

SSB 5899 - H COMM AMD

By Committee on Criminal Justice & Corrections

ADOPTED AS AMENDED 04/13/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 43.43.830 and 2003 c 105 s 5 are each amended to read
4 as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout RCW 43.43.830 through ~~((43.43.840))~~
7 43.43.845.

8 (1) "Applicant" means:

9 (a) Any prospective employee who will or may have unsupervised
10 access to children under sixteen years of age or developmentally
11 disabled persons or vulnerable adults during the course of his or her
12 employment or involvement with the business or organization;

13 (b) Any prospective volunteer who will have regularly scheduled
14 unsupervised access to children under sixteen years of age,
15 developmentally disabled persons, or vulnerable adults during the
16 course of his or her employment or involvement with the business or
17 organization under circumstances where such access will or may involve
18 groups of (i) five or fewer children under twelve years of age, (ii)
19 three or fewer children between twelve and sixteen years of age, (iii)
20 developmentally disabled persons, or (iv) vulnerable adults;

21 (c) Any prospective adoptive parent, as defined in RCW 26.33.020;
22 or

23 (d) Any prospective custodian in a nonparental custody proceeding
24 under chapter 26.10 RCW.

25 (2) "Business or organization" means a business or organization
26 licensed in this state, any agency of the state, or other governmental
27 entity, that educates, trains, treats, supervises, houses, or provides
28 recreation to developmentally disabled persons, vulnerable adults, or
29 children under sixteen years of age, including but not limited to

1 public housing authorities, school districts, and educational service
2 districts.

3 (3) "Civil adjudication proceeding" (~~((means a specific court~~
4 ~~finding of sexual abuse or exploitation or physical abuse in a~~
5 ~~dependency action under RCW 13.34.040 or in a domestic relations action~~
6 ~~under Title 26 RCW. In the case of vulnerable adults, civil~~
7 ~~adjudication means a specific court finding of abuse or financial~~
8 ~~exploitation in a protection proceeding under chapter 74.34 RCW. It~~
9 ~~does not include administrative proceedings. The term "civil~~
10 ~~adjudication" is further limited to court findings that identify as the~~
11 ~~perpetrator of the abuse a named individual, over the age of eighteen~~
12 ~~years, who was a party to the dependency or dissolution proceeding or~~
13 ~~was a respondent in a protection proceeding in which the finding was~~
14 ~~made and who contested the allegation of abuse or exploitation)) is a~~
15 ~~judicial or administrative adjudicative proceeding that results in a~~
16 ~~finding of, or upholds an agency finding of, domestic violence, abuse,~~
17 ~~sexual abuse, neglect, or exploitation or financial exploitation of a~~
18 ~~child or vulnerable adult under chapter 13.34, 26.44, or 74.34 RCW, or~~
19 ~~rules adopted under chapters 18.51 and 74.42 RCW. "Civil adjudication~~
20 ~~proceeding" also includes judicial or administrative orders that become~~
21 ~~final due to the failure of the alleged perpetrator to timely exercise~~
22 ~~a right afforded to him or her to administratively challenge findings~~
23 ~~made by the department of social and health services or the department~~
24 ~~of health under chapter 13.34, 26.44, or 74.34 RCW, or rules adopted~~
25 ~~under chapters 18.51 and 74.42 RCW.~~

26 (4) "Conviction record" means "conviction record" information as
27 defined in RCW 10.97.030(~~(+3))~~) and 10.97.050 relating to a crime
28 (~~(against children or other persons)~~) committed by either an adult or
29 a juvenile. It does not include a conviction for an offense that has
30 been the subject of an expungement, pardon, annulment, certificate of
31 rehabilitation, or other equivalent procedure based on a finding of the
32 rehabilitation of the person convicted, or a conviction that has been
33 the subject of a pardon, annulment, or other equivalent procedure based
34 on a finding of innocence. It does include convictions for offenses
35 for which the defendant received a deferred or suspended sentence,
36 unless the record has been expunged according to law.

37 (5) "Crime against children or other persons" means a conviction of
38 any of the following offenses: Aggravated murder; first or second

1 degree murder; first or second degree kidnaping; first, second, or
2 third degree assault; first, second, or third degree assault of a
3 child; first, second, or third degree rape; first, second, or third
4 degree rape of a child; first or second degree robbery; first degree
5 arson; first degree burglary; first or second degree manslaughter;
6 first or second degree extortion; indecent liberties; incest; vehicular
7 homicide; first degree promoting prostitution; communication with a
8 minor; unlawful imprisonment; simple assault; sexual exploitation of
9 minors; first or second degree criminal mistreatment; endangerment with
10 a controlled substance; child abuse or neglect as defined in RCW
11 26.44.020; first or second degree custodial interference; first or
12 second degree custodial sexual misconduct; malicious harassment; first,
13 second, or third degree child molestation; first or second degree
14 sexual misconduct with a minor; patronizing a juvenile prostitute;
15 child abandonment; promoting pornography; selling or distributing
16 erotic material to a minor; custodial assault; violation of child abuse
17 restraining order; child buying or selling; prostitution; felony
18 indecent exposure; criminal abandonment; or any of these crimes as they
19 may be renamed in the future.

20 (6) "Crimes relating to drugs" means a conviction of a crime to
21 manufacture, delivery, or possession with intent to manufacture or
22 deliver a controlled substance.

23 (7) "Crimes relating to financial exploitation" means a conviction
24 for first, second, or third degree extortion; first, second, or third
25 degree theft; first or second degree robbery; forgery; or any of these
26 crimes as they may be renamed in the future.

27 (8) (~~"Disciplinary board final decision" means any final decision~~
28 ~~issued by a disciplining authority under chapter 18.130 RCW or the~~
29 ~~secretary of the department of health for the following businesses or~~
30 ~~professions:~~

31 ~~(a) Chiropractic;~~

32 ~~(b) Dentistry;~~

33 ~~(c) Dental hygiene;~~

34 ~~(d) Massage;~~

35 ~~(e) Midwifery;~~

36 ~~(f) Naturopathy;~~

37 ~~(g) Osteopathic medicine and surgery;~~

38 ~~(h) Physical therapy;~~

- 1 ~~(i) Physicians;~~
- 2 ~~(j) Practical nursing;~~
- 3 ~~(k) Registered nursing; and~~
- 4 ~~(l) Psychology.~~

5 ~~"Disciplinary board final decision," for real estate brokers and~~
6 ~~salespersons, means any final decision issued by the director of the~~
7 ~~department of licensing for real estate brokers and salespersons.~~

8 ~~(9))~~) "Unsupervised" means not in the presence of:

9 (a) Another employee or volunteer from the same business or
10 organization as the applicant; or

11 (b) Any relative or guardian of any of the children or
12 developmentally disabled persons or vulnerable adults to which the
13 applicant has access during the course of his or her employment or
14 involvement with the business or organization.

15 ~~((10))~~) (9) "Vulnerable adult" means "vulnerable adult" as defined
16 in chapter 74.34 RCW, except that for the purposes of requesting and
17 receiving background checks pursuant to RCW 43.43.832, it shall also
18 include adults of any age who lack the functional, mental, or physical
19 ability to care for themselves.

20 ~~((11))~~) (10) "Financial exploitation" means ~~((the illegal or~~
21 ~~improper use of a vulnerable adult or that adult's resources for~~
22 ~~another person's profit or advantage))~~ "financial exploitation" as
23 defined in RCW 74.34.020.

24 ~~((12))~~) (11) "Agency" means any person, firm, partnership,
25 association, corporation, or facility which receives, provides services
26 to, houses or otherwise cares for vulnerable adults.

27 **Sec. 2.** RCW 43.43.832 and 2000 c 87 s 1 are each amended to read
28 as follows:

29 (1) The legislature finds that businesses and organizations
30 providing services to children, developmentally disabled persons, and
31 vulnerable adults need adequate information to determine which
32 employees or licensees to hire or engage. The legislature further
33 finds that many developmentally disabled individuals and vulnerable
34 adults desire to hire their own employees directly and also need
35 adequate information to determine which employees or licensees to hire
36 or engage. Therefore, the Washington state patrol ~~((criminal))~~
37 identification ~~((system))~~ and criminal history section shall disclose,

1 upon the request of a business or organization as defined in RCW
2 43.43.830, a developmentally disabled person, or a vulnerable adult as
3 defined in RCW 43.43.830 or his or her guardian, an applicant's record
4 for convictions (~~(of offenses against children or other persons,~~
5 ~~convictions for crimes relating to financial exploitation, but only if~~
6 ~~the victim was a vulnerable adult, adjudications of child abuse in a~~
7 ~~civil action, the issuance of a protection order against the respondent~~
8 ~~under chapter 74.34 RCW, and disciplinary board final decisions and any~~
9 ~~subsequent criminal charges associated with the conduct that is the~~
10 ~~subject of the disciplinary board final decision)) as defined in
11 chapter 10.97 RCW.~~

12 (2) The legislature also finds that the state board of education
13 may request of the Washington state patrol criminal identification
14 system information regarding a certificate applicant's record for
15 convictions under subsection (1) of this section.

16 (3) The legislature also finds that law enforcement agencies, the
17 office of the attorney general, prosecuting authorities, and the
18 department of social and health services may request this same
19 information to aid in the investigation and prosecution of child,
20 developmentally disabled person, and vulnerable adult abuse cases and
21 to protect children and adults from further incidents of abuse.

22 (4) The legislature further finds that the secretary of the
23 department of social and health services must ((consider)) establish
24 rules and set standards to require specific action when considering the
25 information listed in subsection (1) of this section, and when
26 considering additional information including but not limited to civil
27 adjudication proceedings as defined in RCW 43.43.830 and any out-of-
28 state equivalent, in the following circumstances:

29 (a) When considering persons for state employment in positions
30 directly responsible for the supervision, care, or treatment of
31 children, vulnerable adults, or individuals with mental illness or
32 developmental disabilities;

33 (b) When considering persons for state positions involving
34 unsupervised access to vulnerable adults to conduct comprehensive
35 assessments, financial eligibility determinations, licensing and
36 certification activities, investigations, surveys, or case management;
37 or for state positions otherwise required by federal law to meet
38 employment standards;

1 (c) When licensing agencies or facilities with individuals in
2 positions directly responsible for the care, supervision, or treatment
3 of children, developmentally disabled persons, or vulnerable adults,
4 including but not limited to agencies or facilities licensed under
5 chapter 74.15 or 18.51 RCW;

6 (d) When contracting with individuals or businesses or
7 organizations for the care, supervision, case management, or treatment
8 of children, developmentally disabled persons, or vulnerable adults,
9 including but not limited to services contracted for under chapter
10 18.20, 18.48, 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A RCW;

11 (e) When individual providers are paid by the state or providers
12 are paid by home care agencies to provide in-home services involving
13 unsupervised access to persons with physical, mental, or developmental
14 disabilities or mental illness, or to vulnerable adults as defined in
15 chapter 74.34 RCW, including but not limited to services provided under
16 chapter 74.39 or 74.39A RCW.

17 (5) Whenever a state conviction record check is required by state
18 law, persons may be employed or engaged as volunteers or independent
19 contractors on a conditional basis pending completion of the state
20 background investigation. Whenever a national criminal record check
21 through the federal bureau of investigation is required by state law,
22 a person may be employed or engaged as a volunteer or independent
23 contractor on a conditional basis pending completion of the national
24 check. The Washington personnel resources board shall adopt rules to
25 accomplish the purposes of this subsection as it applies to state
26 employees.

27 (6)(a) For purposes of facilitating timely access to criminal
28 background information and to reasonably minimize the number of
29 requests made under this section, recognizing that certain health care
30 providers change employment frequently, health care facilities may,
31 upon request from another health care facility, share copies of
32 completed criminal background inquiry information.

33 (b) Completed criminal background inquiry information may be shared
34 by a willing health care facility only if the following conditions are
35 satisfied: The licensed health care facility sharing the criminal
36 background inquiry information is reasonably known to be the person's
37 most recent employer, no more than twelve months has elapsed from the

1 date the person was last employed at a licensed health care facility to
2 the date of their current employment application, and the criminal
3 background information is no more than two years old.

4 (c) If criminal background inquiry information is shared, the
5 health care facility employing the subject of the inquiry must require
6 the applicant to sign a disclosure statement indicating that there has
7 been no conviction or finding as described in RCW 43.43.842 since the
8 completion date of the most recent criminal background inquiry.

9 (d) Any health care facility that knows or has reason to believe
10 that an applicant has or may have a disqualifying conviction or finding
11 as described in RCW 43.43.842, subsequent to the completion date of
12 their most recent criminal background inquiry, shall be prohibited from
13 relying on the applicant's previous employer's criminal background
14 inquiry information. A new criminal background inquiry shall be
15 requested pursuant to RCW 43.43.830 through 43.43.842.

16 (e) Health care facilities that share criminal background inquiry
17 information shall be immune from any claim of defamation, invasion of
18 privacy, negligence, or any other claim in connection with any
19 dissemination of this information in accordance with this subsection.

20 (f) Health care facilities shall transmit and receive the criminal
21 background inquiry information in a manner that reasonably protects the
22 subject's rights to privacy and confidentiality.

23 (g) For the purposes of this subsection, "health care facility"
24 means a nursing home licensed under chapter 18.51 RCW, a boarding home
25 licensed under chapter 18.20 RCW, or an adult family home licensed
26 under chapter 70.128 RCW.

27 (7) If a federal bureau of investigation check is required in
28 addition to the state background check by the department of social and
29 health services, an applicant who is not disqualified based on the
30 results of the state background check shall be eligible for a one
31 hundred twenty day provisional approval to hire, pending the outcome of
32 the federal bureau of investigation check. The department may extend
33 the provisional approval until receipt of the federal bureau of
34 investigation check. If the federal bureau of investigation check
35 disqualifies an applicant, the department shall notify the requestor
36 that the provisional approval to hire is withdrawn and the applicant
37 may be terminated.

1 **Sec. 3.** RCW 43.43.834 and 1999 c 21 s 2 are each amended to read
2 as follows:

3 (1) A business or organization shall not make an inquiry to the
4 Washington state patrol under RCW 43.43.832 or an equivalent inquiry to
5 a federal law enforcement agency unless the business or organization
6 has notified the applicant who ~~((has been))~~ may be offered a position
7 as an employee or volunteer, that an inquiry may be made.

8 (2) A business or organization shall require each applicant to
9 disclose to the business or organization whether the applicant ~~((has
10 been))~~:

11 (a) Has been convicted of ((any)) a crime ((against children or
12 other persons));

13 (b) ~~((Convicted of crimes relating to financial exploitation if the
14 victim was a vulnerable adult))~~ Has had findings made against him or
15 her in any civil adjudicative proceeding as defined in RCW 43.43.830;
16 or

17 (c) ~~((Convicted of crimes related to drugs as defined in RCW
18 43.43.830;~~

19 ~~(d) Found in any dependency action under RCW 13.34.040 to have
20 sexually assaulted or exploited any minor or to have physically abused
21 any minor;~~

22 ~~(e) Found by a court in a domestic relations proceeding under Title
23 26 RCW to have sexually abused or exploited any minor or to have
24 physically abused any minor;~~

25 ~~(f) Found in any disciplinary board final decision to have sexually
26 or physically abused or exploited any minor or developmentally disabled
27 person or to have abused or financially exploited any vulnerable adult;~~
28 or

29 ~~(g) Found by a court in a protection proceeding under chapter 74.34
30 RCW, to have abused or financially exploited a vulnerable adult.~~

31 ~~The disclosure shall be made in writing and signed by the applicant
32 and sworn under penalty of perjury. The disclosure sheet shall specify
33 all crimes against children or other persons and all crimes relating to
34 financial exploitation as defined in RCW 43.43.830 in which the victim
35 was a vulnerable adult))~~ Has both a conviction under (a) of this
36 subsection and findings made against him or her under (b) of this
37 subsection.

1 (3) The business or organization shall pay such reasonable fee for
2 the records check as the state patrol may require under RCW 43.43.838.

3 (4) The business or organization shall notify the applicant of the
4 state patrol's response within ten days after receipt by the business
5 or organization. The employer shall provide a copy of the response to
6 the applicant and shall notify the applicant of such availability.

7 (5) The business or organization shall use this record only in
8 making the initial employment or engagement decision. Further
9 dissemination or use of the record is prohibited, except as provided in
10 RCW 28A.320.155. A business or organization violating this subsection
11 is subject to a civil action for damages.

12 (6) An insurance company shall not require a business or
13 organization to request background information on any employee before
14 issuing a policy of insurance.

15 (7) The business and organization shall be immune from civil
16 liability for failure to request background information on an applicant
17 unless the failure to do so constitutes gross negligence.

18 **Sec. 4.** RCW 43.43.836 and 1987 c 486 s 4 are each amended to read
19 as follows:

20 An individual may contact the state patrol to ascertain whether
21 ~~((that same))~~ an individual has a ~~((civil adjudication, disciplinary
22 board final decision, or))~~ conviction record. The state patrol shall
23 disclose such information, subject to the fee established under RCW
24 43.43.838.

25 **Sec. 5.** RCW 43.43.838 and 1995 c 29 s 1 are each amended to read
26 as follows:

27 (1) After January 1, 1988, and notwithstanding any provision of RCW
28 43.43.700 through 43.43.810 to the contrary, the state patrol shall
29 furnish a transcript of the conviction record ~~((, disciplinary board
30 final decision and any subsequent criminal charges associated with the
31 conduct that is the subject of the disciplinary board final decision,
32 or civil adjudication record))~~ pertaining to any person for whom the
33 state patrol or the federal bureau of investigation has a record upon
34 the written request of:

35 (a) The subject of the inquiry;

1 (b) Any business or organization for the purpose of conducting
2 evaluations under RCW 43.43.832;

3 (c) The department of social and health services;

4 (d) Any law enforcement agency, prosecuting authority, or the
5 office of the attorney general; or

6 (e) The department of social and health services for the purpose of
7 meeting responsibilities set forth in chapter 74.15, 18.51, 18.20, or
8 72.23 RCW, or any later-enacted statute which purpose is to regulate or
9 license a facility which handles vulnerable adults. However, access to
10 conviction records pursuant to this subsection (1)(e) does not limit or
11 restrict the ability of the department to obtain additional information
12 regarding conviction records and pending charges as set forth in RCW
13 74.15.030(2)(b).

14 (~~After processing the request, if the conviction record,
15 disciplinary board final decision and any subsequent criminal charges
16 associated with the conduct that is the subject of the disciplinary
17 board final decision, or adjudication record shows no evidence of a
18 crime against children or other persons or, in the case of vulnerable
19 adults, no evidence of crimes relating to financial exploitation in
20 which the victim was a vulnerable adult, an identification declaring
21 the showing of no evidence shall be issued to the business or
22 organization by the state patrol and shall be issued within fourteen
23 working days of the request. The business or organization shall
24 provide a copy of the identification declaring the showing of no
25 evidence to the applicant. Possession of such identification shall
26 satisfy future record check requirements for the applicant for a two-
27 year period unless the prospective employee is any current school
28 district employee who has applied for a position in another school
29 district.))~~

30 (2) The state patrol shall by rule establish fees for disseminating
31 records under this section to recipients identified in subsection
32 (1)(a) and (b) of this section. The state patrol shall also by rule
33 establish fees for disseminating records in the custody of the national
34 crime information center. The revenue from the fees shall cover, as
35 nearly as practicable, the direct and indirect costs to the state
36 patrol of disseminating the records(~~(+ PROVIDED, That)~~). No fee shall
37 be charged to a nonprofit organization for the records check(~~(+
38 PROVIDED FURTHER, That)~~). In the case of record checks using

1 fingerprints requested by school districts and educational service
2 districts, the state patrol shall charge only for the incremental costs
3 associated with checking fingerprints in addition to name and date of
4 birth. Record checks requested by school districts and educational
5 service districts using only name and date of birth shall continue to
6 be provided free of charge.

7 (3) No employee of the state, employee of a business or
8 organization, or the business or organization is liable for defamation,
9 invasion of privacy, negligence, or any other claim in connection with
10 any lawful dissemination of information under RCW 43.43.830 through
11 43.43.840 or 43.43.760.

12 (4) Before July 26, 1987, the state patrol shall adopt rules and
13 forms to implement this section and to provide for security and privacy
14 of information disseminated under this section, giving first priority
15 to the criminal justice requirements of this chapter. The rules may
16 include requirements for users, audits of users, and other procedures
17 to prevent use of civil adjudication record information or criminal
18 history record information inconsistent with this chapter.

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

23 **Sec. 6.** RCW 43.43.840 and 1997 c 386 s 40 are each amended to read
24 as follows:

25 ~~((1) The supreme court shall by rule require the courts of the~~
26 ~~state to notify the state patrol of any dependency action under RCW~~
27 ~~13.34.040, domestic relations action under Title 26 RCW, or protection~~
28 ~~action under chapter 74.34 RCW, in which the court makes specific~~
29 ~~findings of physical abuse or sexual abuse or exploitation of a child~~
30 ~~or abuse or financial exploitation of a vulnerable adult.~~

31 ~~(2) The department of licensing shall notify the state patrol of~~
32 ~~any disciplinary board final decision that includes specific findings~~
33 ~~of physical abuse or sexual abuse or exploitation of a child or abuse~~
34 ~~or financial exploitation of a vulnerable adult.~~

35 ~~(3))~~ When a business or an organization terminates, fires,
36 dismisses, fails to renew the contract, or permits the resignation of
37 an employee because of crimes against children or other persons or

1 because of crimes relating to the financial exploitation of a
2 vulnerable adult, and if that employee is employed in a position
3 requiring a certificate or license issued by a licensing agency such as
4 the state board of education, the business or organization shall notify
5 the licensing agency of such termination of employment.

6 **Sec. 7.** RCW 43.43.845 and 1990 c 33 s 577 are each amended to read
7 as follows:

8 (1) Upon a guilty plea or conviction of a person of any felony
9 crime involving the physical neglect of a child under chapter 9A.42
10 RCW, the physical injury or death of a child under chapter 9A.32 or
11 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW),
12 sexual exploitation of a child under chapter 9.68A RCW, sexual offenses
13 under chapter 9A.44 RCW where a minor is the victim, promoting
14 prostitution of a minor under chapter 9A.88 RCW, or the sale or
15 purchase of a minor child under RCW 9A.64.030, (~~the prosecuting~~
16 ~~attorney shall determine whether the person holds a certificate or~~
17 ~~permit issued under chapters 28A.405 and 28A.410 RCW or is employed by~~
18 ~~a school district. If the person is employed by a school district or~~
19 ~~holds a certificate or permit issued under chapters 28A.405 and 28A.410~~
20 ~~RCW,~~) the prosecuting attorney shall notify the state patrol of such
21 guilty pleas or convictions.

22 (2) When the state patrol receives information that a person (~~who~~
23 ~~has a certificate or permit issued under chapters 28A.405 and 28A.410~~
24 ~~RCW or is employed by a school district~~) has pled guilty to or been
25 convicted of one of the felony crimes under subsection (1) of this
26 section, the state patrol shall (~~immediately~~) transmit that
27 information to the superintendent of public instruction. It shall be
28 the duty of the superintendent of public instruction to identify
29 whether the person holds a certificate or permit issued under chapters
30 28A.405 and 28A.410 RCW or is employed by a school district, and
31 provide this information to the state board of education and the school
32 district employing the individual who pled guilty or was convicted of
33 the crimes identified in subsection (1) of this section.

34 NEW SECTION. **Sec. 8.** RCW 43.43.835 (Background checks--Drug-
35 related conviction information) and 1998 c 10 s 2 are each repealed.

1 **Sec. 9.** RCW 10.97.050 and 1990 c 3 s 129 are each amended to read
2 as follows:

3 (1) Conviction records may be disseminated without restriction.

4 (2) Any criminal history record information which pertains to an
5 incident that occurred within the last twelve months for which a person
6 is currently being processed by the criminal justice system, including
7 the entire period of correctional supervision extending through final
8 discharge from parole, when applicable, may be disseminated without
9 restriction with the exception of a record being disseminated in
10 response to a request for a conviction record under RCW 43.43.832. A
11 request for a conviction record under RCW 43.43.832 shall not contain
12 information for a person who, within the last twelve months, is
13 currently being processed by the criminal justice system unless it
14 pertains to information relating to a crime against a person as defined
15 in RCW 9.94A.411.

16 (3) Criminal history record information which includes
17 nonconviction data may be disseminated by a criminal justice agency to
18 another criminal justice agency for any purpose associated with the
19 administration of criminal justice, or in connection with the
20 employment of the subject of the record by a criminal justice or
21 juvenile justice agency. A criminal justice agency may respond to any
22 inquiry from another criminal justice agency without any obligation to
23 ascertain the purpose for which the information is to be used by the
24 agency making the inquiry.

25 (4) Criminal history record information which includes
26 nonconviction data may be disseminated by a criminal justice agency to
27 implement a statute, ordinance, executive order, or a court rule,
28 decision, or order which expressly refers to records of arrest,
29 charges, or allegations of criminal conduct or other nonconviction data
30 and authorizes or directs that it be available or accessible for a
31 specific purpose.

32 (5) Criminal history record information which includes
33 nonconviction data may be disseminated to individuals and agencies
34 pursuant to a contract with a criminal justice agency to provide
35 services related to the administration of criminal justice. Such
36 contract must specifically authorize access to criminal history record
37 information, but need not specifically state that access to
38 nonconviction data is included. The agreement must limit the use of

1 the criminal history record information to stated purposes and insure
2 the confidentiality and security of the information consistent with
3 state law and any applicable federal statutes and regulations.

4 (6) Criminal history record information which includes
5 nonconviction data may be disseminated to individuals and agencies for
6 the express purpose of research, evaluative, or statistical activities
7 pursuant to an agreement with a criminal justice agency. Such
8 agreement must authorize the access to nonconviction data, limit the
9 use of that information which identifies specific individuals to
10 research, evaluative, or statistical purposes, and contain provisions
11 giving notice to the person or organization to which the records are
12 disseminated that the use of information obtained therefrom and further
13 dissemination of such information are subject to the provisions of this
14 chapter and applicable federal statutes and regulations, which shall be
15 cited with express reference to the penalties provided for a violation
16 thereof.

17 (7) Every criminal justice agency that maintains and disseminates
18 criminal history record information must maintain information
19 pertaining to every dissemination of criminal history record
20 information except a dissemination to the effect that the agency has no
21 record concerning an individual. Information pertaining to
22 disseminations shall include:

23 (a) An indication of to whom (agency or person) criminal history
24 record information was disseminated;

25 (b) The date on which the information was disseminated;

26 (c) The individual to whom the information relates; and

27 (d) A brief description of the information disseminated.

28 The information pertaining to dissemination required to be
29 maintained shall be retained for a period of not less than one year.

30 (8) In addition to the other provisions in this section allowing
31 dissemination of criminal history record information, RCW 4.24.550
32 governs dissemination of information concerning offenders who commit
33 sex offenses as defined by RCW 9.94A.030. Criminal justice agencies,
34 their employees, and officials shall be immune from civil liability for
35 dissemination on criminal history record information concerning sex
36 offenders as provided in RCW 4.24.550.

1 NEW SECTION. **Sec. 10.** A new section is added to chapter 43.43 RCW
2 to read as follows:

3 When the Washington state patrol disseminates conviction record
4 information in response to a request under RCW 43.43.832, it shall
5 clearly state that: (1) The conviction record data does not include
6 information on civil adjudications, administrative findings, or
7 disciplinary board final decisions and that all such information must
8 be obtained from the courts and licensing agencies; (2) the conviction
9 record that is being disseminated includes information for which a
10 person is currently being processed by the criminal justice system
11 relating to only crimes against a person as defined in RCW 9.94A.411
12 and that it does not include any other current or pending charge
13 information for which a person could be in the current process of being
14 processed by the criminal justice system; and (3) an arrest is not a
15 conviction or a finding of guilt."

16 Correct the title.

EFFECT: Under the original bill, if a business or organization
(that provides services to persons with a developmental disability,
vulnerable adults, persons with a mental illness, or children under 16
years of age) requests a criminal background check on an employee or
volunteer, the WSP was required to disseminate all criminal conviction
data with the exception of pending charges of a person who is currently
being processed by the criminal justice system. The amendment restores
that language to current law and organizations will be able to continue
to receive background check records that contain pending charges of an
individual.

 Under current law, when a person pleads guilty to certain offenses,
the prosecuting attorney must determine whether the defendant holds a
teaching certificate or is employed by a school. If the person is
employed by a school then the prosecutor must notify the WSP and then
WSP notifies OSPI, who in turn notifies the Board of Education. The
original bill as drafted, would require the prosecuting attorney to
notify OSPI directly (taking the WSP out of the loop) if a person
employed by a school district pleads guilty to certain offenses. The
amendment no longer requires the prosecuting attorney to determine
whether the defendant has a teaching certificate or is employed by a
school. The difference is that now the OSPI must determine whether the
defendant has a teaching certificate or is employed by a school
(instead of the prosecutor's office). As provided in current statute,
the prosecutor will continue to notify the WSP when a person is being
convicted of certain crimes and then the WSP will continue to notify
OSPI who will in turn notify the Board of Education.

The striker makes other clarifications.

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