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**SECOND SUBSTITUTE SENATE BILL 5533**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Braun, Darneille, and Zeiger)

READ FIRST TIME 03/01/19.

1 AN ACT Relating to certificates of parental improvement; amending  
2 RCW 74.13.700 and 74.39A.056; reenacting and amending RCW  
3 28A.400.303, 74.13.020, 43.43.832, and 43.216.270; adding new  
4 sections to chapter 74.13 RCW; adding a new section to chapter 18.20  
5 RCW; and adding a new section to chapter 18.51 RCW.

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

7 **Sec. 1.** RCW 28A.400.303 and 2017 3rd sp.s. c 33 s 1 and 2017 3rd  
8 sp.s. c 6 s 220 are each reenacted and amended to read as follows:

9 (1) School districts, educational service districts, the  
10 Washington state center for childhood deafness and hearing loss, the  
11 state school for the blind, and their contractors hiring employees  
12 who will have regularly scheduled unsupervised access to children or  
13 developmentally disabled persons shall require a record check through  
14 the Washington state patrol criminal identification system under RCW  
15 43.43.830 through 43.43.834, 10.97.030, and 10.97.050 and through the  
16 federal bureau of investigation before hiring an employee. The record  
17 check shall include a fingerprint check using a complete Washington  
18 state criminal identification fingerprint card. The requesting entity  
19 may provide a copy of the record report to the applicant at the  
20 applicant's request. When necessary, applicants may be employed on a  
21 conditional basis pending completion of the investigation. If the

1 applicant has had a record check within the previous two years, the  
2 district, the Washington state center for childhood deafness and  
3 hearing loss, the state school for the blind, or contractor may waive  
4 the requirement. Except as provided in subsection (2) of this  
5 section, the district, pursuant to chapter 41.59 or 41.56 RCW, the  
6 Washington state center for childhood deafness and hearing loss, the  
7 state school for the blind, or contractor hiring the employee shall  
8 determine who shall pay costs associated with the record check.

9 (2) Federal bureau of Indian affairs-funded schools may use the  
10 process in subsection (1) of this section to perform record checks  
11 for their employees and applicants for employment.

12 (3)(a) School districts, educational service districts, the  
13 Washington state center for childhood deafness and hearing loss, the  
14 state school for the blind, federal bureau of Indian affairs-funded  
15 schools, charter schools established under chapter 28A.710 RCW,  
16 schools that are the subject of a state-tribal education compact  
17 under chapter 28A.715 RCW, and their contractors may use the process  
18 in subsection (1) of this section to perform record checks for any  
19 prospective volunteer who will have regularly scheduled unsupervised  
20 access to children under eighteen years of age or developmentally  
21 disabled persons, during the course of his or her involvement with  
22 the school or organization under circumstances where access will or  
23 may involve the following:

- 24 (i) Groups of five or fewer children under twelve years of age;  
25 (ii) Groups of three or fewer children between twelve and  
26 eighteen years of age; or  
27 (iii) Developmentally disabled persons.

28 (b) For purposes of (a) of this subsection, "unsupervised" means  
29 not in the presence of:

- 30 (i) Another employee or volunteer from the same school or  
31 organization; or  
32 (ii) Any relative or guardian of any of the children or  
33 developmentally disabled persons to which the prospective employee or  
34 volunteer has access during the course of his or her involvement with  
35 the school or organization.

36 (4) School districts, educational service districts, the  
37 Washington state center for childhood deafness and hearing loss, the  
38 state school for the blind, federal bureau of Indian affairs-funded  
39 schools, charter schools established under chapter 28A.710 RCW,  
40 schools that are the subject of a state-tribal education compact

1 under chapter 28A.715 RCW, and their contractors may not deny a  
2 prospective volunteer solely because of a founded finding of abuse or  
3 neglect involving the individual revealed in the record check or a  
4 court finding that the individual's child was dependent pursuant to  
5 chapter 13.34 RCW when that founded finding or court finding is  
6 accompanied by a certificate of parental improvement as defined in  
7 chapter 74.13 RCW related to the same incident.

8 (5) Individuals who hold a valid portable background check  
9 clearance card issued by the department of children, youth, and  
10 families consistent with RCW 43.216.270 can meet the requirements in  
11 subsection (1) of this section by providing a true and accurate copy  
12 of their Washington state patrol and federal bureau of investigation  
13 background report results to the office of the superintendent of  
14 public instruction.

15 ~~((5))~~ (6) The cost of record checks must include: The fees  
16 established by the Washington state patrol and the federal bureau of  
17 investigation for the criminal history background checks; a fee paid  
18 to the superintendent of public instruction for the cost of  
19 administering this section and RCW 28A.195.080 and 28A.410.010; and  
20 other applicable fees for obtaining the fingerprints.

21 NEW SECTION. Sec. 2. A new section is added to chapter 74.13  
22 RCW to read as follows:

23 (1) Subject to the availability of amounts appropriated for this  
24 specific purpose, the department shall develop and implement a  
25 process by which an individual with a founded finding of child abuse  
26 or neglect as defined in RCW 26.44.020 or an individual whose child  
27 was found by a court to be dependent pursuant to chapter 13.34 RCW  
28 may request the department for issuance of a certificate of parental  
29 improvement.

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

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

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

1 (a) Fewer than five years have passed since the requestor's last  
2 founded finding of child abuse or neglect as defined in RCW  
3 26.44.020;

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

7 (c) The requestor has any conviction or pending criminal action  
8 for:

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

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

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

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

16 (v) Any of the following felony offenses:

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

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

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

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

23 (E) Kidnapping in the second degree;

24 (F) Arson in the second degree;

25 (G) Extortion in the first degree;

26 (H) Robbery in the second degree;

27 (I) Drive-by shooting; and

28 (J) Vehicular homicide; or

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

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

34 (a) Documentation of any founded finding of child abuse or  
35 neglect and the underlying documentation the department relied upon  
36 to make that finding;

37 (b) Findings from any civil adjudication proceeding as defined in  
38 RCW 43.43.830;

39 (c) Referral history alleging child abuse or neglect against the  
40 requestor;

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

3 (e) Whether a court made a finding that the requestor's child was  
4 dependent pursuant to chapter 13.34 RCW, the length of time elapsed  
5 since that dependency court process was dismissed, and the outcome of  
6 the dependency court process including whether the child was returned  
7 to the requestor's care;

8 (f) Any documentation that the requestor successfully addressed  
9 the circumstances that led to an administrative finding of child  
10 abuse or neglect, including but not limited to: A declaration by the  
11 requestor; recent assessments or evaluations; completion or progress  
12 toward completion of recommended court ordered treatment, services,  
13 or programs;

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

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

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

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

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

27 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.13  
28 RCW to read as follows:

29 (1) A person who applies for a certificate of parental  
30 improvement pursuant to section 2 of this act has the right to seek  
31 review of the department's denial of this certificate request as  
32 provided in this section.

33 (2) Within thirty calendar days after the department has notified  
34 the requestor that the department is denying the request for a  
35 certificate of parental improvement pursuant to section 2 of this  
36 act, the requestor may request that the department review this  
37 determination. The request for department review must be made in  
38 writing. The written notice provided by the department denying a  
39 request for a certificate of parental improvement must be sent by

1 certified mail, return receipt requested, to the requestor's last  
2 known address and include at least the following information in plain  
3 language:

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

7 (b) That the requestor has a right to challenge the department's  
8 decision not to issue a certificate of parental improvement,  
9 including a description of the process for requesting a review of the  
10 department's decision to deny a request for a certificate of parental  
11 improvement.

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

16 (4) Upon receipt of a written request for review, the department  
17 shall review and, if appropriate, may change its decision and issue a  
18 certificate of parental improvement. The secretary shall designate  
19 the appropriate staff to conduct this review. The review must be  
20 completed within thirty days after receiving the written request for  
21 departmental review. Upon completion of this review, the department  
22 shall notify the requestor in writing of the department's  
23 determination.

24 (5) If the department does not alter its decision not to issue a  
25 certificate of parental improvement following a child abuse or  
26 neglect finding, the requestor may request an adjudicative hearing to  
27 contest this decision. The adjudicative proceeding is governed by the  
28 administrative procedure act, chapter 34.05 RCW, and this section.  
29 The request for an adjudicative proceeding must be filed within  
30 thirty calendar days after receiving notice of the agency review  
31 determination. If a request for an adjudicative proceeding is not  
32 made as provided in this section, the requestor may not further  
33 challenge the department's decision and has no right to departmental  
34 review, an adjudicative hearing, or judicial review of the  
35 determination not to issue a certificate of parental improvement.

36 (6) Reviews and hearings conducted under this section are  
37 confidential and are not open to the public. Information about  
38 reports, reviews, and hearings may be disclosed only in accordance  
39 with federal and state laws pertaining to child welfare records and  
40 child protective services reports.

1 (7) The department shall establish by administrative rule  
2 procedures for reviewing requests for certificates of parental  
3 improvement. The department may adopt additional rules to implement  
4 this section.

5 **Sec. 4.** RCW 74.13.700 and 2014 c 88 s 4 are each amended to read  
6 as follows:

7 (1) In determining the character, suitability, and competence of  
8 an individual, the department may not:

9 (a) Deny or delay a license or approval of unsupervised access to  
10 children to an individual solely because of a crime or civil  
11 infraction involving the individual or entity revealed in the  
12 background check process that does not fall within the categories of  
13 disqualifying crimes described in the adoption and safe families act  
14 of 1997 or does not relate directly to child safety, permanence, or  
15 well-being; (~~or~~)

16 (b) Deny or delay a license or approval of unsupervised access to  
17 children to an individual solely because of a founded finding of  
18 abuse or neglect involving the individual revealed in the background  
19 check process or solely because the individual's child was found by a  
20 court to be dependent pursuant to chapter 13.34 RCW when that founded  
21 finding or court finding is accompanied by a certificate of parental  
22 improvement as defined in this chapter related to the same incident;  
23 or

24 (c) Delay the issuance of a license or approval of unsupervised  
25 access to children by requiring the individual to obtain records  
26 relating to a crime or civil infraction revealed in the background  
27 check process that does not fall within the categories of  
28 disqualifying crimes described in the adoption and safe families act  
29 of 1997 or does not relate directly to child safety, permanence, or  
30 well-being.

31 (2) If the department determines that an individual does not  
32 possess the character, suitability, or competence to provide care or  
33 have unsupervised access to a child, it must provide the reasons for  
34 its decision in writing with copies of the records or documents  
35 related to its decision to the individual within ten days of making  
36 the decision.

37 (3) For purposes of this section, "individual" means a relative  
38 as defined in RCW 74.15.020(2)(a), an "other suitable person" under  
39 chapter 13.34 RCW, a person pursuing licensing as a foster parent, or

1 a person employed or seeking employment by a business or organization  
2 licensed by the department or with whom the department has a contract  
3 to provide care, supervision, case management, or treatment of  
4 children in the care of the department. "Individual" does not include  
5 long-term care workers defined in RCW 74.39A.009(~~(17)(a)~~) whose  
6 background checks are conducted as provided in RCW 74.39A.056.

7 (4) The department or its officers, agents, or employees may not  
8 be held civilly liable based upon its decision to grant or deny  
9 unsupervised access to children if the background information it  
10 relied upon at the time the decision was made did not indicate that  
11 child safety, permanence, or well-being would be a concern.

12 **Sec. 5.** RCW 74.13.020 and 2018 c 284 s 36, 2018 c 58 s 51, and  
13 2018 c 34 s 3 are each reenacted and amended to read as follows:

14 The definitions in this section apply throughout this chapter  
15 unless the context clearly requires otherwise.

16 (1) "Case management" means convening family meetings,  
17 developing, revising, and monitoring implementation of any case plan  
18 or individual service and safety plan, coordinating and monitoring  
19 services needed by the child and family, caseworker-child visits,  
20 family visits, and the assumption of court-related duties, excluding  
21 legal representation, including preparing court reports, attending  
22 judicial hearings and permanency hearings, and ensuring that the  
23 child is progressing toward permanency within state and federal  
24 mandates, including the Indian child welfare act.

25 (2) "Child" means:

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

27 (b) A person age eighteen to twenty-one years who is eligible to  
28 receive the extended foster care services authorized under RCW  
29 74.13.031.

30 (3) "Child protective services" has the same meaning as in RCW  
31 26.44.020.

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

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



1 (b) Protecting and caring for dependent, abused, or neglected  
2 children;

3 (c) Assisting children who are in conflict with their parents,  
4 and assisting parents who are in conflict with their children, with  
5 services designed to resolve such conflicts;

6 (d) Protecting and promoting the welfare of children, including  
7 the strengthening of their own homes where possible, or, where  
8 needed;

9 (e) Providing adequate care of children away from their homes in  
10 foster family homes or day care or other child care agencies or  
11 facilities.

12 "Child welfare services" does not include child protection  
13 services.

14 (5) "Department" means the department of children, youth, and  
15 families.

16 (6) "Extended foster care services" means residential and other  
17 support services the department is authorized to provide to dependent  
18 children. These services include, but are not limited to, placement  
19 in licensed, relative, or otherwise approved care, or supervised  
20 independent living settings; assistance in meeting basic needs;  
21 independent living services; medical assistance; and counseling or  
22 treatment.

23 (7) "Family assessment" means a comprehensive assessment of child  
24 safety, risk of subsequent child abuse or neglect, and family  
25 strengths and needs that is applied to a child abuse or neglect  
26 report. Family assessment does not include a determination as to  
27 whether child abuse or neglect occurred, but does determine the need  
28 for services to address the safety of the child and the risk of  
29 subsequent maltreatment.

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

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

37 (10) "Out-of-home care services" means services provided after  
38 the shelter care hearing to or for children in out-of-home care, as  
39 that term is defined in RCW 13.34.030, and their families, including  
40 the recruitment, training, and management of foster parents, the

1 recruitment of adoptive families, and the facilitation of the  
2 adoption process, family reunification, independent living, emergency  
3 shelter, residential group care, and foster care, including relative  
4 placement.

5 (11) "Performance-based contracting" means the structuring of all  
6 aspects of the procurement of services around the purpose of the work  
7 to be performed and the desired results with the contract  
8 requirements set forth in clear, specific, and objective terms with  
9 measurable outcomes. Contracts shall also include provisions that  
10 link the performance of the contractor to the level and timing of  
11 reimbursement.

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

16 (13) "Primary prevention services" means services which are  
17 designed and delivered for the primary purpose of enhancing child and  
18 family well-being and are shown, by analysis of outcomes, to reduce  
19 the risk to the likelihood of the initial need for child welfare  
20 services.

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

22 (15) "Supervised independent living" includes, but is not limited  
23 to, apartment living, room and board arrangements, college or  
24 university dormitories, and shared roommate settings. Supervised  
25 independent living settings must be approved by the department or the  
26 court.

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

28 (17) "Voluntary placement agreement" means, for the purposes of  
29 extended foster care services, a written voluntary agreement between  
30 a nonminor dependent who agrees to submit to the care and authority  
31 of the department for the purposes of participating in the extended  
32 foster care program.

33 (18) "Certificate of parental improvement" means a certificate  
34 issued under section 2 of this act to an individual with a founded  
35 finding of child abuse or neglect or a court finding that the  
36 individual's child was dependent pursuant to chapter 13.34 RCW.

37 NEW SECTION. Sec. 6. A new section is added to chapter 18.20  
38 RCW to read as follows:

1 Assisted living facilities, as defined in this chapter, may not  
2 automatically deny a prospective volunteer solely because of a  
3 founded finding of abuse or neglect involving the individual revealed  
4 in the record check or a court finding that the individual's child  
5 was dependent pursuant to chapter 13.34 RCW when that founded finding  
6 or court finding is accompanied by a certificate of parental  
7 improvement as defined in chapter 74.13 RCW related to the same  
8 incident without conducting a review to determine the individual's  
9 character, suitability, and competency to volunteer with vulnerable  
10 adults.

11 NEW SECTION. **Sec. 7.** A new section is added to chapter 18.51  
12 RCW to read as follows:

13 Nursing homes, as defined in this chapter, may not automatically  
14 deny a prospective volunteer solely because of a founded finding of  
15 abuse or neglect involving the individual revealed in the record  
16 check or a court finding that the individual's child was dependent  
17 pursuant to chapter 13.34 RCW when that founded finding or court  
18 finding is accompanied by a certificate of parental improvement as  
19 defined in chapter 74.13 RCW related to the same incident without  
20 conducting a review to determine the individual's character,  
21 suitability, and competency to volunteer with vulnerable adults.

22 **Sec. 8.** RCW 43.43.832 and 2017 3rd sp.s. c 20 s 5 and 2017 3rd  
23 sp.s. c 6 s 224 are each reenacted and amended to read as follows:

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

26 (a) An applicant's conviction record, upon the request of a  
27 business or organization as defined in RCW 43.43.830, a  
28 developmentally disabled person, or a vulnerable adult as defined in  
29 RCW 43.43.830 or his or her guardian;

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

32 (c) Any conviction record to aid in the investigation and  
33 prosecution of child, developmentally disabled person, and vulnerable  
34 adult abuse cases and to protect children and adults from further  
35 incidents of abuse, upon the request of a law enforcement agency, the  
36 office of the attorney general, prosecuting authority, or the  
37 department of social and health services; and

1 (d) A prospective client's or resident's conviction record, upon  
2 the request of a business or organization that qualifies for  
3 exemption under section 501(c)(3) of the internal revenue code of  
4 1986 (26 U.S.C. Sec. 501(c)(3)) and that provides emergency shelter  
5 or transitional housing for children, persons with developmental  
6 disabilities, or vulnerable adults.

7 (2) The secretary of the department of social and health services  
8 and the secretary of children, youth, and families must establish  
9 rules and set standards to require specific action when considering  
10 the information received pursuant to subsection (1) of this section,  
11 and when considering additional information including but not limited  
12 to civil adjudication proceedings as defined in RCW 43.43.830 and any  
13 out-of-state equivalent, in the following circumstances:

14 (a) When considering persons for state employment in positions  
15 directly responsible for the supervision, care, or treatment of  
16 children, vulnerable adults, or individuals with mental illness or  
17 developmental disabilities provided that: For persons residing in a  
18 home that will be utilized to provide foster care for dependent  
19 youth, a criminal background check will be required for all persons  
20 aged sixteen and older and the department of social and health  
21 services may require a criminal background check for persons who are  
22 younger than sixteen in situations where it may be warranted to  
23 ensure the safety of youth in foster care;

24 (b) When considering persons for state positions involving  
25 unsupervised access to vulnerable adults to conduct comprehensive  
26 assessments, financial eligibility determinations, licensing and  
27 certification activities, investigations, surveys, or case  
28 management; or for state positions otherwise required by federal law  
29 to meet employment standards;

30 (c) When licensing agencies or facilities with individuals in  
31 positions directly responsible for the care, supervision, or  
32 treatment of children, developmentally disabled persons, or  
33 vulnerable adults, including but not limited to agencies or  
34 facilities licensed under chapter 74.15 or 18.51 RCW;

35 (d) When contracting with individuals or businesses or  
36 organizations for the care, supervision, case management, or  
37 treatment, including peer counseling, of children, developmentally  
38 disabled persons, or vulnerable adults, including but not limited to  
39 services contracted for under chapter 18.20, 70.127, 70.128, 72.36,  
40 or 74.39A RCW or Title 71A RCW;

1 (e) When individual providers are paid by the state or providers  
2 are paid by home care agencies to provide in-home services involving  
3 unsupervised access to persons with physical, mental, or  
4 developmental disabilities or mental illness, or to vulnerable adults  
5 as defined in chapter 74.34 RCW, including but not limited to  
6 services provided under chapter 74.39 or 74.39A RCW.

7 (3) The secretary of the department of children, youth, and  
8 families shall investigate the conviction records, pending charges,  
9 and other information including civil adjudication proceeding records  
10 of current employees and of any person actively being considered for  
11 any position with the department who will or may have unsupervised  
12 access to children, or for state positions otherwise required by  
13 federal law to meet employment standards. "Considered for any  
14 position" includes decisions about (a) initial hiring, layoffs,  
15 reallocations, transfers, promotions, or demotions, or (b) other  
16 decisions that result in an individual being in a position that will  
17 or may have unsupervised access to children as an employee, an  
18 intern, or a volunteer.

19 (4) The secretary of the department of children, youth, and  
20 families shall adopt rules and investigate conviction records,  
21 pending charges, and other information including civil adjudication  
22 proceeding records, in the following circumstances:

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

29 (b) When authorizing individuals who will or may have  
30 unsupervised access to children who are in child day care, in early  
31 learning programs, or receiving early childhood learning education  
32 services in licensed or certified agencies, including but not limited  
33 to licensees, agency staff, interns, volunteers, contracted  
34 providers, and persons living on the premises who are sixteen years  
35 of age or older;

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

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

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

7 (5) Whenever a state conviction record check is required by state  
8 law, persons may be employed or engaged as volunteers or independent  
9 contractors on a conditional basis pending completion of the state  
10 background investigation. Whenever a national criminal record check  
11 through the federal bureau of investigation is required by state law,  
12 a person may be employed or engaged as a volunteer or independent  
13 contractor on a conditional basis pending completion of the national  
14 check. The Washington personnel resources board shall adopt rules to  
15 accomplish the purposes of this subsection as it applies to state  
16 employees.

17 (6) (a) For purposes of facilitating timely access to criminal  
18 background information and to reasonably minimize the number of  
19 requests made under this section, recognizing that certain health  
20 care providers change employment frequently, health care facilities  
21 may, upon request from another health care facility, share copies of  
22 completed criminal background inquiry information.

23 (b) Completed criminal background inquiry information may be  
24 shared by a willing health care facility only if the following  
25 conditions are satisfied: The licensed health care facility sharing  
26 the criminal background inquiry information is reasonably known to be  
27 the person's most recent employer, no more than twelve months has  
28 elapsed from the date the person was last employed at a licensed  
29 health care facility to the date of their current employment  
30 application, and the criminal background information is no more than  
31 two years old.

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

38 (d) Any health care facility that knows or has reason to believe  
39 that an applicant has or may have a disqualifying conviction or  
40 finding as described in RCW 43.43.842, subsequent to the completion

1 date of their most recent criminal background inquiry, shall be  
2 prohibited from relying on the applicant's previous employer's  
3 criminal background inquiry information. A new criminal background  
4 inquiry shall be requested pursuant to RCW 43.43.830 through  
5 43.43.842.

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

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

13 **Sec. 9.** RCW 74.39A.056 and 2018 c 278 s 8 are each amended to  
14 read as follows:

15 (1)(a) All long-term care workers shall be screened through state  
16 and federal background checks in a uniform and timely manner to  
17 verify that they do not have a history that would disqualify them  
18 from working with vulnerable persons. The department must process  
19 background checks for long-term care workers and make the information  
20 available to employers, prospective employers, and others as  
21 authorized by law.

22 (b)(i) Except as provided in (b)(ii) of this subsection, for  
23 long-term care workers hired on or after January 7, 2012, the  
24 background checks required under this section shall include checking  
25 against the federal bureau of investigation fingerprint  
26 identification records system and against the national sex offenders  
27 registry or their successor programs. The department shall require  
28 these long-term care workers to submit fingerprints for the purpose  
29 of investigating conviction records through both the Washington state  
30 patrol and the federal bureau of investigation. The department shall  
31 not pass on the cost of these criminal background checks to the  
32 workers or their employers.

33 (ii) This subsection does not apply to long-term care workers  
34 employed by community residential service businesses until January 1,  
35 2016.

36 (c) The department shall share state and federal background check  
37 results with the department of health in accordance with RCW  
38 18.88B.080.

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

4 (i) The individual has an individual provider contract with the  
5 department;

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

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

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

13 (2) (a) No provider, or its staff, or long-term care worker, or  
14 prospective provider or long-term care worker, with a stipulated  
15 finding of fact, conclusion of law, an agreed order, or finding of  
16 fact, conclusion of law, or final order issued by a disciplining  
17 authority or a court of law or entered into a state registry with a  
18 final substantiated finding of abuse, neglect, exploitation, or  
19 abandonment of a minor or a vulnerable adult as defined in chapter  
20 74.34 RCW shall be employed in the care of and have unsupervised  
21 access to vulnerable adults.

22 (b) A provider may not automatically deny a request from a  
23 prospective volunteer for unsupervised access to vulnerable adults  
24 under this chapter solely because of a founded finding of child abuse  
25 or neglect involving the individual revealed in the background check  
26 process or solely because the individual's child was found by a court  
27 to be dependent pursuant to chapter 13.34 RCW when that founded  
28 finding or court finding is accompanied by a certificate of parental  
29 improvement as defined in chapter 74.13 RCW related to the same  
30 incident without conducting a review to determine the individual's  
31 character, suitability, and competency to volunteer with vulnerable  
32 adults.

33 (3) The department shall establish, by rule, a state registry  
34 which contains identifying information about long-term care workers  
35 identified under this chapter who have final substantiated findings  
36 of abuse, neglect, financial exploitation, or abandonment of a  
37 vulnerable adult as defined in RCW 74.34.020. The rule must include  
38 disclosure, disposition of findings, notification, findings of fact,  
39 appeal rights, and fair hearing requirements. The department shall  
40 disclose, upon request, final substantiated findings of abuse,



1 neglect, financial exploitation, or abandonment to any person so  
2 requesting this information. This information must also be shared  
3 with the department of health to advance the purposes of chapter  
4 18.88B RCW.

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

6 **Sec. 10.** RCW 43.216.270 and 2018 c 59 s 1 and 2018 c 58 s 69 are  
7 each reenacted and amended to read as follows:

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

19 (b) The department may not deny or delay a license to provide  
20 supervised child care and early learning services under this chapter  
21 to an individual solely because of a founded finding of abuse or  
22 neglect involving the individual revealed in the background check  
23 process or solely because the individual's child was found by a court  
24 to be dependent pursuant to chapter 13.34 RCW when that founded  
25 finding or court finding is accompanied by a certificate of parental  
26 improvement as defined in chapter 74.13 RCW related to the same  
27 incident.

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

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

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

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

13 (c) The secretary shall use the fingerprint criminal history  
14 record check information solely for the purpose of determining  
15 eligibility for a license and for determining the character,  
16 suitability, and competence of those persons or agencies, excluding  
17 parents, not required to be licensed who are authorized to care for  
18 children.

19 (d) Criminal justice agencies shall provide the secretary such  
20 information as they may have and that the secretary may require for  
21 such purpose.

22 (e) No later than July 1, 2013, all agency licensees holding  
23 licenses prior to July 1, 2012, persons who were employees before  
24 July 1, 2012, and persons who have been qualified by the department  
25 before July 1, 2012, to have unsupervised access to children in child  
26 care, must submit a new background application to the department. The  
27 department must require persons submitting a new background  
28 application pursuant to this subsection (2)(e) to pay a fee to the  
29 department for the cost of administering the individual-based/  
30 portable background check clearance registry. This fee must be paid  
31 into the individual-based/portable background check clearance account  
32 established in RCW 43.216.273. The licensee may, but need not, pay  
33 these costs on behalf of a prospective employee or reimburse the  
34 prospective employee for these costs. The licensee and the  
35 prospective employee may share these costs.

36 (f) The department shall issue a background check clearance card  
37 or certificate to the applicant if after the completion of a  
38 background check the department concludes the applicant is qualified  
39 for unsupervised access to children in child care. The background  
40 check clearance card or certificate is valid for three years from the

1 date of issuance. A valid card or certificate must be accepted by a  
2 potential employer as proof that the applicant has successfully  
3 completed a background check as required under this chapter. For  
4 purposes of renewal of the background clearance card or certificate,  
5 all agency licensees holding a license, persons who are employees,  
6 and persons who have been previously qualified by the department,  
7 must submit a new background application to the department on a date  
8 to be determined by the department. The fee requirements applicable  
9 to this section also apply to background clearance renewal  
10 applications.

11 (g) The original applicant for an agency license, licensees,  
12 their employees, and other persons who have unsupervised access to  
13 children in child care shall submit a new background check  
14 application to the department, on a form and by a date as determined  
15 by the department.

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

18 (i) Provide regularly scheduled care for a child or children in  
19 the home of the provider or in the home of the child or children for  
20 periods of less than twenty-four hours or, if necessary due to the  
21 nature of the parent's work, for periods equal to or greater than  
22 twenty-four hours;

23 (ii) Receive child care subsidies; and

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

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

28 (j) Individuals who have been issued a background check clearance  
29 card or certificate shall report nonconviction and conviction  
30 information to the department within twenty-four hours of the event  
31 constituting the nonconviction or conviction information.

32 (k) The department shall investigate and conduct a  
33 redetermination of an applicant's or licensee's background clearance  
34 if the department receives a complaint or information from  
35 individuals, a law enforcement agency, or other federal, state, or  
36 local government agency. Subject to the requirements contained in RCW  
37 43.216.325 and 43.216.327 and based on a determination that an  
38 individual lacks the appropriate character, suitability, or  
39 competence to provide child care or early learning services to  
40 children, the department may: (i) Invalidate the background card or

1 certificate; or (ii) suspend, modify, or revoke any license  
2 authorized by this chapter.

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

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

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