

**2SSB 5533 - S AMD 240**

By Senator Braun

**NOT CONSIDERED 12/23/2019**

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

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 74.13  
4 RCW to read as follows:

5 (1) Subject to the availability of amounts appropriated for this  
6 specific purpose, the department shall develop and implement a  
7 process by which an individual with a founded finding of child abuse  
8 or neglect as defined in RCW 26.44.020 or an individual whose child  
9 was found by a court to be dependent pursuant to chapter 13.34 RCW  
10 may request the department for issuance of a certificate of parental  
11 improvement.

12 (2) The department shall respond to a certificate of parental  
13 improvement request and notify the requestor of the department's  
14 determination to issue or deny that request within sixty days.

15 (3) The department shall issue a certificate of parental  
16 improvement if, on a more probable than not basis, the requestor has  
17 the character, suitability, and competence to care for children and  
18 meets the other requirements of this section.

19 (4) The department may not issue a certificate of parental  
20 improvement to any individual if:

21 (a) Fewer than five years have passed since the requestor's last  
22 founded finding of child abuse or neglect as defined in RCW  
23 26.44.020;

24 (b) Fewer than two years have passed since the department's  
25 denial of an individual's request for a certificate of parental  
26 improvement; or

27 (c) The requestor has any conviction or pending criminal action  
28 for:

29 (i) Any felony offense involving the physical neglect of a child  
30 under chapter 9A.42 RCW;

31 (ii) Any felony offense under chapter 9A.32 or 9A.36 RCW  
32 involving a physical injury or death of a child;

1 (iii) Any felony domestic violence offense committed against a  
2 family or household member as defined in chapter 10.99 RCW;

3 (iv) A felony offense against a child under chapter 9.68A RCW;

4 (v) Any of the following felony offenses:

5 (A) Any felony defined under any law as a class A felony or an  
6 attempt to commit a class A felony;

7 (B) Criminal solicitation of or criminal conspiracy to commit a  
8 class A felony;

9 (C) Manslaughter in the first or second degree;

10 (D) Indecent liberties if committed by forcible compulsion;

11 (E) Kidnapping in the second degree;

12 (F) Arson in the second degree;

13 (G) Extortion in the first degree;

14 (H) Robbery in the second degree;

15 (I) Drive-by shooting; and

16 (J) Vehicular homicide; or

17 (vi) Any out-of-state, federal, or state conviction for a felony  
18 offense that is comparable to an offense listed in this subsection  
19 (3)(b).

20 (5) The department shall consider the following when determining  
21 whether to issue a certificate of parental improvement:

22 (a) Documentation of any founded finding of child abuse or  
23 neglect and the underlying documentation the department relied upon  
24 to make that finding;

25 (b) Findings from any civil adjudication proceeding as defined in  
26 RCW 43.43.830;

27 (c) Referral history alleging child abuse or neglect against the  
28 requestor;

29 (d) The length of time that has elapsed since the founded finding  
30 of child abuse or neglect;

31 (e) Whether a court made a finding that the requestor's child was  
32 dependent pursuant to chapter 13.34 RCW, the length of time elapsed  
33 since that dependency court process was dismissed, and the outcome of  
34 the dependency court process including whether the child was returned  
35 to the requestor's care;

36 (f) Any documentation that the requestor successfully addressed  
37 the circumstances that led to an administrative finding of child  
38 abuse or neglect, including but not limited to: A declaration by the  
39 requestor; recent assessments or evaluations; completion or progress

1 toward completion of recommended court ordered treatment, services,  
2 or programs;

3 (g) Any pending criminal or civil actions against the requestor;

4 (h) Results of a Washington state patrol criminal history and  
5 federal background check;

6 (i) Personal and professional references from employers,  
7 professionals, and agencies familiar with the requestor who can  
8 address the requestor's current character; and

9 (j) Any education, volunteer work, employment history, or  
10 community involvement of the requestor.

11 (6) Governmental entities, and their officers, agents, employees,  
12 and volunteers are not liable in tort for any of their acts or  
13 omissions in issuing certificates of parental improvement including,  
14 but not limited to, any determination to issue the certificate, or  
15 any later act of an individual who received a certificate.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.13  
17 RCW to read as follows:

18 (1) A person who applies for a certificate of parental  
19 improvement pursuant to section 1 of this act has the right to seek  
20 review of the department's denial of this certificate request as  
21 provided in this section.

22 (2) Within thirty calendar days after the department has notified  
23 the requestor that the department is denying the request for a  
24 certificate of parental improvement pursuant to section 1 of this  
25 act, the requestor may request that the department review this  
26 determination. The request for department review must be made in  
27 writing. The written notice provided by the department denying a  
28 request for a certificate of parental improvement must be sent by  
29 certified mail, return receipt requested, to the requestor's last  
30 known address and include at least the following information in plain  
31 language:

32 (a) The reason or reasons for the department's denial of a  
33 certificate of parental improvement request following a child abuse  
34 or neglect finding; and

35 (b) That the requestor has a right to challenge the department's  
36 decision not to issue a certificate of parental improvement,  
37 including a description of the process for requesting a review of the  
38 department's decision to deny a request for a certificate of parental  
39 improvement.

1 (3) If a requestor does not request review according to the  
2 process provided in this subsection, the requestor may not further  
3 challenge the department's decision not to issue a certificate of  
4 parental improvement following a child abuse or neglect finding.

5 (4) Upon receipt of a written request for review, the department  
6 shall review and, if appropriate, may change its decision and issue a  
7 certificate of parental improvement. The secretary shall designate  
8 the appropriate staff to conduct this review. The review must be  
9 completed within thirty days after receiving the written request for  
10 departmental review. Upon completion of this review, the department  
11 shall notify the requestor in writing of the department's  
12 determination.

13 (5) If the department does not alter its decision not to issue a  
14 certificate of parental improvement following a child abuse or  
15 neglect finding, the requestor may request an adjudicative hearing to  
16 contest this decision. The adjudicative proceeding is governed by the  
17 administrative procedure act, chapter 34.05 RCW, and this section.  
18 The request for an adjudicative proceeding must be filed within  
19 thirty calendar days after receiving notice of the agency review  
20 determination. If a request for an adjudicative proceeding is not  
21 made as provided in this section, the requestor may not further  
22 challenge the department's decision and has no right to departmental  
23 review, an adjudicative hearing, or judicial review of the  
24 determination not to issue a certificate of parental improvement.

25 (6) Reviews and hearings conducted under this section are  
26 confidential and are not open to the public. Information about  
27 reports, reviews, and hearings may be disclosed only in accordance  
28 with federal and state laws pertaining to child welfare records and  
29 child protective services reports.

30 (7) The department shall establish by administrative rule  
31 procedures for reviewing requests for certificates of parental  
32 improvement. The department may adopt additional rules to implement  
33 this section.

34 **Sec. 3.** RCW 74.13.020 and 2018 c 284 s 36, 2018 c 58 s 51, and  
35 2018 c 34 s 3 are each reenacted and amended to read as follows:

36 The definitions in this section apply throughout this chapter  
37 unless the context clearly requires otherwise.

38 (1) "Case management" means convening family meetings,  
39 developing, revising, and monitoring implementation of any case plan

1 or individual service and safety plan, coordinating and monitoring  
2 services needed by the child and family, caseworker-child visits,  
3 family visits, and the assumption of court-related duties, excluding  
4 legal representation, including preparing court reports, attending  
5 judicial hearings and permanency hearings, and ensuring that the  
6 child is progressing toward permanency within state and federal  
7 mandates, including the Indian child welfare act.

8 (2) "Child" means:

9 (a) A person less than eighteen years of age; or

10 (b) A person age eighteen to twenty-one years who is eligible to  
11 receive the extended foster care services authorized under RCW  
12 74.13.031.

13 (3) "Child protective services" has the same meaning as in RCW  
14 26.44.020.

15 (4) "Child welfare services" means social services including  
16 voluntary and in-home services, out-of-home care, case management,  
17 and adoption services which strengthen, supplement, or substitute  
18 for, parental care and supervision for the purpose of:

19 (a) Preventing or remedying, or assisting in the solution of  
20 problems which may result in families in conflict, or the neglect,  
21 abuse, exploitation, or criminal behavior of children;

22 (b) Protecting and caring for dependent, abused, or neglected  
23 children;

24 (c) Assisting children who are in conflict with their parents,  
25 and assisting parents who are in conflict with their children, with  
26 services designed to resolve such conflicts;

27 (d) Protecting and promoting the welfare of children, including  
28 the strengthening of their own homes where possible, or, where  
29 needed;

30 (e) Providing adequate care of children away from their homes in  
31 foster family homes or day care or other child care agencies or  
32 facilities.

33 "Child welfare services" does not include child protection  
34 services.

35 (5) "Department" means the department of children, youth, and  
36 families.

37 (6) "Extended foster care services" means residential and other  
38 support services the department is authorized to provide to dependent  
39 children. These services include, but are not limited to, placement  
40 in licensed, relative, or otherwise approved care, or supervised

1 independent living settings; assistance in meeting basic needs;  
2 independent living services; medical assistance; and counseling or  
3 treatment.

4 (7) "Family assessment" means a comprehensive assessment of child  
5 safety, risk of subsequent child abuse or neglect, and family  
6 strengths and needs that is applied to a child abuse or neglect  
7 report. Family assessment does not include a determination as to  
8 whether child abuse or neglect occurred, but does determine the need  
9 for services to address the safety of the child and the risk of  
10 subsequent maltreatment.

11 (8) "Medical condition" means, for the purposes of qualifying for  
12 extended foster care services, a physical or mental health condition  
13 as documented by any licensed health care provider regulated by a  
14 disciplining authority under RCW 18.130.040.

15 (9) "Nonminor dependent" means any individual age eighteen to  
16 twenty-one years who is participating in extended foster care  
17 services authorized under RCW 74.13.031.

18 (10) "Out-of-home care services" means services provided after  
19 the shelter care hearing to or for children in out-of-home care, as  
20 that term is defined in RCW 13.34.030, and their families, including  
21 the recruitment, training, and management of foster parents, the  
22 recruitment of adoptive families, and the facilitation of the  
23 adoption process, family reunification, independent living, emergency  
24 shelter, residential group care, and foster care, including relative  
25 placement.

26 (11) "Performance-based contracting" means the structuring of all  
27 aspects of the procurement of services around the purpose of the work  
28 to be performed and the desired results with the contract  
29 requirements set forth in clear, specific, and objective terms with  
30 measurable outcomes. Contracts shall also include provisions that  
31 link the performance of the contractor to the level and timing of  
32 reimbursement.

33 (12) "Permanency services" means long-term services provided to  
34 secure a child's safety, permanency, and well-being, including foster  
35 care services, family reunification services, adoption services, and  
36 preparation for independent living services.

37 (13) "Primary prevention services" means services which are  
38 designed and delivered for the primary purpose of enhancing child and  
39 family well-being and are shown, by analysis of outcomes, to reduce

1 the risk to the likelihood of the initial need for child welfare  
2 services.

3 (14) "Secretary" means the secretary of the department.

4 (15) "Supervised independent living" includes, but is not limited  
5 to, apartment living, room and board arrangements, college or  
6 university dormitories, and shared roommate settings. Supervised  
7 independent living settings must be approved by the department or the  
8 court.

9 (16) "Unsupervised" has the same meaning as in RCW 43.43.830.

10 (17) "Voluntary placement agreement" means, for the purposes of  
11 extended foster care services, a written voluntary agreement between  
12 a nonminor dependent who agrees to submit to the care and authority  
13 of the department for the purposes of participating in the extended  
14 foster care program.

15 (18) "Certificate of parental improvement" means a certificate  
16 issued under section 1 of this act to an individual with a founded  
17 finding of child abuse or neglect or a court finding that the  
18 individual's child was dependent pursuant to chapter 13.34 RCW.

19 NEW SECTION. Sec. 4. A new section is added to chapter 18.20  
20 RCW to read as follows:

21 Assisted living facilities, as defined in this chapter, may not  
22 automatically deny a prospective volunteer solely because of a  
23 founded finding of abuse or neglect involving the individual revealed  
24 in the record check or a court finding that the individual's child  
25 was dependent pursuant to chapter 13.34 RCW when that founded finding  
26 or court finding is accompanied by a certificate of parental  
27 improvement as defined in chapter 74.13 RCW related to the same  
28 incident without conducting a review to determine the individual's  
29 character, suitability, and competency to volunteer with vulnerable  
30 adults.

31 NEW SECTION. Sec. 5. A new section is added to chapter 18.51  
32 RCW to read as follows:

33 Nursing homes, as defined in this chapter, may not automatically  
34 deny a prospective volunteer solely because of a founded finding of  
35 abuse or neglect involving the individual revealed in the record  
36 check or a court finding that the individual's child was dependent  
37 pursuant to chapter 13.34 RCW when that founded finding or court  
38 finding is accompanied by a certificate of parental improvement as

1 defined in chapter 74.13 RCW related to the same incident without  
2 conducting a review to determine the individual's character,  
3 suitability, and competency to volunteer with vulnerable adults.

4 **Sec. 6.** RCW 43.43.832 and 2017 3rd sp.s. c 20 s 5 and 2017 3rd  
5 sp.s. c 6 s 224 are each reenacted and amended to read as follows:

6 (1) The Washington state patrol identification and criminal  
7 history section shall disclose conviction records as follows:

8 (a) An applicant's conviction record, upon the request of a  
9 business or organization as defined in RCW 43.43.830, a  
10 developmentally disabled person, or a vulnerable adult as defined in  
11 RCW 43.43.830 or his or her guardian;

12 (b) The conviction record of an applicant for certification, upon  
13 the request of the Washington professional educator standards board;

14 (c) Any conviction record to aid in the investigation and  
15 prosecution of child, developmentally disabled person, and vulnerable  
16 adult abuse cases and to protect children and adults from further  
17 incidents of abuse, upon the request of a law enforcement agency, the  
18 office of the attorney general, prosecuting authority, or the  
19 department of social and health services; and

20 (d) A prospective client's or resident's conviction record, upon  
21 the request of a business or organization that qualifies for  
22 exemption under section 501(c)(3) of the internal revenue code of  
23 1986 (26 U.S.C. Sec. 501(c)(3)) and that provides emergency shelter  
24 or transitional housing for children, persons with developmental  
25 disabilities, or vulnerable adults.

26 (2) The secretary of the department of social and health services  
27 and the secretary of children, youth, and families must establish  
28 rules and set standards to require specific action when considering  
29 the information received pursuant to subsection (1) of this section,  
30 and when considering additional information including but not limited  
31 to civil adjudication proceedings as defined in RCW 43.43.830 and any  
32 out-of-state equivalent, in the following circumstances:

33 (a) When considering persons for state employment in positions  
34 directly responsible for the supervision, care, or treatment of  
35 children, vulnerable adults, or individuals with mental illness or  
36 developmental disabilities provided that: For persons residing in a  
37 home that will be utilized to provide foster care for dependent  
38 youth, a criminal background check will be required for all persons  
39 aged sixteen and older and the department of social and health



1 services may require a criminal background check for persons who are  
2 younger than sixteen in situations where it may be warranted to  
3 ensure the safety of youth in foster care;

4 (b) When considering persons for state positions involving  
5 unsupervised access to vulnerable adults to conduct comprehensive  
6 assessments, financial eligibility determinations, licensing and  
7 certification activities, investigations, surveys, or case  
8 management; or for state positions otherwise required by federal law  
9 to meet employment standards;

10 (c) When licensing agencies or facilities with individuals in  
11 positions directly responsible for the care, supervision, or  
12 treatment of children, developmentally disabled persons, or  
13 vulnerable adults, including but not limited to agencies or  
14 facilities licensed under chapter 74.15 or 18.51 RCW;

15 (d) When contracting with individuals or businesses or  
16 organizations for the care, supervision, case management, or  
17 treatment, including peer counseling, of children, developmentally  
18 disabled persons, or vulnerable adults, including but not limited to  
19 services contracted for under chapter 18.20, 70.127, 70.128, 72.36,  
20 or 74.39A RCW or Title 71A RCW;

21 (e) When individual providers are paid by the state or providers  
22 are paid by home care agencies to provide in-home services involving  
23 unsupervised access to persons with physical, mental, or  
24 developmental disabilities or mental illness, or to vulnerable adults  
25 as defined in chapter 74.34 RCW, including but not limited to  
26 services provided under chapter 74.39 or 74.39A RCW.

27 (3) The secretary of the department of children, youth, and  
28 families shall investigate the conviction records, pending charges,  
29 and other information including civil adjudication proceeding records  
30 of current employees and of any person actively being considered for  
31 any position with the department who will or may have unsupervised  
32 access to children, or for state positions otherwise required by  
33 federal law to meet employment standards. "Considered for any  
34 position" includes decisions about (a) initial hiring, layoffs,  
35 reallocations, transfers, promotions, or demotions, or (b) other  
36 decisions that result in an individual being in a position that will  
37 or may have unsupervised access to children as an employee, an  
38 intern, or a volunteer.

39 (4) The secretary of the department of children, youth, and  
40 families shall adopt rules and investigate conviction records,

1 pending charges, and other information including civil adjudication  
2 proceeding records, in the following circumstances:

3 (a) When licensing or certifying agencies with individuals in  
4 positions that will or may have unsupervised access to children who  
5 are in child day care, in early learning programs, or receiving early  
6 childhood education services, including but not limited to licensees,  
7 agency staff, interns, volunteers, contracted providers, and persons  
8 living on the premises who are sixteen years of age or older;

9 (b) When authorizing individuals who will or may have  
10 unsupervised access to children who are in child day care, in early  
11 learning programs, or receiving early childhood learning education  
12 services in licensed or certified agencies, including but not limited  
13 to licensees, agency staff, interns, volunteers, contracted  
14 providers, and persons living on the premises who are sixteen years  
15 of age or older;

16 (c) When contracting with any business or organization for  
17 activities that will or may have unsupervised access to children who  
18 are in child day care, in early learning programs, or receiving early  
19 childhood learning education services;

20 (d) When establishing the eligibility criteria for individual  
21 providers to receive state paid subsidies to provide child day care  
22 or early learning services that will or may involve unsupervised  
23 access to children; and

24 (e) When responding to a request from an individual for a  
25 certificate of parental improvement under chapter 74.13 RCW.

26 (5) Whenever a state conviction record check is required by state  
27 law, persons may be employed or engaged as volunteers or independent  
28 contractors on a conditional basis pending completion of the state  
29 background investigation. Whenever a national criminal record check  
30 through the federal bureau of investigation is required by state law,  
31 a person may be employed or engaged as a volunteer or independent  
32 contractor on a conditional basis pending completion of the national  
33 check. The Washington personnel resources board shall adopt rules to  
34 accomplish the purposes of this subsection as it applies to state  
35 employees.

36 (6) (a) For purposes of facilitating timely access to criminal  
37 background information and to reasonably minimize the number of  
38 requests made under this section, recognizing that certain health  
39 care providers change employment frequently, health care facilities

1 may, upon request from another health care facility, share copies of  
2 completed criminal background inquiry information.

3 (b) Completed criminal background inquiry information may be  
4 shared by a willing health care facility only if the following  
5 conditions are satisfied: The licensed health care facility sharing  
6 the criminal background inquiry information is reasonably known to be  
7 the person's most recent employer, no more than twelve months has  
8 elapsed from the date the person was last employed at a licensed  
9 health care facility to the date of their current employment  
10 application, and the criminal background information is no more than  
11 two years old.

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

18 (d) Any health care facility that knows or has reason to believe  
19 that an applicant has or may have a disqualifying conviction or  
20 finding as described in RCW 43.43.842, subsequent to the completion  
21 date of their most recent criminal background inquiry, shall be  
22 prohibited from relying on the applicant's previous employer's  
23 criminal background inquiry information. A new criminal background  
24 inquiry shall be requested pursuant to RCW 43.43.830 through  
25 43.43.842.

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

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

33 **Sec. 7.** RCW 74.39A.056 and 2018 c 278 s 8 are each amended to  
34 read as follows:

35 (1)(a) All long-term care workers shall be screened through state  
36 and federal background checks in a uniform and timely manner to  
37 verify that they do not have a history that would disqualify them  
38 from working with vulnerable persons. The department must process  
39 background checks for long-term care workers and make the information

1 available to employers, prospective employers, and others as  
2 authorized by law.

3 (b) (i) Except as provided in (b) (ii) of this subsection, for  
4 long-term care workers hired on or after January 7, 2012, the  
5 background checks required under this section shall include checking  
6 against the federal bureau of investigation fingerprint  
7 identification records system and against the national sex offenders  
8 registry or their successor programs. The department shall require  
9 these long-term care workers to submit fingerprints for the purpose  
10 of investigating conviction records through both the Washington state  
11 patrol and the federal bureau of investigation. The department shall  
12 not pass on the cost of these criminal background checks to the  
13 workers or their employers.

14 (ii) This subsection does not apply to long-term care workers  
15 employed by community residential service businesses until January 1,  
16 2016.

17 (c) The department shall share state and federal background check  
18 results with the department of health in accordance with RCW  
19 18.88B.080.

20 (d) Background check screening required under this section and  
21 department rules is not required for an employee of a consumer  
22 directed employer if all of the following circumstances apply:

23 (i) The individual has an individual provider contract with the  
24 department;

25 (ii) The last background check on the contracted individual  
26 provider is still valid under department rules and did not disqualify  
27 the individual from providing personal care services;

28 (iii) Employment by the consumer directed employer is the only  
29 reason a new background check would be required; and

30 (iv) The department's background check results have been shared  
31 with the consumer directed employer.

32 (2) (a) No provider, or its staff, or long-term care worker, or  
33 prospective provider or long-term care worker, with a stipulated  
34 finding of fact, conclusion of law, an agreed order, or finding of  
35 fact, conclusion of law, or final order issued by a disciplining  
36 authority or a court of law or entered into a state registry with a  
37 final substantiated finding of abuse, neglect, exploitation, or  
38 abandonment of a minor or a vulnerable adult as defined in chapter  
39 74.34 RCW shall be employed in the care of and have unsupervised  
40 access to vulnerable adults.

1       (b) A provider may not automatically deny a request from a  
2 prospective volunteer for unsupervised access to vulnerable adults  
3 under this chapter solely because of a founded finding of child abuse  
4 or neglect involving the individual revealed in the background check  
5 process or solely because the individual's child was found by a court  
6 to be dependent pursuant to chapter 13.34 RCW when that founded  
7 finding or court finding is accompanied by a certificate of parental  
8 improvement as defined in chapter 74.13 RCW related to the same  
9 incident without conducting a review to determine the individual's  
10 character, suitability, and competency to volunteer with vulnerable  
11 adults.

12       (3) The department shall establish, by rule, a state registry  
13 which contains identifying information about long-term care workers  
14 identified under this chapter who have final substantiated findings  
15 of abuse, neglect, financial exploitation, or abandonment of a  
16 vulnerable adult as defined in RCW 74.34.020. The rule must include  
17 disclosure, disposition of findings, notification, findings of fact,  
18 appeal rights, and fair hearing requirements. The department shall  
19 disclose, upon request, final substantiated findings of abuse,  
20 neglect, financial exploitation, or abandonment to any person so  
21 requesting this information. This information must also be shared  
22 with the department of health to advance the purposes of chapter  
23 18.88B RCW.

24       (4) The department shall adopt rules to implement this section."

**2SSB 5533 - S AMD 240**  
By Senator Braun

**NOT CONSIDERED 12/23/2019**

25       On page 1, line 1 of the title, after "improvement;" strike the  
26 remainder of the title and insert "amending RCW 74.39A.056;  
27 reenacting and amending RCW 74.13.020 and 43.43.832; adding new  
28 sections to chapter 74.13 RCW; adding a new section to chapter 18.20  
29 RCW; and adding a new section to chapter 18.51 RCW."

EFFECT: An individual with a founded finding of child abuse or neglect or a court finding that the individual's child was a dependent may not automatically be denied an opportunity to volunteer in an assisted living facility, nursing home, or with vulnerable

adults based solely on that finding if the individual also has a certificate of parental improvement related to that finding.

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