
ENGROSSED SUBSTITUTE HOUSE BILL 1553

State of Washington

64th Legislature

2015 Regular Session

By House Public Safety (originally sponsored by Representatives Walkinshaw, MacEwen, Ryu, Appleton, Moscoso, Holy, Gregerson, Zeiger, Peterson, Farrell, Walsh, Reykdal, Orwall, Pettigrew, Tharinger, Fitzgibbon, and Kagi)

READ FIRST TIME 02/10/15.

1 AN ACT Relating to certificates of restoration of opportunity;
2 amending RCW 7.60.035, 9.92.120, 10.97.030, 14.20.090, 18.04.295,
3 9.96A.020, 9.96A.050, 18.11.160, 18.20.125, 18.39.410, 18.44.241,
4 18.44.311, 18.52.071, 43.43.842, 18.64.165, 18.88B.080, 18.108.085,
5 18.130.055, 18.235.110, 18.145.120, 9.94A.030, 18.160.080,
6 18.165.030, 18.170.030, 18.185.020, 18.185.250, 18.130.160, and
7 43.20A.710; reenacting and amending RCW 18.130.050; adding a new
8 chapter to Title 9 RCW; and creating new sections.

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

10 NEW SECTION. **Sec. 1.** The legislature finds that employment is a
11 key factor to the successful reintegration to society of people with
12 criminal histories, and is critical to reducing recidivism, promoting
13 public safety, and encouraging personal responsibility.

14 Occupational licensing and employment laws regulate many
15 professions as well as unskilled and semiskilled
16 occupations. Examples of regulated occupations include alcohol
17 servers, barbers and cosmetologists, body piercers, commercial
18 fishers, contractors, drivers, embalmers, engineers, health care
19 workers, insurance adjusters, real estate professionals, tattoo
20 artists, and waste management workers. Individuals with criminal
21 histories may meet the competency requirements for these occupations

1 through training, experience, or education, but may be disqualified
2 from them based on their criminal history.

3 Certificates of restoration of opportunity help reduce some
4 barriers to employment for adults and juveniles by providing an
5 opportunity for individuals to become more employable and to more
6 successfully reintegrate into society after they have served their
7 sentence, demonstrated a period of law-abiding behavior consistent
8 with successful reentry, and have turned their lives around following
9 a conviction. Applicants for a certificate must also meet all other
10 statutory licensing requirements.

11 Certificates of restoration of opportunity offer potential public
12 and private employers or housing providers concrete and objective
13 information about an individual under consideration for an
14 opportunity. These certificates can facilitate the successful
15 societal reintegration of individuals with a criminal history whose
16 behavior demonstrates that they are taking responsibility for their
17 past criminal conduct and pursuing a positive law-abiding future. A
18 certificate of restoration of opportunity provides a process for
19 people previously sentenced by a Washington court who have
20 successfully changed their lives to seek a court document confirming
21 their changed circumstances.

22 A certificate of restoration of opportunity does not affect any
23 employer's or housing provider's discretion to individually assess
24 every applicant and to hire or rent to the applicants of their
25 choice. Employers will not have to forego hiring their chosen
26 applicants because they face statutory bars that prevent obtaining
27 the necessary occupational credentials.

28 NEW SECTION. **Sec. 2.** The definitions in this section apply
29 throughout this chapter unless the context clearly requires
30 otherwise.

31 (1) "Qualified applicant" means any adult or juvenile who meets
32 the following requirements:

33 (a)(i) One year has passed from sentencing for those sentenced by
34 a Washington state court to probation, or receiving a deferred
35 sentence or other noncustodial sentencing for a misdemeanor or gross
36 misdemeanor offense or an equivalent juvenile adjudication; or

37 (ii) Eighteen months have passed from release from total or
38 partial confinement from a Washington prison or jail or juvenile
39 facility for those sentenced by a Washington state court to

1 incarceration for a misdemeanor or gross misdemeanor or an equivalent
2 juvenile adjudication; or

3 (iii) Two years have passed from sentencing for those sentenced
4 by a Washington state court to probation, or receiving a deferred
5 sentence or other noncustodial sentencing for a class B or C felony
6 or an equivalent juvenile adjudication; or

7 (iv) Two years have passed from release from total or partial
8 confinement from a Washington prison or jail or juvenile facility for
9 those sentenced by a Washington state court for a class B or C felony
10 or an equivalent juvenile adjudication; or

11 (v) Three years have passed from sentencing for those sentenced
12 by a Washington state court to probation, or receiving a deferred
13 sentence or other noncustodial sentencing for a class A felony or an
14 equivalent juvenile adjudication; or

15 (vi) Three years have passed from release from total or partial
16 confinement from a Washington prison or jail or juvenile facility for
17 those sentenced by a Washington state court for a class A felony or
18 an equivalent juvenile adjudication;

19 (b) Is in compliance with or has completed all sentencing
20 requirements imposed by a court including:

21 (i) Has paid in full all court-ordered legal financial
22 obligations;

23 (ii) Is fully compliant with a payment plan for court-ordered
24 legal financial obligations; or

25 (iii) Is out of compliance with a payment plan for court-ordered
26 legal financial obligations but has established good cause with the
27 court for any noncompliance with the payment plan;

28 (c) Has never been convicted of a sex offense as defined in RCW
29 9.94A.030 or a crime that includes sexual motivation pursuant to RCW
30 9.94A.835, 13.40.135, 9.94A.535(3)(f), and is not required to
31 register as a sex offender pursuant to RCW 9A.44.130; and

32 (d) Has not been arrested for nor convicted of a new crime and
33 has no pending criminal charge, and there is no information presented
34 to a qualified court that such a charge is imminent.

35 (2) "Qualified court" means any Washington superior court in the
36 county where an applicant resides or that has sentenced or
37 adjudicated the applicant. If the sentencing or adjudicating court
38 was a court of limited jurisdiction then a qualified court is the
39 superior court in the county of the applicant's conviction or
40 adjudication.

1 NEW SECTION. **Sec. 3.** (1) No state, county, or municipal
2 department, board, officer, or agency authorized to assess the
3 qualifications of any applicant for a license, certificate of
4 authority, qualification to engage in the practice of a profession or
5 business, or for admission to an examination to qualify for such a
6 license or certificate may disqualify a qualified applicant, solely
7 based on the applicant's criminal history, if the qualified applicant
8 has obtained a certificate of restoration of opportunity and the
9 applicant meets all other statutory and regulatory requirements,
10 except as required by federal law or exempted under this subsection.
11 Nothing in this section is interpreted as restoring or creating a
12 means to restore any firearms rights or eligibility to obtain a
13 firearm dealer license pursuant to RCW 9.41.110 or requiring the
14 removal of a protection order.

15 (a) Criminal justice agencies, as defined in RCW 10.97.030, and
16 the Washington state bar association are exempt from this section.

17 (b) To the extent this section conflicts with the requirements
18 for receipt of federal funding under the adoption and safe families
19 act, 42 U.S.C. Sec. 671, this section shall not apply.

20 (c) Unless otherwise addressed in statute, in cases where an
21 applicant would be disqualified under RCW 43.20A.710 or 43.43.842,
22 and the applicant has obtained a certificate of restoration of
23 opportunity, the department of social and health services may, after
24 review of relevant factors, including the nature and seriousness of
25 the offense, time that has passed since conviction, changed
26 circumstances since the offense occurred, and the nature of the
27 employment or license sought, at its discretion:

28 (i) Allow the applicant to have unsupervised access to children,
29 vulnerable adults, or individuals with mental illness or
30 developmental disabilities if the applicant is otherwise qualified
31 and suitable; or

32 (ii) Disqualify the applicant solely based on the applicant's
33 criminal history.

34 (d) If the practice of a profession or business involves
35 unsupervised contact with vulnerable adults, children, or individuals
36 with mental illness or developmental disabilities, or populations
37 otherwise defined by statute as vulnerable, the department of health
38 may, after review of relevant factors, including the nature and
39 seriousness of the offense, time that has passed since conviction,

1 changed circumstances since the offense occurred, and the nature of
2 the employment or license sought, at its discretion:

3 (i) Disqualify an applicant who has obtained a certificate of
4 restoration of opportunity, for a license, certification, or
5 registration to engage in the practice of a health care profession or
6 business solely based on the applicant's criminal history; or

7 (ii) If such applicant is otherwise qualified and suitable,
8 credential or credential with conditions an applicant who has
9 obtained a certificate of restoration of opportunity for a license,
10 certification, or registration to engage in the practice of a health
11 care profession or business.

12 (e) The state of Washington, the department of social and health
13 services, the department of health, and its officers, employees,
14 contractors, and agents are immune from suit for damages based upon
15 its exercise of discretion under this section.

16 (2) A qualified court has jurisdiction to issue a certificate of
17 restoration of opportunity to a qualified applicant.

18 (a) A court must determine, in its discretion whether the
19 certificate:

20 (i) Applies to all past criminal history; or

21 (ii) Applies only to the convictions or adjudications in the
22 jurisdiction of the court.

23 (b) The certificate does not apply to any future criminal justice
24 involvement that occurs after the certificate is issued.

25 (c) A court must determine whether to issue a certificate by
26 determining whether the applicant is a qualified applicant as defined
27 in section 2 of this act.

28 (3) An employer or housing provider may, in its sole discretion,
29 determine whether to consider a certificate of restoration of
30 opportunity issued under this chapter in making employment or rental
31 decisions. Nothing in this section is construed to create a protected
32 class, private right of action, any right, privilege, or duty, or to
33 change any right, privilege, or duty existing under law related to
34 employment or housing except as provided in RCW 7.60.035.

35 (4)(a) Department of social and health services: A certificate of
36 restoration of opportunity does not apply to the state abuse and
37 neglect registry. No finding of abuse, neglect, or misappropriation
38 of property may be removed from the registry based solely on a
39 certificate. The department must include such certificates as part of
40 its criminal history record reports, qualifying letters, or other

1 assessments pursuant to RCW 43.43.830 through 43.43.838. The
2 department shall adopt rules to implement this subsection.

3 (b) Washington state patrol: The Washington state patrol is not
4 required to remove any records based solely on a certificate of
5 restoration of opportunity. The state patrol must include a
6 certificate as part of its criminal history record report.

7 (c) Court records:

8 (i) A certificate of restoration of opportunity has no effect on
9 any other court records, including records in the judicial
10 information system. The court records related to a certificate of
11 restoration of opportunity must be processed and recorded in the same
12 manner as any other record.

13 (ii) The qualified court where the applicant seeks the
14 certificate of restoration of opportunity must administer the court
15 records regarding the certificate in the same manner as it does
16 regarding all other proceedings.

17 (d) Effect in other judicial proceedings: A certificate of
18 restoration of opportunity may only be submitted to a court to
19 demonstrate that the individual met the specific requirements of this
20 section and not for any other procedure, including evidence of
21 character, reputation, or conduct. A certificate is not an equivalent
22 procedure under Rule of Evidence 609(c).

23 (e) Department of health: The department of health must include a
24 certificate of restoration of opportunity on its public web site if:

25 (i) Its web site includes an order, stipulation to informal
26 disposition, or notice of decision related to the conviction
27 identified in the certificate of restoration of opportunity; and

28 (ii) The credential holder has provided a certified copy of the
29 certificate of restoration of opportunity to the department of
30 health.

31 (5) In all cases, an applicant must provide notice to the
32 prosecutor in the county where he or she seeks a certificate of
33 restoration of opportunity of the pendency of such application. If
34 the applicant has been sentenced by any other jurisdiction in the
35 five years preceding the application for a certificate, the applicant
36 must also notify the prosecuting attorney in those jurisdictions. The
37 prosecutor in the county where an applicant applies for a certificate
38 shall provide the court with a report of the applicant's criminal
39 history.

1 (6) Application for a certificate of restoration of opportunity
2 must be filed as a civil action.

3 (7) A superior court in the county in which the applicant resides
4 may decline to consider the application for certificate of
5 restoration of opportunity. If the superior court in which the
6 applicant resides declines to consider the application, the court
7 must dismiss the application without prejudice and the applicant may
8 refile the application in another qualified court. The court must
9 state the reason for the dismissal on the order. If the court
10 determines that the applicant does not meet the required
11 qualifications, then the court must dismiss the application without
12 prejudice and state the reason(s) on the order. The superior court in
13 the county of the applicant's conviction or adjudication may not
14 decline to consider the application.

15 (8) Unless the qualified court determines that a hearing on an
16 application for certificate of restoration is necessary, the court
17 must decide without a hearing whether to grant the certificate of
18 restoration of opportunity based on a review of the application filed
19 by the applicant and pleadings filed by the prosecuting attorney.

20 (9) The clerk of the court in which the certificate of
21 restoration of opportunity is granted shall transmit the certificate
22 of restoration of opportunity to the Washington state patrol
23 identification section, which holds criminal history information for
24 the person who is the subject of the conviction. The Washington state
25 patrol shall update its records to reflect the certificate of
26 restoration of opportunity.

27 (10)(a) The administrative office of the courts shall develop and
28 prepare instructions, forms, and an informational brochure designed
29 to assist applicants applying for a certificate of restoration of
30 opportunity.

31 (b) The instructions must include, at least, a sample of a
32 standard application and a form order for a certificate of
33 restoration of opportunity.

34 (c) The administrative office of the courts shall distribute a
35 master copy of the instructions, informational brochure, and sample
36 application and form order to all county clerks and a master copy of
37 the application and order to all superior courts by January 1, 2016.

38 (d) The administrative office of the courts shall determine the
39 significant non-English-speaking or limited English-speaking
40 populations in the state. The administrator shall then arrange for

1 translation of the instructions, which shall contain a sample of the
2 standard application and order, and the informational brochure into
3 languages spoken by those significant non-English-speaking
4 populations and shall distribute a master copy of the translated
5 instructions and informational brochures to the county clerks by
6 January 1, 2016.

7 (e) The administrative office of the courts shall update the
8 instructions, brochures, standard application and order, and
9 translations when changes in the law make an update necessary.

10 **Sec. 4.** RCW 7.60.035 and 2004 c 165 s 5 are each amended to read
11 as follows:

12 Except as provided in this chapter or otherwise by statute, any
13 person, whether or not a resident of this state, may serve as a
14 receiver, with the exception that a person may not be appointed as a
15 receiver, and shall be replaced as receiver if already appointed, if
16 it should appear to the court that the person:

17 (1) Has been convicted of a felony or other crime involving moral
18 turpitude, except as provided in section 3 of this act, or is
19 controlled by a person who has been convicted of a felony or other
20 crime involving moral turpitude;

21 (2) Is a party to the action, or is a parent, grandparent, child,
22 grandchild, sibling, partner, director, officer, agent, attorney,
23 employee, secured or unsecured creditor or lienor of, or holder of
24 any equity interest in, or controls or is controlled by, the person
25 whose property is to be held by the receiver, or who is the agent or
26 attorney of any disqualified person;

27 (3) Has an interest materially adverse to the interest of persons
28 to be affected by the receivership generally; or

29 (4) Is the sheriff of any county.

30 **Sec. 5.** RCW 9.92.120 and 2011 c 336 s 333 are each amended to
31 read as follows:

32 The conviction of a public officer of any felony or malfeasance
33 in office shall entail, in addition to such other penalty as may be
34 imposed, the forfeiture of his or her office, and shall disqualify
35 him or her from ever afterward holding any public office in this
36 state, except as provided in section 3 of this act.

1 **Sec. 6.** RCW 10.97.030 and 2012 c 125 s 1 are each amended to
2 read as follows:

3 For purposes of this chapter, the definitions of terms in this
4 section shall apply.

5 (1) "Criminal history record information" means information
6 contained in records collected by criminal justice agencies, other
7 than courts, on individuals, consisting of identifiable descriptions
8 and notations of arrests, detentions, indictments, informations, or
9 other formal criminal charges, and any disposition arising therefrom,
10 including acquittals by reason of insanity, dismissals based on lack
11 of competency, sentences, correctional supervision, and release.

12 The term includes any issued certificates of restoration of
13 opportunities and any information contained in records maintained by
14 or obtained from criminal justice agencies, other than courts, which
15 records provide individual identification of a person together with
16 any portion of the individual's record of involvement in the criminal
17 justice system as an alleged or convicted offender, except:

18 (a) Posters, announcements, or lists for identifying or
19 apprehending fugitives or wanted persons;

20 (b) Original records of entry maintained by criminal justice
21 agencies to the extent that such records are compiled and maintained
22 chronologically and are accessible only on a chronological basis;

23 (c) Court indices and records of public judicial proceedings,
24 court decisions, and opinions, and information disclosed during
25 public judicial proceedings;

26 (d) Records of traffic violations which are not punishable by a
27 maximum term of imprisonment of more than ninety days;

28 (e) Records of any traffic offenses as maintained by the
29 department of licensing for the purpose of regulating the issuance,
30 suspension, revocation, or renewal of drivers' or other operators'
31 licenses and pursuant to RCW 46.52.130;

32 (f) Records of any aviation violations or offenses as maintained
33 by the department of transportation for the purpose of regulating
34 pilots or other aviation operators, and pursuant to RCW 47.68.330;

35 (g) Announcements of executive clemency;

36 (h) Intelligence, analytical, or investigative reports and files.

37 (2) "Nonconviction data" consists of all criminal history record
38 information relating to an incident which has not led to a conviction
39 or other disposition adverse to the subject, and for which
40 proceedings are no longer actively pending. There shall be a

1 rebuttable presumption that proceedings are no longer actively
2 pending if more than one year has elapsed since arrest, citation,
3 charge, or service of warrant and no disposition has been entered.

4 (3) "Conviction record" means criminal history record information
5 relating to an incident which has led to a conviction or other
6 disposition adverse to the subject.

7 (4) "Conviction or other disposition adverse to the subject"
8 means any disposition of charges other than: (a) A decision not to
9 prosecute; (b) a dismissal; or (c) acquittal; with the following
10 exceptions, which shall be considered dispositions adverse to the
11 subject: An acquittal due to a finding of not guilty by reason of
12 insanity and a dismissal by reason of incompetency, pursuant to
13 chapter 10.77 RCW; and a dismissal entered after a period of
14 probation, suspension, or deferral of sentence.

15 (5) "Criminal justice agency" means: (a) A court; or (b) a
16 government agency which performs the administration of criminal
17 justice pursuant to a statute or executive order and which allocates
18 a substantial part of its annual budget to the administration of
19 criminal justice.

20 (6) "The administration of criminal justice" means performance of
21 any of the following activities: Detection, apprehension, detention,
22 pretrial release, post-trial release, prosecution, adjudication,
23 correctional supervision, or rehabilitation of accused persons or
24 criminal offenders. The term also includes criminal identification
25 activities and the collection, storage, dissemination of criminal
26 history record information, and the compensation of victims of crime.

27 (7) "Disposition" means the formal conclusion of a criminal
28 proceeding at whatever stage it occurs in the criminal justice
29 system.

30 (8) "Dissemination" means disclosing criminal history record
31 information or disclosing the absence of criminal history record
32 information to any person or agency outside the agency possessing the
33 information, subject to the following exceptions:

34 (a) When criminal justice agencies jointly participate in the
35 maintenance of a single recordkeeping department as an alternative to
36 maintaining separate records, the furnishing of information by that
37 department to personnel of any participating agency is not a
38 dissemination;

39 (b) The furnishing of information by any criminal justice agency
40 to another for the purpose of processing a matter through the

1 criminal justice system, such as a police department providing
2 information to a prosecutor for use in preparing a charge, is not a
3 dissemination;

4 (c) The reporting of an event to a recordkeeping agency for the
5 purpose of maintaining the record is not a dissemination.

6 **Sec. 7.** RCW 14.20.090 and 2010 c 8 s 5012 are each amended to
7 read as follows:

8 The secretary shall refuse to issue an aircraft dealer's license
9 or shall suspend or revoke an aircraft dealer's license whenever he
10 or she has reasonable grounds to believe that the dealer has:

11 (1) Forged or altered any federal certificate, permit, rating, or
12 license relating to ownership and airworthiness of an aircraft;

13 (2) Sold or disposed of an aircraft which he or she knows or has
14 reason to know has been stolen or appropriated without the consent of
15 the owner;

16 (3) Willfully misrepresented any material fact in the application
17 for an aircraft dealer's license, aircraft dealer's certificate, or
18 registration certificate;

19 (4) Willfully withheld or caused to be withheld from a purchaser
20 of an aircraft any document referred to in subsection (1) of this
21 section if applicable, or an affidavit to the effect that there are
22 no liens, mortgages, or encumbrances of any type on the aircraft
23 other than noted thereon, if the document or affidavit has been
24 requested by the purchaser;

25 (5) Suffered or permitted the cancellation of his or her bond or
26 the exhaustion of the penalty thereof;

27 (6) Used an aircraft dealer's certificate for any purpose other
28 than those permitted by this chapter or RCW 47.68.250 and 82.48.100;

29 (7) Except as provided in section 3 of this act, been adjudged
30 guilty of a crime that directly relates to the business of an
31 aircraft dealer and the time elapsed since the conviction is less
32 than ten years, or had a judgment entered against the dealer within
33 the preceding five years in any civil action involving fraud,
34 misrepresentation, or conversion. For the purpose of this section,
35 the term "adjudged guilty" means, in addition to a final conviction
36 in either a state or municipal court, an unvacated forfeiture of bail
37 or collateral deposited to secure a defendant's appearance in court,
38 the payment of a fine, a plea of guilty, or a finding of guilt

1 regardless of whether the imposition of the sentence is deferred or
2 the penalty is suspended.

3 **Sec. 8.** RCW 18.04.295 and 2004 c 159 s 4 are each amended to
4 read as follows:

5 The board shall have the power to: Revoke, suspend, or refuse to
6 issue, renew, or reinstate a license or certificate; impose a fine in
7 an amount not to exceed thirty thousand dollars plus the board's
8 investigative and legal costs in bringing charges against a certified
9 public accountant, a certificate holder, a licensee, a licensed firm,
10 an applicant, a non-CPA violating the provisions of RCW 18.04.345, or
11 a nonlicensee holding an ownership interest in a licensed firm; may
12 impose full restitution to injured parties; may impose conditions
13 precedent to renewal of a certificate or a license; or may prohibit a
14 nonlicensee from holding an ownership interest in a licensed firm,
15 for any of the following causes:

16 (1) Fraud or deceit in obtaining a license, or in any filings
17 with the board;

18 (2) Dishonesty, fraud, or negligence while representing oneself
19 as a nonlicensee owner holding an ownership interest in a licensed
20 firm, a licensee, or a certificate holder;

21 (3) A violation of any provision of this chapter;

22 (4) A violation of a rule of professional conduct promulgated by
23 the board under the authority granted by this chapter;

24 (5) Except as provided in section 3 of this act, conviction of a
25 crime or an act constituting a crime under:

26 (a) The laws of this state;

27 (b) The laws of another state, and which, if committed within
28 this state, would have constituted a crime under the laws of this
29 state; or

30 (c) Federal law;

31 (6) Cancellation, revocation, suspension, or refusal to renew the
32 authority to practice as a certified public accountant by any other
33 state for any cause other than failure to pay a fee or to meet the
34 requirements of CPE in the other state;

35 (7) Suspension or revocation of the right to practice matters
36 relating to public accounting before any state or federal agency;

37 For purposes of subsections (6) and (7) of this section, a
38 certified copy of such revocation, suspension, or refusal to renew
39 shall be prima facie evidence;

1 (8) Failure to maintain compliance with the requirements for
2 issuance, renewal, or reinstatement of a certificate or license, or
3 to report changes to the board;

4 (9) Failure to cooperate with the board by:

5 (a) Failure to furnish any papers or documents requested or
6 ordered by the board;

7 (b) Failure to furnish in writing a full and complete explanation
8 covering the matter contained in the complaint filed with the board
9 or the inquiry of the board;

10 (c) Failure to respond to subpoenas issued by the board, whether
11 or not the recipient of the subpoena is the accused in the
12 proceeding;

13 (10) Failure by a nonlicensee owner of a licensed firm to comply
14 with the requirements of this chapter or board rule; and

15 (11) Failure to comply with an order of the board.

16 **Sec. 9.** RCW 9.96A.020 and 2009 c 396 s 7 are each amended to
17 read as follows:

18 (1) Subject to the exceptions in subsections (3) through (5) of
19 this section, and unless there is another provision of law to the
20 contrary, a person is not disqualified from employment by the state
21 of Washington or any of its counties, cities, towns, municipal
22 corporations, or quasi-municipal corporations, nor is a person
23 disqualified to practice, pursue or engage in any occupation, trade,
24 vocation, or business for which a license, permit, certificate or
25 registration is required to be issued by the state of Washington or
26 any of its counties, cities, towns, municipal corporations, or quasi-
27 municipal corporations solely because of a prior conviction of a
28 felony. However, this section does not preclude the fact of any prior
29 conviction of a crime from being considered.

30 (2) A person may be denied employment by the state of Washington
31 or any of its counties, cities, towns, municipal corporations, or
32 quasi-municipal corporations, or a person may be denied a license,
33 permit, certificate or registration to pursue, practice or engage in
34 an occupation, trade, vocation, or business by reason of the prior
35 conviction of a felony if the felony for which he or she was
36 convicted directly relates to the position of employment sought or to
37 the specific occupation, trade, vocation, or business for which the
38 license, permit, certificate or registration is sought, and the time
39 elapsed since the conviction is less than ten years, except as

1 provided in section 3 of this act. However, for positions in the
2 county treasurer's office, a person may be disqualified from
3 employment because of a prior guilty plea or conviction of a felony
4 involving embezzlement or theft, even if the time elapsed since the
5 guilty plea or conviction is ten years or more, except as provided in
6 section 3 of this act.

7 (3) A person is disqualified for any certificate required or
8 authorized under chapters 28A.405 or 28A.410 RCW, because of a prior
9 guilty plea or the conviction of a felony crime specified under RCW
10 28A.400.322, even if the time elapsed since the guilty plea or
11 conviction is ten years or more, except as provided in section 3 of
12 this act.

13 (4) A person is disqualified from employment by school districts,
14 educational service districts, and their contractors hiring employees
15 who will have regularly scheduled unsupervised access to children,
16 because of a prior guilty plea or conviction of a felony crime
17 specified under RCW 28A.400.322, even if the time elapsed since the
18 guilty plea or conviction is ten years or more, except as provided in
19 section 3 of this act.

20 (5) The provisions of this chapter do not apply to issuance of
21 licenses or credentials for professions regulated under chapter
22 18.130 RCW.

23 (6) Subsections (3) and (4) of this section as they pertain to
24 felony crimes specified under RCW 28A.400.322(1) apply to a person
25 applying for a certificate or for employment on or after July 25,
26 1993, and before July 26, 2009. Subsections (3) and (4) of this
27 section as they pertain to all felony crimes specified under RCW
28 28A.400.322(2) apply to a person applying for a certificate or for
29 employment on or after July 26, 2009. Subsection (5) of this section
30 only applies to a person applying for a license or credential on or
31 after June 12, 2008.

32 **Sec. 10.** RCW 9.96A.050 and 1973 c 135 s 5 are each amended to
33 read as follows:

34 Except as provided in section 3 of this act, the provisions of
35 this chapter shall prevail over any other provisions of law which
36 purport to govern the denial of licenses, permits, certificates,
37 registrations, or other means to engage in a business, on the grounds
38 of a lack of good moral character, or which purport to govern the

1 suspension or revocation of such a license, permit, certificate, or
2 registration on the grounds of conviction of a crime.

3 **Sec. 11.** RCW 18.11.160 and 2002 c 86 s 209 are each amended to
4 read as follows:

5 (1) Except as provided in section 3 of this act, no license shall
6 be issued by the department to any person who has been convicted of
7 forgery, embezzlement, obtaining money under false pretenses,
8 extortion, criminal conspiracy, fraud, theft, receiving stolen goods,
9 unlawful issuance of checks or drafts, or other similar offense, or
10 to any partnership of which the person is a member, or to any
11 association or corporation of which the person is an officer or in
12 which as a stockholder the person has or exercises a controlling
13 interest either directly or indirectly.

14 (2) In addition to the unprofessional conduct described in RCW
15 18.235.130, the director has the authority to take disciplinary
16 action for any of the following conduct, acts, or conditions:

17 (a) Underreporting to the department of sales figures so that the
18 auctioneer or auction company surety bond is in a lower amount than
19 required by law;

20 (b) Nonpayment of an administrative fine prior to renewal of a
21 license; and

22 (c) Any other violations of this chapter.

23 (3) The department shall immediately suspend the license of a
24 person who has been certified pursuant to RCW 74.20A.320 by the
25 department of social and health services as a person who is not in
26 compliance with a support order. If the person has continued to meet
27 all other requirements for reinstatement during the suspension,
28 reissuance of the license shall be automatic upon the department's
29 receipt of a release issued by the department of social and health
30 services stating that the licensee is in compliance with the order.

31 **Sec. 12.** RCW 18.20.125 and 2012 c 164 s 504 are each amended to
32 read as follows:

33 (1) Inspections must be outcome based and responsive to resident
34 complaints and based on a clear set of health, quality of care, and
35 safety standards that are easily understandable and have been made
36 available to facilities, residents, and other interested parties.
37 This includes that when conducting licensing inspections, the
38 department shall interview an appropriate percentage of residents,

1 family members, and advocates in addition to interviewing appropriate
2 staff.

3 (2) Prompt and specific enforcement remedies shall also be
4 implemented without delay, consistent with RCW 18.20.190, for
5 facilities found to have delivered care or failed to deliver care
6 resulting in problems that are serious, recurring, or uncorrected, or
7 that create a hazard that is causing or likely to cause death or
8 serious harm to one or more residents. These enforcement remedies may
9 also include, when appropriate, reasonable conditions on a license.
10 In the selection of remedies, the safety, health, and well-being of
11 residents shall be of paramount importance.

12 (3)(a) To the extent funding is available, the licensee,
13 administrator, and their staff should be screened through background
14 checks in a uniform and timely manner to ensure that they do not have
15 a criminal history that would disqualify them from working with
16 vulnerable adults. Employees may be provisionally hired pending the
17 results of the background check if they have been given three
18 positive references.

19 (b) Long-term care workers, as defined in RCW 74.39A.009, who are
20 hired after January 7, 2012, are subject to background checks under
21 RCW 74.39A.056.

22 (4) Except as provided in section 3 of this act, no licensee,
23 administrator, or staff, or prospective licensee, administrator, or
24 staff, with a stipulated finding of fact, conclusion of law, and
25 agreed order, or finding of fact, conclusion of law, or final order
26 issued by a disciplining authority, a court of law, or entered into
27 the state registry finding him or her guilty of abuse, neglect,
28 exploitation, or abandonment of a minor or a vulnerable adult as
29 defined in chapter 74.34 RCW shall be employed in the care of and
30 have unsupervised access to vulnerable adults.

31 **Sec. 13.** RCW 18.39.410 and 2005 c 365 s 24 are each amended to
32 read as follows:

33 In addition to the unprofessional conduct described in RCW
34 18.235.130, the board may take disciplinary action and may impose any
35 of the sanctions specified in RCW 18.235.110 for the following
36 conduct, acts, or conditions, except as provided in section 3 of this
37 act:

38 (1) Solicitation of human remains by a licensee, registrant,
39 endorsement, or permit holder, or agent, assistant, or employee of

1 the licensee, registrant, endorsement, or permit holder whether the
2 solicitation occurs after death or while death is impending. This
3 chapter does not prohibit general advertising or the sale of
4 prearrangement funeral service contracts;

5 (2) Solicitation may include employment of solicitors, payment of
6 commission, bonus, rebate, or any form of gratuity or payment of a
7 finders fee, referral fee, or other consideration given for the
8 purpose of obtaining or providing the services for human remains or
9 where death is impending;

10 (3) Acceptance by a licensee, registrant, endorsement, or permit
11 holder or other employee of a funeral establishment of a commission,
12 bonus, rebate, or gratuity in consideration of directing business to
13 a cemetery, crematory, mausoleum, columbarium, florist, or other
14 person providing goods and services to the disposition of human
15 remains;

16 (4) Using a casket or part of a casket that has previously been
17 used as a receptacle for, or in connection with, the burial or other
18 disposition of human remains without the written consent of the
19 person lawfully entitled to control the disposition of remains of the
20 deceased person in accordance with RCW 68.50.160. This subsection
21 does not prohibit the use of rental caskets, such as caskets of which
22 the outer shell portion is rented and the inner insert that contains
23 the human remains is purchased and used for the disposition, that are
24 disclosed as such in the statement of funeral goods and services;

25 (5) Violation of a state law, municipal law, or county ordinance
26 or regulation affecting the handling, custody, care, transportation,
27 or disposition of human remains, except as provided in section 3 of
28 this act;

29 (6) Refusing to promptly surrender the custody of human remains
30 upon the expressed order of the person lawfully entitled to its
31 custody under RCW 68.50.160;

32 (7) Selling, or offering for sale, a share, certificate, or an
33 interest in the business of a funeral establishment, or in a
34 corporation, firm, or association owning or operating a funeral
35 establishment that promises or purports to give to purchasers a right
36 to the services of a licensee, registrant, endorsement, or permit
37 holder at a charge or cost less than offered or given to the public;

38 (8) Violation of any state or federal statute or administrative
39 ruling relating to funeral practice, except as provided in section 3
40 of this act;

1 (9) Knowingly concealing information concerning a violation of
2 this title.

3 **Sec. 14.** RCW 18.44.241 and 2000 c 171 s 12 are each amended to
4 read as follows:

5 The following criteria will be considered by the director when
6 deciding whether to grant a licensed escrow agent a waiver from the
7 errors and omissions policy requirement under RCW 18.44.201:

8 (1) Whether the director has determined pursuant to RCW 18.44.221
9 that an errors and omissions policy is not reasonably available to a
10 substantial number of licensed escrow agents;

11 (2) Whether purchasing an errors and omissions policy would be
12 cost-prohibitive for the licensed escrow agent requesting the
13 exemption;

14 (3) Whether a licensed escrow agent has willfully violated the
15 provisions of chapter 18.44 RCW, which violation thereby resulted in
16 the termination of the agent's certificate, or engaged in any other
17 conduct resulting in the termination of the escrow certificate;

18 (4) Whether a licensed escrow agent has paid claims directly or
19 through an errors and omissions carrier, exclusive of costs and
20 attorney fees, in excess of ten thousand dollars in the calendar year
21 preceding the year for which the waiver is requested;

22 (5) Whether a licensed escrow agent has paid claims directly or
23 through an errors or omissions insurance carrier, exclusive of costs
24 and attorney fees, totaling in excess of twenty thousand dollars in
25 the three calendar years preceding the calendar year for which the
26 exemption is requested; and

27 (6) Whether the licensed escrow agent has been convicted of a
28 crime involving honesty or moral turpitude, except as provided in
29 section 3 of this act.

30 These criteria are not intended to be a wholly inclusive list of
31 factors to be applied by the director when considering the merits of
32 a licensed escrow agent's request for a waiver of the required errors
33 and omissions policy.

34 **Sec. 15.** RCW 18.44.311 and 2010 c 34 s 4 are each amended to
35 read as follows:

36 (1) A licensed escrow agent may not directly or indirectly employ
37 a person who will be handling escrow transactions who has been
38 convicted of, or pled guilty or nolo contendere to, a felony or a

1 gross misdemeanor involving dishonesty within the last seven years,
2 except as provided in section 3 of this act.

3 (2) A licensed escrow agent may not directly or indirectly employ
4 a person who receives money for trust accounts, disburses funds, or
5 acts as a signatory on trust accounts if the person has shown a
6 disregard in the management of his or her financial condition in the
7 last three years.

8 (3) The director may adopt rules to implement this section.

9 **Sec. 16.** RCW 18.52.071 and 1996 c 271 s 1 are each amended to
10 read as follows:

11 The department shall issue a license to any person applying for a
12 nursing home administrator's license who meets the following
13 requirements:

14 (1) Successful completion of the requirements for a baccalaureate
15 degree from a recognized institution of higher learning and any
16 federal requirements;

17 (2) Successful completion of a practical experience requirement
18 as determined by the board;

19 (3) Successful completion of examinations administered or
20 approved by the board, or both, which shall be designed to test the
21 candidate's competence to administer a nursing home;

22 (4) At least twenty-one years of age; and

23 (5) Not having engaged in unprofessional conduct as defined in
24 RCW 18.130.180, except as provided in section 3 of this act, or being
25 unable to practice with reasonable skill and safety as defined in RCW
26 18.130.170. The board shall establish by rule what constitutes
27 adequate proof of meeting the above requirements.

28 A limited license indicating the limited extent of authority to
29 administer institutions conducted by and for those who rely upon
30 treatment by prayer or spiritual means in accordance with the creed
31 or tenets of any well-recognized church or religious denomination
32 shall be issued to individuals demonstrating membership in such
33 church or denomination. However, nothing in this chapter shall be
34 construed to require an applicant employed by such institution to
35 demonstrate proficiency in any medical techniques or to meet any
36 medical educational qualifications or medical standards not in accord
37 with the remedial care and treatment provided in such institutions.

1 **Sec. 17.** RCW 43.43.842 and 2014 c 88 s 1 are each amended to
2 read as follows:

3 (1)(a) The secretary of social and health services and the
4 secretary of health shall adopt additional requirements for the
5 licensure or relicensure of agencies, facilities, and licensed
6 individuals who provide care and treatment to vulnerable adults,
7 including nursing pools registered under chapter 18.52C RCW. These
8 additional requirements shall ensure that any person associated with
9 a licensed agency or facility having unsupervised access with a
10 vulnerable adult shall not be the respondent in an active protective
11 order under RCW 74.34.130, nor have been: (i) Convicted of a crime
12 against persons as defined in RCW 43.43.830, except as provided in
13 this section or except as provided in section 3 of this act; (ii)
14 convicted of crimes relating to financial exploitation as defined in
15 RCW 43.43.830, except as provided in this section or except as
16 provided in section 3 of this act; or (iii) found in any disciplinary
17 board final decision to have abused a vulnerable adult under RCW
18 43.43.830.

19 (b) A person associated with a licensed agency or facility who
20 has unsupervised access with a vulnerable adult shall make the
21 disclosures specified in RCW 43.43.834(2). The person shall make the
22 disclosures in writing, sign, and swear to the contents under penalty
23 of perjury. The person shall, in the disclosures, specify all crimes
24 against children or other persons, all crimes relating to financial
25 exploitation, and all crimes relating to drugs as defined in RCW
26 43.43.830, committed by the person.

27 (2) Except as provided in section 3 of this act, the rules
28 adopted under this section shall permit the licensee to consider the
29 criminal history of an applicant for employment in a licensed
30 facility when the applicant has one or more convictions for a past
31 offense and:

32 (a) The offense was simple assault, assault in the fourth degree,
33 or the same offense as it may be renamed, and three or more years
34 have passed between the most recent conviction and the date of
35 application for employment;

36 (b) The offense was prostitution, or the same offense as it may
37 be renamed, and three or more years have passed between the most
38 recent conviction and the date of application for employment;

39 (c) The offense was theft in the third degree, or the same
40 offense as it may be renamed, and three or more years have passed

1 between the most recent conviction and the date of application for
2 employment;

3 (d) The offense was theft in the second degree, or the same
4 offense as it may be renamed, and five or more years have passed
5 between the most recent conviction and the date of application for
6 employment;

7 (e) The offense was forgery, or the same offense as it may be
8 renamed, and five or more years have passed between the most recent
9 conviction and the date of application for employment;

10 (f) The department of social and health services reviewed the
11 employee's otherwise disqualifying criminal history through the
12 department of social and health services' background assessment
13 review team process conducted in 2002, and determined that such
14 employee could remain in a position covered by this section; or

15 (g) The otherwise disqualifying conviction or disposition has
16 been the subject of a pardon, annulment, or other equivalent
17 procedure.

18 The offenses set forth in (a) through (g) of this subsection do
19 not automatically disqualify an applicant from employment by a
20 licensee. Nothing in this section may be construed to require the
21 employment of any person against a licensee's judgment.

22 (3) In consultation with law enforcement personnel, the secretary
23 of social and health services and the secretary of health shall
24 investigate, or cause to be investigated, the conviction record and
25 the protection proceeding record information under this chapter of
26 the staff of each agency or facility under their respective
27 jurisdictions seeking licensure or relicensure. An individual
28 responding to a criminal background inquiry request from his or her
29 employer or potential employer shall disclose the information about
30 his or her criminal history under penalty of perjury. The secretaries
31 shall use the information solely for the purpose of determining
32 eligibility for licensure or relicensure. Criminal justice agencies
33 shall provide the secretaries such information as they may have and
34 that the secretaries may require for such purpose.

35 **Sec. 18.** RCW 18.64.165 and 2013 c 19 s 14 are each amended to
36 read as follows:

37 The commission shall have the power to refuse, suspend, or revoke
38 the license of any manufacturer, wholesaler, pharmacy, shopkeeper,

1 itinerant vendor, peddler, poison distributor, health care entity, or
2 precursor chemical distributor upon proof that:

3 (1) The license was procured through fraud, misrepresentation, or
4 deceit;

5 (2) Except as provided in section 3 of this act, the licensee has
6 violated or has permitted any employee to violate any of the laws of
7 this state or the United States relating to drugs, controlled
8 substances, cosmetics, or nonprescription drugs, or has violated any
9 of the rules and regulations of the commission or has been convicted
10 of a felony.

11 **Sec. 19.** RCW 18.88B.080 and 2012 c 164 s 501 are each amended to
12 read as follows:

13 A long-term care worker disqualified from working with vulnerable
14 persons under chapter 74.39A RCW may not be certified or maintain
15 certification as a home care aide under this chapter, except as
16 provided in section 3 of this act. To allow the department to satisfy
17 its certification responsibilities under this chapter, the department
18 of social and health services shall share the results of state and
19 federal background checks conducted pursuant to RCW 74.39A.056 with
20 the department. Neither department may share the federal background
21 check results with any other state agency or person.

22 **Sec. 20.** RCW 18.108.085 and 2012 c 137 s 14 are each amended to
23 read as follows:

24 (1) In addition to any other authority provided by law, the
25 secretary may:

26 (a) Adopt rules, in accordance with chapter 34.05 RCW necessary
27 to implement this chapter;

28 (b) Set all license, certification, examination, and renewal fees
29 in accordance with RCW 43.70.250;

30 (c) Establish forms and procedures necessary to administer this
31 chapter;

32 (d) Issue a massage practitioner's license to any applicant who
33 has met the education, training, and examination requirements for
34 licensure and deny licensure to applicants who do not meet the
35 requirements of this chapter;

36 (e) Issue a reflexology certification to any applicant who has
37 met the requirements for certification and deny certification to
38 applicants who do not meet the requirements of this chapter; and

1 (f) Hire clerical, administrative, and investigative staff as
2 necessary to implement this chapter.

3 (2) The Uniform Disciplinary Act, chapter 18.130 RCW, governs
4 unlicensed and uncertified practice, the issuance and denial of
5 licenses and certifications, and the disciplining of persons under
6 this chapter. The secretary shall be the disciplining authority under
7 this chapter.

8 (3) Any license or certification issued under this chapter to a
9 person who is or has been convicted of violating RCW 9A.88.030,
10 9A.88.070, 9A.88.080, or 9A.88.090 or equivalent local ordinances
11 shall automatically be revoked by the secretary upon receipt of a
12 certified copy of the court documents reflecting such conviction,
13 except as provided in section 3 of this act. No further hearing or
14 procedure is required, and the secretary has no discretion with
15 regard to the revocation of the license or certification. The
16 revocation shall be effective even though such conviction may be
17 under appeal, or the time period for such appeal has not elapsed.
18 However, upon presentation of a final appellate decision overturning
19 such conviction, the license or certification shall be reinstated,
20 unless grounds for disciplinary action have been found under chapter
21 18.130 RCW. No license or certification may be granted under this
22 chapter to any person who has been convicted of violating RCW
23 9A.88.030, 9A.88.070, 9A.88.080, or 9A.88.090 or equivalent local
24 ordinances within the eight years immediately preceding the date of
25 application, except as provided in section 3 of this act. For
26 purposes of this subsection, "convicted" does not include a
27 conviction that has been the subject of a pardon, annulment, or other
28 equivalent procedure based on a finding of innocence, but does
29 include convictions for offenses for which the defendant received a
30 deferred or suspended sentence, unless the record has been expunged
31 according to law.

32 (4) The secretary shall keep an official record of all
33 proceedings under this chapter, a part of which record shall consist
34 of a register of all applicants for licensure or certification under
35 this chapter, with the result of each application.

36 **Sec. 21.** RCW 18.130.055 and 2008 c 134 s 19 are each amended to
37 read as follows:

38 (1) The disciplining authority may deny an application for
39 licensure or grant a license with conditions if the applicant:

1 (a) Has had his or her license to practice any health care
2 profession suspended, revoked, or restricted, by competent authority
3 in any state, federal, or foreign jurisdiction;

4 (b) Has committed any act defined as unprofessional conduct for a
5 license holder under RCW 18.130.180, except as provided in section 3
6 of this act;

7 (c) Has been convicted or is subject to current prosecution or
8 pending charges of a crime involving moral turpitude or a crime
9 identified in RCW 43.43.830, except as provided in section 3 of this
10 act. For purposes of this section, conviction includes all instances
11 in which a plea of guilty or nolo contendere is the basis for the
12 conviction and all proceedings in which the prosecution or sentence
13 has been deferred or suspended. At the request of an applicant for an
14 original license whose conviction is under appeal, the disciplining
15 authority may defer decision upon the application during the pendency
16 of such a prosecution or appeal;

17 (d) Fails to prove that he or she is qualified in accordance with
18 the provisions of this chapter, the chapters identified in RCW
19 18.130.040(2), or the rules adopted by the disciplining authority; or

20 (e) Is not able to practice with reasonable skill and safety to
21 consumers by reason of any mental or physical condition.

22 (i) The disciplining authority may require the applicant, at his
23 or her own expense, to submit to a mental, physical, or psychological
24 examination by one or more licensed health professionals designated
25 by the disciplining authority. The disciplining authority shall
26 provide written notice of its requirement for a mental or physical
27 examination that includes a statement of the specific conduct, event,
28 or circumstances justifying an examination and a statement of the
29 nature, purpose, scope, and content of the intended examination. If
30 the applicant fails to submit to the examination or provide the
31 results of the examination or any required waivers, the disciplining
32 authority may deny the application.

33 (ii) An applicant governed by this chapter is deemed to have
34 given consent to submit to a mental, physical, or psychological
35 examination when directed in writing by the disciplining authority
36 and further to have waived all objections to the admissibility or use
37 of the examining health professional's testimony or examination
38 reports by the disciplining authority on the grounds that the
39 testimony or reports constitute privileged communications.

1 (2) The provisions of RCW 9.95.240 and chapter 9.96A RCW do not
2 apply to a decision to deny a license under this section.

3 (3) The disciplining authority shall give written notice to the
4 applicant of the decision to deny a license or grant a license with
5 conditions in response to an application for a license. The notice
6 must state the grounds and factual basis for the action and be served
7 upon the applicant.

8 (4) A license applicant who is aggrieved by the decision to deny
9 the license or grant the license with conditions has the right to an
10 adjudicative proceeding. The application for adjudicative proceeding
11 must be in writing, state the basis for contesting the adverse
12 action, include a copy of the adverse notice, and be served on and
13 received by the department within twenty-eight days of the decision.
14 The license applicant has the burden to establish, by a preponderance
15 of evidence, that the license applicant is qualified in accordance
16 with the provisions of this chapter, the chapters identified in RCW
17 18.130.040(2), and the rules adopted by the disciplining authority.

18 **Sec. 22.** RCW 18.130.050 and 2013 c 109 s 1 and 2013 c 86 s 2 are
19 each reenacted and amended to read as follows:

20 Except as provided in RCW 18.130.062, the disciplining authority
21 has the following authority:

22 (1) To adopt, amend, and rescind such rules as are deemed
23 necessary to carry out this chapter;

24 (2) To investigate all complaints or reports of unprofessional
25 conduct as defined in this chapter;

26 (3) To hold hearings as provided in this chapter;

27 (4) To issue subpoenas and administer oaths in connection with
28 any investigation, consideration of an application for license,
29 hearing, or proceeding held under this chapter;

30 (5) To take or cause depositions to be taken and use other
31 discovery procedures as needed in any investigation, hearing, or
32 proceeding held under this chapter;

33 (6) To compel attendance of witnesses at hearings;

34 (7) In the course of investigating a complaint or report of
35 unprofessional conduct, to conduct practice reviews and to issue
36 citations and assess fines for failure to produce documents, records,
37 or other items in accordance with RCW 18.130.230;

38 (8) To take emergency action ordering summary suspension of a
39 license, or restriction or limitation of the license holder's

1 practice pending proceedings by the disciplining authority. Within
2 fourteen days of a request by the affected license holder, the
3 disciplining authority must provide a show cause hearing in
4 accordance with the requirements of RCW 18.130.135. In addition to
5 the authority in this subsection, a disciplining authority shall,
6 except as provided in section 3 of this act:

7 (a) Consistent with RCW 18.130.370, issue a summary suspension of
8 the license or temporary practice permit of a license holder
9 prohibited from practicing a health care profession in another state,
10 federal, or foreign jurisdiction because of an act of unprofessional
11 conduct that is substantially equivalent to an act of unprofessional
12 conduct prohibited by this chapter or any of the chapters specified
13 in RCW 18.130.040. The summary suspension remains in effect until
14 proceedings by the Washington disciplining authority have been
15 completed;

16 (b) Consistent with RCW 18.130.400, issue a summary suspension of
17 the license or temporary practice permit if, under RCW 74.39A.051,
18 the license holder is prohibited from employment in the care of
19 vulnerable adults based upon a department of social and health
20 services' final finding of abuse or neglect of a minor or abuse,
21 abandonment, neglect, or financial exploitation of a vulnerable
22 adult. The summary suspension remains in effect until proceedings by
23 the disciplining authority have been completed;

24 (9) To conduct show cause hearings in accordance with RCW
25 18.130.062 or 18.130.135 to review an action taken by the
26 disciplining authority to suspend a license or restrict or limit a
27 license holder's practice pending proceedings by the disciplining
28 authority;

29 (10) To use a presiding officer as authorized in RCW
30 18.130.095(3) or the office of administrative hearings as authorized
31 in chapter 34.12 RCW to conduct hearings. Disciplining authorities
32 identified in RCW 18.130.040(2) shall make the final decision
33 regarding disposition of the license unless the disciplining
34 authority elects to delegate in writing the final decision to the
35 presiding officer. Disciplining authorities identified in RCW
36 18.130.040(2)(b) may not delegate the final decision regarding
37 disposition of the license or imposition of sanctions to a presiding
38 officer in any case pertaining to standards of practice or where
39 clinical expertise is necessary, including deciding any motion that
40 results in dismissal of any allegation contained in the statement of

1 charges. Presiding officers acting on behalf of the secretary shall
2 enter initial orders. The secretary may, by rule, provide that
3 initial orders in specified classes of cases may become final without
4 further agency action unless, within a specified time period:

5 (a) The secretary upon his or her own motion determines that the
6 initial order should be reviewed; or

7 (b) A party to the proceedings files a petition for
8 administrative review of the initial order;

9 (11) To use individual members of the boards to direct
10 investigations and to authorize the issuance of a citation under
11 subsection (7) of this section. However, the member of the board
12 shall not subsequently participate in the hearing of the case;

13 (12) To enter into contracts for professional services determined
14 to be necessary for adequate enforcement of this chapter;

15 (13) To contract with license holders or other persons or
16 organizations to provide services necessary for the monitoring and
17 supervision of license holders who are placed on probation, whose
18 professional activities are restricted, or who are for any authorized
19 purpose subject to monitoring by the disciplining authority;

20 (14) To adopt standards of professional conduct or practice;

21 (15) To grant or deny license applications, and in the event of a
22 finding of unprofessional conduct by an applicant or license holder,
23 to impose any sanction against a license applicant or license holder
24 provided by this chapter. After January 1, 2009, all sanctions must
25 be issued in accordance with RCW 18.130.390;

26 (16) To restrict or place conditions on the practice of new
27 licensees in order to protect the public and promote the safety of
28 and confidence in the health care system;

29 (17) To designate individuals authorized to sign subpoenas and
30 statements of charges;

31 (18) To establish panels consisting of three or more members of
32 the board to perform any duty or authority within the board's
33 jurisdiction under this chapter;

34 (19) To review and audit the records of licensed health
35 facilities' or services' quality assurance committee decisions in
36 which a license holder's practice privilege or employment is
37 terminated or restricted. Each health facility or service shall
38 produce and make accessible to the disciplining authority the
39 appropriate records and otherwise facilitate the review and audit.
40 Information so gained shall not be subject to discovery or

1 introduction into evidence in any civil action pursuant to RCW
2 70.41.200(3).

3 **Sec. 23.** RCW 18.235.110 and 2007 c 256 s 18 are each amended to
4 read as follows:

5 (1) Upon finding unprofessional conduct, except as provided in
6 section 3 of this act, the disciplinary authority may issue an order
7 providing for one or any combination of the following:

8 (a) Revocation of the license for an interval of time;

9 (b) Suspension of the license for a fixed or indefinite term;

10 (c) Restriction or limitation of the practice;

11 (d) Satisfactory completion of a specific program of remedial
12 education or treatment;

13 (e) Monitoring of the practice in a manner directed by the
14 disciplinary authority;

15 (f) Censure or reprimand;

16 (g) Compliance with conditions of probation for a designated
17 period of time;

18 (h) Payment of a fine for each violation found by the
19 disciplinary authority, not to exceed five thousand dollars per
20 violation. The disciplinary authority must consider aggravating or
21 mitigating circumstances in assessing any fine. Funds received must
22 be deposited in the related program account;

23 (i) Denial of an initial or renewal license application for an
24 interval of time; or

25 (j) Other corrective action.

26 (2) The disciplinary authority may require reimbursement to the
27 disciplinary authority for the investigative costs incurred in
28 investigating the matter that resulted in issuance of an order under
29 this section, but only if any of the sanctions in subsection (1)(a)
30 through (j) of this section is ordered.

31 (3) Any of the actions under this section may be totally or
32 partly stayed by the disciplinary authority. In determining what
33 action is appropriate, the disciplinary authority must first consider
34 what sanctions are necessary to protect the public health, safety, or
35 welfare. Only after these provisions have been made may the
36 disciplinary authority consider and include in the order requirements
37 designed to rehabilitate the license holder or applicant. All costs
38 associated with compliance with orders issued under this section are
39 the obligation of the license holder or applicant.

1 (4) The licensee or applicant may enter into a stipulated
2 disposition of charges that includes one or more of the sanctions of
3 this section, but only after a statement of charges has been issued
4 and the licensee has been afforded the opportunity for a hearing and
5 has elected on the record to forego such a hearing. The stipulation
6 shall either contain one or more specific findings of unprofessional
7 conduct or a statement by the licensee acknowledging that evidence is
8 sufficient to justify one or more specified findings of
9 unprofessional conduct. The stipulations entered into under this
10 subsection are considered formal disciplinary action for all
11 purposes.

12 **Sec. 24.** RCW 18.145.120 and 1995 c 27 s 11 are each amended to
13 read as follows:

14 (1) Upon receipt of complaints against court reporters, the
15 director shall investigate and evaluate the complaint to determine if
16 disciplinary action is appropriate. The director shall hold
17 disciplinary hearings pursuant to chapter 34.05 RCW.

18 (2) After a hearing conducted under chapter 34.05 RCW and upon a
19 finding that a certificate holder or applicant has committed
20 unprofessional conduct or is unable to practice with reasonable skill
21 and safety due to a physical or mental condition, except as provided
22 in section 3 of this act, the director may issue an order providing
23 for one or any combination of the following:

- 24 (a) Revocation of the certification;
- 25 (b) Suspension of the certificate for a fixed or indefinite term;
- 26 (c) Restriction or limitation of the practice;
- 27 (d) Requiring the satisfactory completion of a specific program
28 or remedial education;
- 29 (e) The monitoring of the practice by a supervisor approved by
30 the director;
- 31 (f) Censure or reprimand;
- 32 (g) Compliance with conditions of probation for a designated
33 period of time;
- 34 (h) Denial of the certification request;
- 35 (i) Corrective action;
- 36 (j) Refund of fees billed to or collected from the consumer.

37 Any of the actions under this section may be totally or partly
38 stayed by the director. In determining what action is appropriate,
39 the director shall consider sanctions necessary to protect the

1 public, after which the director may consider and include in the
2 order requirements designed to rehabilitate the certificate holder or
3 applicant. All costs associated with compliance to orders issued
4 under this section are the obligation of the certificate holder or
5 applicant.

6 **Sec. 25.** RCW 9.94A.030 and 2012 c 143 s 1 are each amended to
7 read as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Board" means the indeterminate sentence review board created
11 under chapter 9.95 RCW.

12 (2) "Collect," or any derivative thereof, "collect and remit," or
13 "collect and deliver," when used with reference to the department,
14 means that the department, either directly or through a collection
15 agreement authorized by RCW 9.94A.760, is responsible for monitoring
16 and enforcing the offender's sentence with regard to the legal
17 financial obligation, receiving payment thereof from the offender,
18 and, consistent with current law, delivering daily the entire payment
19 to the superior court clerk without depositing it in a departmental
20 account.

21 (3) "Commission" means the sentencing guidelines commission.

22 (4) "Community corrections officer" means an employee of the
23 department who is responsible for carrying out specific duties in
24 supervision of sentenced offenders and monitoring of sentence
25 conditions.

26 (5) "Community custody" means that portion of an offender's
27 sentence of confinement in lieu of earned release time or imposed as
28 part of a sentence under this chapter and served in the community
29 subject to controls placed on the offender's movement and activities
30 by the department.

31 (6) "Community protection zone" means the area within eight
32 hundred eighty feet of the facilities and grounds of a public or
33 private school.

34 (7) "Community restitution" means compulsory service, without
35 compensation, performed for the benefit of the community by the
36 offender.

37 (8) "Confinement" means total or partial confinement.

1 (9) "Conviction" means an adjudication of guilt pursuant to Title
2 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
3 and acceptance of a plea of guilty.

4 (10) "Crime-related prohibition" means an order of a court
5 prohibiting conduct that directly relates to the circumstances of the
6 crime for which the offender has been convicted, and shall not be
7 construed to mean orders directing an offender affirmatively to
8 participate in rehabilitative programs or to otherwise perform
9 affirmative conduct. However, affirmative acts necessary to monitor
10 compliance with the order of a court may be required by the
11 department.

12 (11) "Criminal history" means the list of a defendant's prior
13 convictions and juvenile adjudications, whether in this state, in
14 federal court, or elsewhere, and any issued certificates of
15 restoration of opportunity pursuant to section 3 of this act.

16 (a) The history shall include, where known, for each conviction
17 (i) whether the defendant has been placed on probation and the length
18 and terms thereof; and (ii) whether the defendant has been
19 incarcerated and the length of incarceration.

20 (b) A conviction may be removed from a defendant's criminal
21 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
22 9.95.240, or a similar out-of-state statute, or if the conviction has
23 been vacated pursuant to a governor's pardon.

24 (c) The determination of a defendant's criminal history is
25 distinct from the determination of an offender score. A prior
26 conviction that was not included in an offender score calculated
27 pursuant to a former version of the sentencing reform act remains
28 part of the defendant's criminal history.

29 (12) "Criminal street gang" means any ongoing organization,
30 association, or group of three or more persons, whether formal or
31 informal, having a common name or common identifying sign or symbol,
32 having as one of its primary activities the commission of criminal
33 acts, and whose members or associates individually or collectively
34 engage in or have engaged in a pattern of criminal street gang
35 activity. This definition does not apply to employees engaged in
36 concerted activities for their mutual aid and protection, or to the
37 activities of labor and bona fide nonprofit organizations or their
38 members or agents.

39 (13) "Criminal street gang associate or member" means any person
40 who actively participates in any criminal street gang and who

1 intentionally promotes, furthers, or assists in any criminal act by
2 the criminal street gang.

3 (14) "Criminal street gang-related offense" means any felony or
4 misdemeanor offense, whether in this state or elsewhere, that is
5 committed for the benefit of, at the direction of, or in association
6 with any criminal street gang, or is committed with the intent to
7 promote, further, or assist in any criminal conduct by the gang, or
8 is committed for one or more of the following reasons:

9 (a) To gain admission, prestige, or promotion within the gang;

10 (b) To increase or maintain the gang's size, membership,
11 prestige, dominance, or control in any geographical area;

12 (c) To exact revenge or retribution for the gang or any member of
13 the gang;

14 (d) To obstruct justice, or intimidate or eliminate any witness
15 against the gang or any member of the gang;

16 (e) To directly or indirectly cause any benefit, aggrandizement,
17 gain, profit, or other advantage for the gang, its reputation,
18 influence, or membership; or

19 (f) To provide the gang with any advantage in, or any control or
20 dominance over any criminal market sector, including, but not limited
21 to, manufacturing, delivering, or selling any controlled substance
22 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
23 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
24 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
25 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
26 9.68 RCW).

27 (15) "Day fine" means a fine imposed by the sentencing court that
28 equals the difference between the offender's net daily income and the
29 reasonable obligations that the offender has for the support of the
30 offender and any dependents.

31 (16) "Day reporting" means a program of enhanced supervision
32 designed to monitor the offender's daily activities and compliance
33 with sentence conditions, and in which the offender is required to
34 report daily to a specific location designated by the department or
35 the sentencing court.

36 (17) "Department" means the department of corrections.

37 (18) "Determinate sentence" means a sentence that states with
38 exactitude the number of actual years, months, or days of total
39 confinement, of partial confinement, of community custody, the number
40 of actual hours or days of community restitution work, or dollars or

1 terms of a legal financial obligation. The fact that an offender
2 through earned release can reduce the actual period of confinement
3 shall not affect the classification of the sentence as a determinate
4 sentence.

5 (19) "Disposable earnings" means that part of the earnings of an
6 offender remaining after the deduction from those earnings of any
7 amount required by law to be withheld. For the purposes of this
8 definition, "earnings" means compensation paid or payable for
9 personal services, whether denominated as wages, salary, commission,
10 bonuses, or otherwise, and, notwithstanding any other provision of
11 law making the payments exempt from garnishment, attachment, or other
12 process to satisfy a court-ordered legal financial obligation,
13 specifically includes periodic payments pursuant to pension or
14 retirement programs, or insurance policies of any type, but does not
15 include payments made under Title 50 RCW, except as provided in RCW
16 50.40.020 and 50.40.050, or Title 74 RCW.

17 (20) "Domestic violence" has the same meaning as defined in RCW
18 10.99.020 and 26.50.010.

19 (21) "Drug offender sentencing alternative" is a sentencing
20 option available to persons convicted of a felony offense other than
21 a violent offense or a sex offense and who are eligible for the
22 option under RCW 9.94A.660.

23 (22) "Drug offense" means:

24 (a) Any felony violation of chapter 69.50 RCW except possession
25 of a controlled substance (RCW 69.50.4013) or forged prescription for
26 a controlled substance (RCW 69.50.403);

27 (b) Any offense defined as a felony under federal law that
28 relates to the possession, manufacture, distribution, or
29 transportation of a controlled substance; or

30 (c) Any out-of-state conviction for an offense that under the
31 laws of this state would be a felony classified as a drug offense
32 under (a) of this subsection.

33 (23) "Earned release" means earned release from confinement as
34 provided in RCW 9.94A.728.

35 (24) "Escape" means:

36 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
37 the first degree (RCW 9A.76.110), escape in the second degree (RCW
38 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
39 willful failure to return from work release (RCW 72.65.070), or

1 willful failure to be available for supervision by the department
2 while in community custody (RCW 72.09.310); or

3 (b) Any federal or out-of-state conviction for an offense that
4 under the laws of this state would be a felony classified as an
5 escape under (a) of this subsection.

6 (25) "Felony traffic offense" means:

7 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
8 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
9 run injury-accident (RCW 46.52.020(4)), felony driving while under
10 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
11 or felony physical control of a vehicle while under the influence of
12 intoxicating liquor or any drug (RCW 46.61.504(6)); or

13 (b) Any federal or out-of-state conviction for an offense that
14 under the laws of this state would be a felony classified as a felony
15 traffic offense under (a) of this subsection.

16 (26) "Fine" means a specific sum of money ordered by the
17 sentencing court to be paid by the offender to the court over a
18 specific period of time.

19 (27) "First-time offender" means any person who has no prior
20 convictions for a felony and is eligible for the first-time offender
21 waiver under RCW 9.94A.650.

22 (28) "Home detention" means a program of partial confinement
23 available to offenders wherein the offender is confined in a private
24 residence subject to electronic surveillance.

25 (29) "Homelessness" or "homeless" means a condition where an
26 individual lacks a fixed, regular, and adequate nighttime residence
27 and who has a primary nighttime residence that is:

28 (a) A supervised, publicly or privately operated shelter designed
29 to provide temporary living accommodations;

30 (b) A public or private place not designed for, or ordinarily
31 used as, a regular sleeping accommodation for human beings; or

32 (c) A private residence where the individual stays as a transient
33 invitee.

34 (30) "Legal financial obligation" means a sum of money that is
35 ordered by a superior court of the state of Washington for legal
36 financial obligations which may include restitution to the victim,
37 statutorily imposed crime victims' compensation fees as assessed
38 pursuant to RCW 7.68.035, court costs, county or interlocal drug
39 funds, court-appointed attorneys' fees, and costs of defense, fines,
40 and any other financial obligation that is assessed to the offender

1 as a result of a felony conviction. Upon conviction for vehicular
2 assault while under the influence of intoxicating liquor or any drug,
3 RCW 46.61.522(1)(b), or vehicular homicide while under the influence
4 of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal
5 financial obligations may also include payment to a public agency of
6 the expense of an emergency response to the incident resulting in the
7 conviction, subject to RCW 38.52.430.

8 (31) "Minor child" means a biological or adopted child of the
9 offender who is under age eighteen at the time of the offender's
10 current offense.

11 (32) "Most serious offense" means any of the following felonies
12 or a felony attempt to commit any of the following felonies:

13 (a) Any felony defined under any law as a class A felony or
14 criminal solicitation of or criminal conspiracy to commit a class A
15 felony;

16 (b) Assault in the second degree;

17 (c) Assault of a child in the second degree;

18 (d) Child molestation in the second degree;

19 (e) Controlled substance homicide;

20 (f) Extortion in the first degree;

21 (g) Incest when committed against a child under age fourteen;

22 (h) Indecent liberties;

23 (i) Kidnapping in the second degree;

24 (j) Leading organized crime;

25 (k) Manslaughter in the first degree;

26 (l) Manslaughter in the second degree;

27 (m) Promoting prostitution in the first degree;

28 (n) Rape in the third degree;

29 (o) Robbery in the second degree;

30 (p) Sexual exploitation;

31 (q) Vehicular assault, when caused by the operation or driving of
32 a vehicle by a person while under the influence of intoxicating
33 liquor or any drug or by the operation or driving of a vehicle in a
34 reckless manner;

35 (r) Vehicular homicide, when proximately caused by the driving of
36 any vehicle by any person while under the influence of intoxicating
37 liquor or any drug as defined by RCW 46.61.502, or by the operation
38 of any vehicle in a reckless manner;

39 (s) Any other class B felony offense with a finding of sexual
40 motivation;

1 (t) Any other felony with a deadly weapon verdict under RCW
2 9.94A.825;

3 (u) Any felony offense in effect at any time prior to December 2,
4 1993, that is comparable to a most serious offense under this
5 subsection, or any federal or out-of-state conviction for an offense
6 that under the laws of this state would be a felony classified as a
7 most serious offense under this subsection;

8 (v)(i) A prior conviction for indecent liberties under RCW
9 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
10 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
11 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
12 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
13 until July 1, 1988;

14 (ii) A prior conviction for indecent liberties under RCW
15 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
16 if: (A) The crime was committed against a child under the age of
17 fourteen; or (B) the relationship between the victim and perpetrator
18 is included in the definition of indecent liberties under RCW
19 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
20 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
21 1993, through July 27, 1997;

22 (w) Any out-of-state conviction for a felony offense with a
23 finding of sexual motivation if the minimum sentence imposed was ten
24 years or more; provided that the out-of-state felony offense must be
25 comparable to a felony offense under this title and Title 9A RCW and
26 the out-of-state definition of sexual motivation must be comparable
27 to the definition of sexual motivation contained in this section.

28 (33) "Nonviolent offense" means an offense which is not a violent
29 offense.

30 (34) "Offender" means a person who has committed a felony
31 established by state law and is eighteen years of age or older or is
32 less than eighteen years of age but whose case is under superior
33 court jurisdiction under RCW 13.04.030 or has been transferred by the
34 appropriate juvenile court to a criminal court pursuant to RCW
35 13.40.110. In addition, for the purpose of community custody
36 requirements under this chapter, "offender" also means a misdemeanor
37 or gross misdemeanor probationer ordered by a superior court to
38 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
39 supervised by the department pursuant to RCW 9.94A.501 and

1 9.94A.5011. Throughout this chapter, the terms "offender" and
2 "defendant" are used interchangeably.

3 (35) "Partial confinement" means confinement for no more than one
4 year in a facility or institution operated or utilized under contract
5 by the state or any other unit of government, or, if home detention
6 or work crew has been ordered by the court or home detention has been
7 ordered by the department as part of the parenting program, in an
8 approved residence, for a substantial portion of each day with the
9 balance of the day spent in the community. Partial confinement
10 includes work release, home detention, work crew, and a combination
11 of work crew and home detention.

12 (36) "Pattern of criminal street gang activity" means:

13 (a) The commission, attempt, conspiracy, or solicitation of, or
14 any prior juvenile adjudication of or adult conviction of, two or
15 more of the following criminal street gang-related offenses:

16 (i) Any "serious violent" felony offense as defined in this
17 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a
18 Child 1 (RCW 9A.36.120);

19 (ii) Any "violent" offense as defined by this section, excluding
20 Assault of a Child 2 (RCW 9A.36.130);

21 (iii) Deliver or Possession with Intent to Deliver a Controlled
22 Substance (chapter 69.50 RCW);

23 (iv) Any violation of the firearms and dangerous weapon act
24 (chapter 9.41 RCW);

25 (v) Theft of a Firearm (RCW 9A.56.300);

26 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);

27 (vii) Malicious Harassment (RCW 9A.36.080);

28 (viii) Harassment where a subsequent violation or deadly threat
29 is made (RCW 9A.46.020(2)(b));

30 (ix) Criminal Gang Intimidation (RCW 9A.46.120);

31 (x) Any felony conviction by a person eighteen years of age or
32 older with a special finding of involving a juvenile in a felony
33 offense under RCW 9.94A.833;

34 (xi) Residential Burglary (RCW 9A.52.025);

35 (xii) Burglary 2 (RCW 9A.52.030);

36 (xiii) Malicious Mischief 1 (RCW 9A.48.070);

37 (xiv) Malicious Mischief 2 (RCW 9A.48.080);

38 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);

39 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

1 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
2 9A.56.070);

3 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
4 9A.56.075);

5 (xix) Extortion 1 (RCW 9A.56.120);

6 (xx) Extortion 2 (RCW 9A.56.130);

7 (xxi) Intimidating a Witness (RCW 9A.72.110);

8 (xxii) Tampering with a Witness (RCW 9A.72.120);

9 (xxiii) Reckless Endangerment (RCW 9A.36.050);

10 (xxiv) Coercion (RCW 9A.36.070);

11 (xxv) Harassment (RCW 9A.46.020); or

12 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

13 (b) That at least one of the offenses listed in (a) of this
14 subsection shall have occurred after July 1, 2008;

15 (c) That the most recent committed offense listed in (a) of this
16 subsection occurred within three years of a prior offense listed in
17 (a) of this subsection; and

18 (d) Of the offenses that were committed in (a) of this
19 subsection, the offenses occurred on separate occasions or were
20 committed by two or more persons.

21 (37) "Persistent offender" is an offender who:

22 (a)(i) Has been convicted in this state of any felony considered
23 a most serious offense; and

24 (ii) Has, before the commission of the offense under (a) of this
25 subsection, been convicted as an offender on at least two separate
26 occasions, whether in this state or elsewhere, of felonies that under
27 the laws of this state would be considered most serious offenses and
28 would be included in the offender score under RCW 9.94A.525; provided
29 that of the two or more previous convictions, at least one conviction
30 must have occurred before the commission of any of the other most
31 serious offenses for which the offender was previously convicted; or

32 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
33 of a child in the first degree, child molestation in the first
34 degree, rape in the second degree, rape of a child in the second
35 degree, or indecent liberties by forcible compulsion; (B) any of the
36 following offenses with a finding of sexual motivation: Murder in the
37 first degree, murder in the second degree, homicide by abuse,
38 kidnapping in the first degree, kidnapping in the second degree,
39 assault in the first degree, assault in the second degree, assault of
40 a child in the first degree, assault of a child in the second degree,

1 or burglary in the first degree; or (C) an attempt to commit any
2 crime listed in this subsection (37)(b)(i); and

3 (ii) Has, before the commission of the offense under (b)(i) of
4 this subsection, been convicted as an offender on at least one
5 occasion, whether in this state or elsewhere, of an offense listed in
6 (b)(i) of this subsection or any federal or out-of-state offense or
7 offense under prior Washington law that is comparable to the offenses
8 listed in (b)(i) of this subsection. A conviction for rape of a child
9 in the first degree constitutes a conviction under (b)(i) of this
10 subsection only when the offender was sixteen years of age or older
11 when the offender committed the offense. A conviction for rape of a
12 child in the second degree constitutes a conviction under (b)(i) of
13 this subsection only when the offender was eighteen years of age or
14 older when the offender committed the offense.

15 (38) "Predatory" means: (a) The perpetrator of the crime was a
16 stranger to the victim, as defined in this section; (b) the
17 perpetrator established or promoted a relationship with the victim
18 prior to the offense and the victimization of the victim was a
19 significant reason the perpetrator established or promoted the
20 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
21 volunteer, or other person in authority in any public or private
22 school and the victim was a student of the school under his or her
23 authority or supervision. For purposes of this subsection, "school"
24 does not include home-based instruction as defined in RCW
25 28A.225.010; (ii) a coach, trainer, volunteer, or other person in
26 authority in any recreational activity and the victim was a
27 participant in the activity under his or her authority or
28 supervision; (iii) a pastor, elder, volunteer, or other person in
29 authority in any church or religious organization, and the victim was
30 a member or participant of the organization under his or her
31 authority; or (iv) a teacher, counselor, volunteer, or other person
32 in authority providing home-based instruction and the victim was a
33 student receiving home-based instruction while under his or her
34 authority or supervision. For purposes of this subsection: (A) "Home-
35 based instruction" has the same meaning as defined in RCW
36 28A.225.010; and (B) "teacher, counselor, volunteer, or other person
37 in authority" does not include the parent or legal guardian of the
38 victim.

39 (39) "Private school" means a school regulated under chapter
40 28A.195 or 28A.205 RCW.

1 (40) "Public school" has the same meaning as in RCW 28A.150.010.
2 (41) "Repetitive domestic violence offense" means any:
3 (a)(i) Domestic violence assault that is not a felony offense
4 under RCW 9A.36.041;
5 (ii) Domestic violence violation of a no-contact order under
6 chapter 10.99 RCW that is not a felony offense;
7 (iii) Domestic violence violation of a protection order under
8 chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony
9 offense;
10 (iv) Domestic violence harassment offense under RCW 9A.46.020
11 that is not a felony offense; or
12 (v) Domestic violence stalking offense under RCW 9A.46.110 that
13 is not a felony offense; or
14 (b) Any federal, out-of-state, tribal court, military, county, or
15 municipal conviction for an offense that under the laws of this state
16 would be classified as a repetitive domestic violence offense under
17 (a) of this subsection.
18 (42) "Restitution" means a specific sum of money ordered by the
19 sentencing court to be paid by the offender to the court over a
20 specified period of time as payment of damages. The sum may include
21 both public and private costs.
22 (43) "Risk assessment" means the application of the risk
23 instrument recommended to the department by the Washington state
24 institute for public policy as having the highest degree of
25 predictive accuracy for assessing an offender's risk of reoffense.
26 (44) "Serious traffic offense" means:
27 (a) Nonfelony driving while under the influence of intoxicating
28 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
29 while under the influence of intoxicating liquor or any drug (RCW
30 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
31 attended vehicle (RCW 46.52.020(5)); or
32 (b) Any federal, out-of-state, county, or municipal conviction
33 for an offense that under the laws of this state would be classified
34 as a serious traffic offense under (a) of this subsection.
35 (45) "Serious violent offense" is a subcategory of violent
36 offense and means:
37 (a)(i) Murder in the first degree;
38 (ii) Homicide by abuse;
39 (iii) Murder in the second degree;
40 (iv) Manslaughter in the first degree;

1 (v) Assault in the first degree;
2 (vi) Kidnapping in the first degree;
3 (vii) Rape in the first degree;
4 (viii) Assault of a child in the first degree; or
5 (ix) An attempt, criminal solicitation, or criminal conspiracy to
6 commit one of these felonies; or
7 (b) Any federal or out-of-state conviction for an offense that
8 under the laws of this state would be a felony classified as a
9 serious violent offense under (a) of this subsection.
10 (46) "Sex offense" means:
11 (a)(i) A felony that is a violation of chapter 9A.44 RCW other
12 than RCW 9A.44.132;
13 (ii) A violation of RCW 9A.64.020;
14 (iii) A felony that is a violation of chapter 9.68A RCW other
15 than RCW 9.68A.080;
16 (iv) A felony that is, under chapter 9A.28 RCW, a criminal
17 attempt, criminal solicitation, or criminal conspiracy to commit such
18 crimes; or
19 (v) A felony violation of RCW 9A.44.132(1) (failure to register)
20 if the person has been convicted of violating RCW 9A.44.132(1)
21 (failure to register) on at least one prior occasion;
22 (b) Any conviction for a felony offense in effect at any time
23 prior to July 1, 1976, that is comparable to a felony classified as a
24 sex offense in (a) of this subsection;
25 (c) A felony with a finding of sexual motivation under RCW
26 9.94A.835 or 13.40.135; or
27 (d) Any federal or out-of-state conviction for an offense that
28 under the laws of this state would be a felony classified as a sex
29 offense under (a) of this subsection.
30 (47) "Sexual motivation" means that one of the purposes for which
31 the defendant committed the crime was for the purpose of his or her
32 sexual gratification.
33 (48) "Standard sentence range" means the sentencing court's
34 discretionary range in imposing a nonappealable sentence.
35 (49) "Statutory maximum sentence" means the maximum length of
36 time for which an offender may be confined as punishment for a crime
37 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute
38 defining the crime, or other statute defining the maximum penalty for
39 a crime.

1 (50) "Stranger" means that the victim did not know the offender
2 twenty-four hours before the offense.

3 (51) "Total confinement" means confinement inside the physical
4 boundaries of a facility or institution operated or utilized under
5 contract by the state or any other unit of government for twenty-four
6 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

7 (52) "Transition training" means written and verbal instructions
8 and assistance provided by the department to the offender during the
9 two weeks prior to the offender's successful completion of the work
10 ethic camp program. The transition training shall include
11 instructions in the offender's requirements and obligations during
12 the offender's period of community custody.

13 (53) "Victim" means any person who has sustained emotional,
14 psychological, physical, or financial injury to person or property as
15 a direct result of the crime charged.

16 (54) "Violent offense" means:

17 (a) Any of the following felonies:

18 (i) Any felony defined under any law as a class A felony or an
19 attempt to commit a class A felony;

20 (ii) Criminal solicitation of or criminal conspiracy to commit a
21 class A felony;

22 (iii) Manslaughter in the first degree;

23 (iv) Manslaughter in the second degree;

24 (v) Indecent liberties if committed by forcible compulsion;

25 (vi) Kidnapping in the second degree;

26 (vii) Arson in the second degree;

27 (viii) Assault in the second degree;

28 (ix) Assault of a child in the second degree;

29 (x) Extortion in the first degree;

30 (xi) Robbery in the second degree;

31 (xii) Drive-by shooting;

32 (xiii) Vehicular assault, when caused by the operation or driving
33 of a vehicle by a person while under the influence of intoxicating
34 liquor or any drug or by the operation or driving of a vehicle in a
35 reckless manner; and

36 (xiv) Vehicular homicide, when proximately caused by the driving
37 of any vehicle by any person while under the influence of
38 intoxicating liquor or any drug as defined by RCW 46.61.502, or by
39 the operation of any vehicle in a reckless manner;

1 (b) Any conviction for a felony offense in effect at any time
2 prior to July 1, 1976, that is comparable to a felony classified as a
3 violent offense in (a) of this subsection; and

4 (c) Any federal or out-of-state conviction for an offense that
5 under the laws of this state would be a felony classified as a
6 violent offense under (a) or (b) of this subsection.

7 (55) "Work crew" means a program of partial confinement
8 consisting of civic improvement tasks for the benefit of the
9 community that complies with RCW 9.94A.725.

10 (56) "Work ethic camp" means an alternative incarceration program
11 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
12 the cost of corrections by requiring offenders to complete a
13 comprehensive array of real-world job and vocational experiences,
14 character-building work ethics training, life management skills
15 development, substance abuse rehabilitation, counseling, literacy
16 training, and basic adult education.

17 (57) "Work release" means a program of partial confinement
18 available to offenders who are employed or engaged as a student in a
19 regular course of study at school.

20 **Sec. 26.** RCW 18.160.080 and 1997 c 58 s 834 are each amended to
21 read as follows:

22 (1) The state director of fire protection may refuse to issue or
23 renew or may suspend or revoke the privilege of a licensed fire
24 protection sprinkler system contractor or the certificate of a
25 certificate of competency holder to engage in the fire protection
26 sprinkler system business or in lieu thereof, establish penalties as
27 prescribed by Washington state law, for any of the following reasons:

28 (a) Gross incompetency or gross negligence in the preparation of
29 technical drawings, installation, repair, alteration, maintenance,
30 inspection, service, or addition to fire protection sprinkler
31 systems;

32 (b) Except as provided in section 3 of this act, conviction of a
33 felony;

34 (c) Fraudulent or dishonest practices while engaging in the fire
35 protection sprinkler system((s)) business;

36 (d) Use of false evidence or misrepresentation in an application
37 for a license or certificate of competency;

38 (e) Permitting his or her license to be used in connection with
39 the preparation of any technical drawings which have not been

1 prepared by him or her personally or under his or her immediate
2 supervision, or in violation of this chapter; or

3 (f) Knowingly violating any provisions of this chapter or the
4 regulations issued thereunder.

5 (2) The state director of fire protection shall revoke the
6 license of a licensed fire protection sprinkler system contractor or
7 the certificate of a certificate of competency holder who engages in
8 the fire protection sprinkler system business while the license or
9 certificate of competency is suspended.

10 (3) The state director of fire protection shall immediately
11 suspend any license or certificate issued under this chapter if the
12 holder has been certified pursuant to RCW 74.20A.320 by the
13 department of social and health services as a person who is not in
14 compliance with a support order or a residential or visitation order.
15 If the person has continued to meet all other requirements for
16 issuance or reinstatement during the suspension, issuance or
17 reissuance of the license or certificate shall be automatic upon the
18 director's receipt of a release issued by the department of social
19 and health services stating that the person is in compliance with the
20 order.

21 (4) Any licensee or certificate of competency holder who is
22 aggrieved by an order of the state director of fire protection
23 suspending or revoking a license may, within thirty days after notice
24 of such suspension or revocation, appeal under chapter 34.05 RCW.
25 This subsection does not apply to actions taken under subsection (3)
26 of this section.

27 **Sec. 27.** RCW 18.165.030 and 2012 c 118 s 1 are each amended to
28 read as follows:

29 An applicant must meet the following minimum requirements to
30 obtain a private investigator license:

31 (1) Be at least eighteen years of age;

32 (2) Be a citizen or resident alien of the United States;

33 (3) Except as provided in section 3 of this act, not have been
34 convicted of a crime in any jurisdiction, if the director determines
35 that the applicant's particular crime directly relates to his or her
36 capacity to perform the duties of a private investigator and the
37 director determines that the license should be withheld to protect
38 the citizens of Washington state. The director shall make her or his
39 determination to withhold a license because of previous convictions

1 notwithstanding the restoration of employment rights act, chapter
2 9.96A RCW;

3 (4) Be employed by or have an employment offer from a private
4 investigator agency or be licensed as a private investigator agency;

5 (5) Submit a set of fingerprints; however, if an applicant has
6 been issued a license as a private security guard under chapter
7 18.170 RCW within the last twelve months, the applicant is not
8 required to undergo a separate background check to become licensed
9 under this chapter;

10 (6) Pay the required nonrefundable fee for each application; and

11 (7) Submit a fully completed application that includes proper
12 identification on a form prescribed by the director for each company
13 of employment.

14 **Sec. 28.** RCW 18.170.030 and 2012 c 118 s 2 are each amended to
15 read as follows:

16 An applicant must meet the following minimum requirements to
17 obtain a private security guard license:

18 (1) Be at least eighteen years of age;

19 (2) Be a citizen of the United States or a resident alien;

20 (3) Except as provided in section 3 of this act, not have been
21 convicted of a crime in any jurisdiction, if the director determines
22 that the applicant's particular crime directly relates to his or her
23 capacity to perform the duties of a private security guard, and the
24 director determines that the license should be withheld to protect
25 the citizens of Washington state. The director shall make her or his
26 determination to withhold a license because of previous convictions
27 notwithstanding the restoration of employment rights act, chapter
28 9.96A RCW;

29 (4) Be employed by or have an employment offer from a licensed
30 private security company or be licensed as a private security
31 company;

32 (5) Satisfy the training requirements established by the
33 director;

34 (6) Submit a set of fingerprints; however, if an applicant has
35 been issued a license as a private investigator under chapter 18.165
36 RCW within the last twelve months, the applicant is not required to
37 undergo a separate background check to become licensed under this
38 chapter;

39 (7) Pay the required nonrefundable fee for each application; and

1 (8) Submit a fully completed application that includes proper
2 identification on a form prescribed by the director for each company
3 of employment.

4 **Sec. 29.** RCW 18.185.020 and 1993 c 260 s 3 are each amended to
5 read as follows:

6 An applicant must meet the following minimum requirements to
7 obtain a bail bond agent license:

8 (1) Be at least eighteen years of age;

9 (2) Be a citizen or resident alien of the United States;

10 (3) Except as provided in section 3 of this act, not have been
11 convicted of a crime in any jurisdiction in the preceding ten years,
12 if the director determines that the applicant's particular crime
13 directly relates to a capacity to perform the duties of a bail bond
14 agent and the director determines that the license should be withheld
15 to protect the citizens of Washington state. If the director shall
16 make a determination to withhold a license because of previous
17 convictions, the determination shall be consistent with the
18 restoration of employment rights act, chapter 9.96A RCW;

19 (4) Be employed by a bail bond agency or be licensed as a bail
20 bond agency; and

21 (5) Pay the required fee.

22 **Sec. 30.** RCW 18.185.250 and 2008 c 105 s 5 are each amended to
23 read as follows:

24 An applicant must meet the following requirements to obtain a
25 bail bond recovery agent license:

26 (1) Submit a fully completed application that includes proper
27 identification on a form prescribed by the director;

28 (2) Pass an examination determined by the director to measure his
29 or her knowledge and competence in the bail recovery business;

30 (3) Be at least twenty-one years old;

31 (4) Be a citizen or legal resident alien of the United States;

32 (5) Except as provided in section 3 of this act, not have been
33 convicted of a crime in any jurisdiction, if the director determines
34 that the applicant's particular crime directly relates to a capacity
35 to perform the duties of a bail bond recovery agent, and that the
36 license should be withheld to protect the citizens of Washington
37 state. The director shall make the director's determination to

1 withhold a license because of previous convictions notwithstanding
2 the restoration of employment rights act, chapter 9.96A RCW;

3 (6) Not have had certification as a peace officer revoked or
4 denied under chapter 43.101 RCW, unless certification has
5 subsequently been reinstated under RCW 43.101.115;

6 (7) Submit a receipt showing payment for a background check
7 through the Washington state patrol and the federal bureau of
8 investigation;

9 (8) Have a current firearms certificate issued by the commission
10 if carrying a firearm in the performance of his or her duties as a
11 bail bond recovery agent;

12 (9)(a) Have a current license or equivalent permit to carry a
13 concealed pistol;

14 (b) A resident alien must provide a copy of his or her alien
15 firearm license; and

16 (10)(a) Pay the required nonrefundable fee for each application
17 for a bail bond recovery agent license;

18 (b) A bail bond agent or qualified agent who wishes to perform
19 the duties of a bail bond recovery agent must first obtain a bail
20 bond recovery agent endorsement to his or her bail bond agent or
21 agency license in order to act as a bail bond recovery agent, and pay
22 the required nonrefundable fee for each application for a bail bond
23 recovery agent endorsement.

24 **Sec. 31.** RCW 18.130.160 and 2008 c 134 s 10 are each amended to
25 read as follows:

26 Upon a finding, after hearing, that a license holder has
27 committed unprofessional conduct or is unable to practice with
28 reasonable skill and safety due to a physical or mental condition,
29 the disciplining authority shall issue an order including sanctions
30 adopted in accordance with the schedule adopted under RCW 18.130.390
31 giving proper consideration to any prior findings of fact under RCW
32 18.130.110, any stipulations to informal disposition under RCW
33 18.130.172, and any action taken by other in-state or out-of-state
34 disciplining authorities. The order must provide for one or any
35 combination of the following, as directed by the schedule, except as
36 provided in section 3 of this act:

37 (1) Revocation of the license;

38 (2) Suspension of the license for a fixed or indefinite term;

39 (3) Restriction or limitation of the practice;

1 (4) Requiring the satisfactory completion of a specific program
2 of remedial education or treatment;

3 (5) The monitoring of the practice by a supervisor approved by
4 the disciplining authority;

5 (6) Censure or reprimand;

6 (7) Compliance with conditions of probation for a designated
7 period of time;

8 (8) Payment of a fine for each violation of this chapter, not to
9 exceed five thousand dollars per violation. Funds received shall be
10 placed in the health professions account;

11 (9) Denial of the license request;

12 (10) Corrective action;

13 (11) Refund of fees billed to and collected from the consumer;

14 (12) A surrender of the practitioner's license in lieu of other
15 sanctions, which must be reported to the federal data bank.

16 Any of the actions under this section may be totally or partly
17 stayed by the disciplining authority. Safeguarding the public's
18 health and safety is the paramount responsibility of every
19 disciplining authority. In determining what action is appropriate,
20 the disciplining authority must consider the schedule adopted under
21 RCW 18.130.390. Where the schedule allows flexibility in determining
22 the appropriate sanction, the disciplining authority must first
23 consider what sanctions are necessary to protect or compensate the
24 public. Only after such provisions have been made may the
25 disciplining authority consider and include in the order requirements
26 designed to rehabilitate the license holder. All costs associated
27 with compliance with orders issued under this section are the
28 obligation of the license holder. The disciplining authority may
29 order permanent revocation of a license if it finds that the license
30 holder can never be rehabilitated or can never regain the ability to
31 practice with reasonable skill and safety.

32 Surrender or permanent revocation of a license under this section
33 is not subject to a petition for reinstatement under RCW 18.130.150.

34 The disciplining authority may determine that a case presents
35 unique circumstances that the schedule adopted under RCW 18.130.390
36 does not adequately address. The disciplining authority may deviate
37 from the schedule adopted under RCW 18.130.390 when selecting
38 appropriate sanctions, but the disciplining authority must issue a
39 written explanation of the basis for not following the schedule.

1 The license holder may enter into a stipulated disposition of
2 charges that includes one or more of the sanctions of this section,
3 but only after a statement of charges has been issued and the license
4 holder has been afforded the opportunity for a hearing and has
5 elected on the record to forego such a hearing. The stipulation shall
6 either contain one or more specific findings of unprofessional
7 conduct or inability to practice, or a statement by the license
8 holder acknowledging that evidence is sufficient to justify one or
9 more specified findings of unprofessional conduct or inability to
10 practice. The stipulation entered into pursuant to this subsection
11 shall be considered formal disciplinary action for all purposes.

12 **Sec. 32.** RCW 43.20A.710 and 2014 c 88 s 2 are each amended to
13 read as follows:

14 (1) The secretary shall investigate the conviction records,
15 pending charges and disciplinary board final decisions of:

16 (a) Any current employee or applicant seeking or being considered
17 for any position with the department who will or may have
18 unsupervised access to children, vulnerable adults, or individuals
19 with mental illness or developmental disabilities. This includes, but
20 is not limited to, positions conducting comprehensive assessments,
21 financial eligibility determinations, licensing and certification
22 activities, investigations, surveys, or case management; or for state
23 positions otherwise required by federal law to meet employment
24 standards;

25 (b) Individual providers who are paid by the state and providers
26 who are paid by home care agencies to provide in-home services
27 involving unsupervised access to persons with physical, mental, or
28 developmental disabilities or mental illness, or to vulnerable adults
29 as defined in chapter 74.34 RCW, including but not limited to
30 services provided under chapter 74.39 or 74.39A RCW; and

31 (c) Individuals or businesses or organizations for the care,
32 supervision, case management, or treatment of children, persons with
33 developmental disabilities, or vulnerable adults, including but not
34 limited to services contracted for under chapter 18.20, 70.127,
35 70.128, 72.36, or 74.39A RCW or Title 71A RCW.

36 (2) The secretary shall require a fingerprint-based background
37 check through both the Washington state patrol and the federal bureau
38 of investigation as provided in RCW 43.43.837. Unless otherwise
39 authorized by law, the secretary shall use the information solely for

1 the purpose of determining the character, suitability, and competence
2 of the applicant.

3 (3) Except as provided in subsection (4) of this section, an
4 individual provider or home care agency provider who has resided in
5 the state less than three years before applying for employment
6 involving unsupervised access to a vulnerable adult as defined in
7 chapter 74.34 RCW must be fingerprinted for the purpose of
8 investigating conviction records through both the Washington state
9 patrol and the federal bureau of investigation. This subsection
10 applies only with respect to the provision of in-home services funded
11 by medicaid personal care under RCW 74.09.520, community options
12 program entry system waiver services under RCW 74.39A.030, or chore
13 services under RCW 74.39A.110. However, this subsection does not
14 supersede RCW 74.15.030(2)(b).

15 (4) Long-term care workers, as defined in RCW 74.39A.009, who are
16 hired after January 7, 2012, are subject to background checks under
17 RCW 74.39A.056, except that the department may require a background
18 check at any time under RCW 43.43.837. For the purposes of this
19 subsection, "background check" includes, but is not limited to, a
20 fingerprint check submitted for the purpose of investigating
21 conviction records through both the Washington state patrol and the
22 federal bureau of investigation.

23 (5) An individual provider or home care agency provider hired to
24 provide in-home care for and having unsupervised access to a
25 vulnerable adult as defined in chapter 74.34 RCW must have no
26 conviction for a disqualifying crime under RCW 43.43.830 and
27 43.43.842, except as provided in section 3 of this act. An individual
28 or home care agency provider must also have no conviction for a crime
29 relating to drugs as defined in RCW 43.43.830, except as provided in
30 section 3 of this act. This subsection applies only with respect to
31 the provision of in-home services funded by medicaid personal care
32 under RCW 74.09.520, community options program entry system waiver
33 services under RCW 74.39A.030, or chore services under RCW
34 74.39A.110.

35 (6) The secretary shall provide the results of the state
36 background check on long-term care workers, including individual
37 providers, to the persons hiring them or to their legal guardians, if
38 any, for their determination of the character, suitability, and
39 competence of the applicants. If the person elects to hire or retain
40 an individual provider after receiving notice from the department

1 that the applicant has a conviction for an offense that would
2 disqualify the applicant from having unsupervised access to persons
3 with physical, mental, or developmental disabilities or mental
4 illness, or to vulnerable adults as defined in chapter 74.34 RCW,
5 then the secretary shall deny payment for any subsequent services
6 rendered by the disqualified individual provider.

7 (7) Criminal justice agencies shall provide the secretary such
8 information as they may have and that the secretary may require for
9 such purpose.

10 (8) Any person whose criminal history would otherwise disqualify
11 the person under this section from a position which will or may have
12 unsupervised access to children, vulnerable adults, or persons with
13 mental illness or developmental disabilities shall not be
14 disqualified if the department of social and health services reviewed
15 the person's otherwise disqualifying criminal history through the
16 department of social and health services' background assessment
17 review team process conducted in 2002 and determined that such person
18 could remain in a position covered by this section, or if the
19 otherwise disqualifying conviction or disposition has been the
20 subject of a pardon, annulment, or other equivalent procedure.

21 NEW SECTION. **Sec. 33.** If any provision of this act or its
22 application to any person or circumstance is held invalid, the
23 remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.

25 NEW SECTION. **Sec. 34.** If any part of this act is found to be in
26 conflict with federal requirements that are a prescribed condition to
27 the allocation of federal funds to the state, the conflicting part of
28 this act is inoperative solely to the extent of the conflict and with
29 respect to the agencies directly affected, and this finding does not
30 affect the operation of the remainder of this act in its application
31 to the agencies concerned. Rules adopted under this act must meet
32 federal requirements that are a necessary condition to the receipt of
33 federal funds by the state.

34 NEW SECTION. **Sec. 35.** Sections 2 and 3 of this act constitute a
35 new chapter in Title 9 RCW.

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