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**HOUSE BILL 1354**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Representatives Stonier, Simmons, Senn, Berry, Fitzgibbon, Goodman, Reed, Doglio, Macri, and Davis

AN ACT Relating to parental involvement through volunteering in schools after a criminal conviction; amending RCW 28A.320.155 and 28A.400.303; and adding a new section to chapter 28A.320 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 28A.320 RCW to read as follows:

(1) When a school performs a records check under RCW 28A.400.303 on a parent, the school must comply with the requirements in this subsection.

(a) The school must notify applicants for volunteer positions about the process for parents to submit criminal innocence or rehabilitation-related documents.

(b) For a parent with one or more criminal convictions who has submitted a criminal innocence or rehabilitation-related document addressing each conviction, the school may not deny the parent's volunteer application based on a criminal conviction if the parent signed a statement indicating that the parent has not been convicted of any crime since the date that the criminal innocence or rehabilitation-related document was issued.

(c) For a parent with one or more criminal convictions who has not submitted a criminal innocence or rehabilitation-related document addressing each conviction, the school must complete the following process to determine whether to approve the parent's volunteer application. The school:

(i) Must consider the length of time since the commission of the last crime for which the parent was convicted and whether any criminal conviction involved a minor child victim; and

(ii) May consider: (A) The age of the parent on the date of the commission of the last crime for which the parent was convicted; (B) whether the parent has been approved by a state agency to have unsupervised access to children under 18 years of age or persons with developmental disabilities; or (C) limiting the parent's unsupervised access to children under 18 years of age and to persons with developmental disabilities if this would give the parent the opportunity to have meaningful involvement in the school.

(d) Within five days of denying the volunteer application of a parent, the school must notify the parent of the school's decision, state specific reasons for the denial, and provide the procedure for appealing the school's decision.

(2) A parent whose volunteer application has been denied under this section may appeal to the office of the superintendent of public instruction according to procedures established by the superintendent of public instruction.

(3) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Criminal innocence or rehabilitation-related document" means evidence that a criminal conviction is the subject of: (i) Expungement, pardon, vacation, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted; (ii) a pardon, annulment, or other equivalent procedure based on a finding of innocence; or (iii) a certificate of restoration of opportunity under RCW 9.97.020.

(b) "Parent" means a parent, grandparent, guardian, or legal custodian of a student enrolled at a school.

(c) "School" means a school district, educational service district, the Washington center for deaf and hard of hearing youth, the state school for the blind, a federal bureau of Indian affairs-funded school, a charter school established under chapter 28A.710 RCW, a school that is the subject of a state-tribal education compact under chapter 28A.715 RCW, or their contractors.

(d) "Unsupervised" has the same meaning as in RCW 28A.400.303.

**Sec.**  RCW 28A.320.155 and 1999 c 21 s 1 are each amended to read as follows:

(1) If a volunteer alerts a school ((~~district~~)) that the volunteer has undergone a criminal records check in accordance with applicable state law, including RCW 10.97.050, 28A.400.303, 28A.410.010, or 43.43.830 through 43.43.845, within the two years before the time the volunteer is volunteering in the school, then the school may request that the volunteer furnish the school with a copy of the criminal history record information or sign a release to the business, school, organization, criminal justice agency, or juvenile justice or care agency, or other state agency that originally obtained the criminal history record information to permit the record information to be shared with the school. Once the school requests the information from the business, school, organization, or agency the information shall be furnished to the school. Any business, school, organization, agency, or its employee or official that shares the criminal history record information with the requesting school in accordance with this section is immune from criminal and civil liability for dissemination of the information.

If the criminal history record information is shared, the school must require the volunteer to sign a disclosure statement indicating that there has been no conviction since the completion date of the most recent criminal background inquiry.

(2) For the purposes of this section, "school" has the same meaning as in section 1 of this act.

**Sec.**  RCW 28A.400.303 and 2020 c 22 s 1 are each amended to read as follows:

(1)(a) School districts, educational service districts, the Washington center for deaf and hard of hearing youth, the state school for the blind, the office of the superintendent of public instruction, and their contractors shall require a record check through the Washington state patrol criminal identification system under RCW 43.43.830 through 43.43.834, 10.97.030, and 10.97.050 and through the federal bureau of investigation criminal justice information systems before hiring the following employees:

(i) Employees who will have regularly scheduled unsupervised access to children or persons with developmental disabilities; and

(ii) Employees who receive criminal history record information or personally identifiable information from the record check.

(b) A record check under this section must include a fingerprint check using a complete Washington state criminal identification fingerprint card.

(c) The requesting entity may provide a copy of the record report to the applicant at the applicant's request.

(d) When necessary, applicants for employment may be employed on a conditional basis pending completion of the record check.

(e) If the applicant for employment has had a record check within the previous two years, the district, the Washington center for deaf and hard of hearing youth, the state school for the blind, the office of the superintendent of public instruction, or contractor may waive the requirement.

(f) Except as provided in subsection (2) of this section, the school district, pursuant to chapter 41.59 or 41.56 RCW, the Washington center for deaf and hard of hearing youth, the state school for the blind, the office of the superintendent of public instruction, or contractor hiring the employee shall determine who shall pay costs associated with the record check.

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

(3)(a) School districts, educational service districts, the Washington center for deaf and hard of hearing youth, the state school for the blind, federal bureau of Indian affairs-funded schools, charter schools established under chapter 28A.710 RCW, schools that are the subject of a state-tribal education compact under chapter 28A.715 RCW, and their contractors may use the process in subsection (1)(a) of this section to perform record checks for any prospective volunteer who will have regularly scheduled unsupervised access to children under ((~~eighteen~~)) 18 years of age or persons with developmental disabilities, during the course of his or her involvement with the school or organization under circumstances where access will or may involve the following:

(i) Groups of five or fewer children under ((~~twelve~~)) 12 years of age;

(ii) Groups of three or fewer children between ((~~twelve~~)) 12 and ((~~eighteen~~)) 18 years of age; or

(iii) Persons with developmental disabilities.

(b) When the prospective volunteer is a parent, guardian, or legal custodian of a student enrolled at one of the entities described in (a) of this subsection, the entity must meet the requirements of section 1 of this act.

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

(i) Another employee or volunteer from the same school or organization; or

(ii) Any relative or guardian of any of the children or persons with developmental disabilities to which the prospective employee or volunteer has access during the course of his or her involvement with the school or organization.

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

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

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