</u> | <u>Unlawful imprisonment (if the victim is a child)</u> |
| <u>RCW 46.61.520</u> | <u>Vehicular homicide (if the victim is a child)</u> |

(3) Subject to the requirements described in this chapter, the department may disqualify a subject individual who has a conviction for a crime listed in this subsection.

| <u>Citation</u> | <u>Description</u> |
|----------------------|----------------------------------------------------------------------------------------------|
| <u>RCW 9A.42.060</u> | <u>Abandonment of a dependent person in the first degree (if the victim is not a child)</u> |
| <u>RCW 9A.42.070</u> | <u>Abandonment of a dependent person in the second degree (if the victim is not a child)</u> |
| <u>RCW 9A.42.080</u> | <u>Abandonment of a dependent person in the third degree</u> |
| <u>RCW 16.52.205</u> | <u>Animal cruelty in the first degree</u> |
| <u>RCW 16.52.207</u> | <u>Animal cruelty in the second degree</u> |
| <u>RCW 9A.36.031</u> | <u>Assault in the third degree (if no bodily harm)</u> |
| <u>RCW 9A.36.041</u> | <u>Assault in the fourth degree</u> |
| <u>RCW 9A.52.020</u> | <u>Burglary in the first degree (if a child or spouse is not assaulted)</u> |

| <u>Citation</u> | <u>Description</u> |
|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>RCW 9A.52.030</u> | <u>Burglary in the second degree</u> |
| <u>RCW 9A.36.070</u> | <u>Coercion</u> |
| <u>RCW 9.68A.090</u> | <u>Communication with minor for immoral purposes (if a gross misdemeanor)</u> |
| <u>RCW 69.50.415</u> | <u>Controlled substances homicide (if the victim is not a child)</u> |
| <u>RCW 9A.46.120</u> | <u>Criminal gang intimidation</u> |
| <u>RCW 9A.60.040</u> | <u>Criminal impersonation in the first degree</u> |
| <u>RCW 9A.42.020</u> | <u>Criminal mistreatment in the first degree (if the victim is not a child)</u> |
| <u>RCW 9A.42.030</u> | <u>Criminal mistreatment in the second degree (if the victim is not a child)</u> |
| <u>RCW 9A.42.035</u> | <u>Criminal mistreatment in the third degree</u> |
| <u>RCW 9A.42.037</u> | <u>Criminal mistreatment in the fourth degree</u> |
| <u>RCW 9.05.060</u> | <u>Criminal sabotage</u> |
| <u>RCW 9A.36.100</u> | <u>Custodial assault (if no bodily harm)</u> |
| <u>RCW 9A.40.060</u> | <u>Custodial interference in the first degree (if the victim is not a child)</u> |
| <u>RCW 9A.40.070</u> | <u>Custodial interference in the second degree (if the victim is not a child)</u> |
| <u>RCW 9A.44.160</u> | <u>Custodial sexual misconduct in the first degree (if the victim is not a child)</u> |
| <u>RCW 9A.44.170</u> | <u>Custodial sexual misconduct in the second degree</u> |
| <u>RCW 9.61.260</u> | <u>Cyberstalking</u> |
| <u>RCW 9A.36.045</u> | <u>Drive-by shooting (if the victim is not a child)</u> |
| <u>RCW 46.61.502</u> | <u>Driving under the influence of intoxicating liquor, marijuana, or any drug (if the conviction was for a felony or the conviction occurred within three years of the date of the subject individual's request for authorization)</u> |
| <u>RCW 46.52.020</u> | <u>Duty in case of personal injury or death or damage to attended vehicle or other property—Penalties (if a felony)</u> |

| <u>Citation</u> | <u>Description</u> |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>RCW 9A.42.100</u> | <u>Endangerment with a controlled substance (if the victim is not a child)</u> |
| <u>RCW 9A.56.120</u> | <u>Extortion in the first degree (if the victim is not a child)</u> |
| <u>RCW 9A.56.130</u> | <u>Extortion in the second degree (if the victim is not a child)</u> |
| <u>RCW 9A.44.132</u> | <u>Failure to register as sex offender or kidnapping offender</u> |
| <u>RCW 66.44.270</u> | <u>Furnishing liquor to minors (only if the subject individual sells, gives, or otherwise supplies liquor to a person under the age of twenty-one years; or permits any person under that age to consume liquor on the subject individual's property or on any property under the subject individual's control)</u> |
| <u>RCW 9A.46.020</u> | <u>Harassment</u> |
| <u>RCW 9A.36.080</u> | <u>Hate crime offense (if the victim is not a child)</u> |
| <u>RCW 9A.32.055</u> | <u>Homicide by abuse (if the victim is not a child)</u> |
| <u>RCW 79A.60.050</u> | <u>Homicide by watercraft</u> |
| <u>RCW 9.40.120</u> | <u>Incendiary devices</u> |
| <u>RCW 9A.64.020</u> | <u>Incest in the first degree or second degree (if the victim is not a child)</u> |
| <u>RCW 9A.88.010</u> | <u>Indecent exposure (if felony and victim is not a child, or if a misdemeanor)</u> |
| <u>RCW 9A.82.060</u> | <u>Leading organized crime</u> |
| <u>RCW 46.61.685</u> | <u>Leaving children unattended in standing vehicle with motor running</u> |
| <u>RCW 9.91.060</u> | <u>Leaving children unattended in parked automobile</u> |
| <u>RCW 9A.40.090</u> | <u>Luring (if the victim is not a child)</u> |
| <u>RCW 70.74.270</u> | <u>Malicious placement of an explosive in the first, second, or third degree</u> |
| <u>RCW 70.74.272</u> | <u>Malicious placement of an imitation device in the first degree or second degree</u> |
| <u>RCW 9A.32.060</u> | <u>Manslaughter in the first degree (if the victim is not a child)</u> |
| <u>RCW 9A.32.070</u> | <u>Manslaughter in the second degree (if the victim is not a child)</u> |

| <u>Citation</u> | <u>Description</u> |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>RCW 46.61.5249</u> | <u>Negligent driving in the first degree (if the conviction occurred within three years of the date of the subject individual's request for authorization)</u> |
| <u>RCW 46.61.504</u> | <u>Physical control of vehicle under the influence (if felony)</u> |
| <u>RCW 9.68.140</u> | <u>Promoting pornography (if the victim is not a child)</u> |
| <u>RCW 9A.88.070</u> | <u>Promoting prostitution in the first degree (if the victim is not a child)</u> |
| <u>RCW 9A.88.080</u> | <u>Promoting prostitution in the second degree</u> |
| <u>RCW 9A.36.060</u> | <u>Promoting a suicide attempt</u> |
| <u>RCW 9A.36.050</u> | <u>Reckless endangerment</u> |
| <u>RCW 9A.76.070</u> | <u>Rendering criminal assistance in the first degree</u> |
| <u>RCW 9A.52.025</u> | <u>Residential burglary</u> |
| <u>RCW 9A.56.200</u> | <u>Robbery in the first degree (if the victim is not a child)</u> |
| <u>RCW 9A.56.210</u> | <u>Robbery in the second degree (if the victim is not a child)</u> |
| <u>RCW 9A.44.096</u> | <u>Sexual misconduct with a minor in the second degree</u> |
| <u>RCW 9A.44.105</u> | <u>Sexually violating human remains</u> |
| <u>RCW 9A.46.110</u> | <u>Stalking</u> |
| <u>RCW 9.61.230</u> | <u>Telephone harassment (if felony)</u> |
| <u>RCW 9A.40.100</u> | <u>Trafficking in the first degree or second degree</u> |
| <u>RCW 13.32A.080</u> | <u>Unlawful harboring of a minor</u> |
| <u>RCW 9A.40.040</u> | <u>Unlawful imprisonment (if the victim is not a child)</u> |
| <u>RCW 69.53.010</u> | <u>Unlawful use of a building for drug abuse purposes</u> |
| <u>RCW 9.41.225</u> | <u>Use of machine gun or bump-fire stock in felony</u> |
| <u>RCW 46.61.522</u> | <u>Veicular assault</u> |
| <u>RCW 46.61.520</u> | <u>Veicular homicide (if the victim is not a child)</u> |
| <u>RCW 9.68A.075</u> | <u>Viewing depictions of minor engaged in sexually explicit conduct in the first or second degree</u> |
| <u>RCW 26.50.110</u> | <u>Violation of sexual assault protection order under chapter 7.90 RCW if a felony under RCW 26.50.110.</u> |

| <u>Citation</u> | <u>Description</u> |
|--------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>RCW 26.50.110</u> | <u>Violation of stalking no-contact order or stalking protection order under chapter 7.92 RCW if a felony under RCW 26.50.110.</u> |
| <u>RCW 26.50.110</u> | <u>Violation of human trafficking no-contact order under chapter 9A.40 if a felony under RCW 26.50.110.</u> |
| <u>RCW 26.50.110</u> | <u>Violation of an order restricting contact under RCW 9A.46.080.</u> |
| <u>RCW 26.50.110</u> | <u>Violation of promoting prostitution no-contact order under chapter 9A.88 RCW if a felony under RCW 26.50.110.</u> |
| <u>RCW 26.50.110</u> | <u>Violation of domestic violence no-contact order under chapter 10.99 RCW if a felony under RCW 26.50.110.</u> |
| <u>RCW 26.50.110</u> | <u>Violation of dissolution proceeding restraining order under chapter 26.09 RCW if a felony under RCW 26.50.110.</u> |
| <u>RCW 26.50.110</u> | <u>Violation of paternity proceeding restraining order under chapter 26.26A or 26.26B RCW if a felony under RCW 26.50.110.</u> |
| <u>RCW 26.50.110</u> | <u>Violation of a domestic violence order for protection under chapter 26.50 RCW if a felony under RCW 26.50.110.</u> |
| <u>RCW 26.50.110</u> | <u>Violation of an order for protection of a vulnerable adult under chapter 74.34 RCW if a felony under RCW 26.50.110.</u> |
| <u>RCW 10.14.170</u> | <u>Violation of civil antiharassment protection order</u> |
| <u>RCW 69.52.030</u> | <u>Violation of the Uniform Controlled Substances Act (manufacture, distribute, or possess with intent to distribute)</u> |
| <u>Chapter 69.50 RCW (Article IV Offenses and penalties)</u> | <u>Except for controlled substance homicide if the child is a victim (RCW 69.50.415), any violation of the Uniform Controlled Substances Act</u> |

| <u>Citation</u> | <u>Description</u> |
|----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>RCW 69.41.020</u> | <u>The unlawful obtaining or attempting to obtain a legend drug, or procure or attempt to procure the administration of a legend drug</u> |
| <u>RCW 69.41.030</u> | <u>Sale or delivery of legend drug without prescription or order</u> |
| <u>RCW 69.43.070</u> | <u>Sale, transfer, or furnishing of any substance listed in RCW 69.43.010 with knowledge or intent the recipient will use the substance to unlawfully manufacture a controlled substance; or the receipt of any substance listed in RCW 69.43.010 with intent to use the substance unlawfully to manufacture a controlled substance.</u> |
| <u>RCW 9A.44.115</u> | <u>Voyeurism</u> |
| <u>RCW 69.41.030</u> | <u>Sale or delivery of legend drug without prescription or order</u> |

(4) Subject to the requirements described in this chapter, the department may disqualify a subject individual who has a background that includes any negative action that is based on the conduct described in this subsection.

(a) The abuse, neglect, exploitation, or abandonment of a vulnerable, child, or juvenile.

(b) The suspension, termination, revocation, denial, or restriction of a license, professional license, or certification.

(c) The suspension, termination, or revocation of a state or federal contract.

(d) The relinquishment of a license, certification, or contract in lieu of an agency negative action.

(5) Under 42 U.S.C. § 9858F (C)(1)(B) a subject individual must be disqualified and not authorized for employment at a licensed or certified child care facility, if the subject individual knowingly makes a materially false statement in connection with their criminal background check.

(6) Under 42 U.S.C. § 9858F (C)(1)(C) a subject individual must be disqualified and not authorized for employment at a licensed or certified child care facility, if the subject individual is registered, or is required to be registered, on a state sex offender registry or repository or the National Sex Offender Registry established under the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901 et seq.)

[Statutory Authority: RCW 43.216.055, 43.216.065, chapter 43.216 RCW and 42 U.S.C. 9858 et seq.; 45 C.F.R. Part 98. WSR 19-01-111, § 110-06-0120, filed 12/18/18, effective 1/18/19. WSR 18-14-078, recodified as § 110-06-0120, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.070 and chapter 43.215 RCW. WSR 15-24-040, § 170-06-0120, filed 11/20/15, effective 1/1/16. Statutory Authority:

RCW 43.215.060, 43.215.070 and chapter 43.215 RCW. WSR 14-13-002, § 170-06-0120, filed 6/4/14, effective 7/5/14. Statutory Authority: RCW 43.215.200, 43.215.205, 43.215.215 through 43.215.218, 43.43.830, 43.43.832, chapter 43.215 and 43.43 RCW, and 2011 c 295. WSR 12-12-040, § 170-06-0120, filed 5/30/12, effective 7/1/12. Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. WSR 08-10-041, § 170-06-0120, filed 4/30/08, effective 5/31/08.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.