

SSB 5774 - H COMM AMD

By Committee on Human Services, Youth, & Early Learning

ADOPTED 02/28/2024

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

3 "NEW SECTION. **Sec. 1.** The legislature finds that accurate
4 background checks play an important role in ensuring the safety of
5 Washington families seeking child care services and for those
6 involved in the child welfare system. The legislature finds that many
7 areas of the state lack convenient access to fingerprinting services,
8 thereby significantly delaying or inhibiting hiring and approval
9 processes. The legislature finds that completing background checks
10 more quickly will help address child care workforce shortfalls by
11 allowing providers to hire, train, and employ new staff. The
12 legislature therefore intends to improve workforce stability by
13 reducing processing times for background checks and directing the
14 department of children, youth, and families to make fingerprinting
15 services available at selected early learning and child welfare
16 offices as provided in this act.

17 **Sec. 2.** RCW 43.216.270 and 2023 c 437 s 2 are each amended to
18 read as follows:

19 (1)(a) In determining whether an individual is of appropriate
20 character, suitability, and competence to provide child care and
21 early learning services to children, the department may consider the
22 history of past involvement of child protective services or law
23 enforcement agencies with the individual for the purpose of
24 establishing a pattern of conduct, behavior, or inaction with regard
25 to the health, safety, or welfare of a child. No report of child
26 abuse or neglect that has been destroyed or expunged under RCW
27 26.44.031 may be used for such purposes. No unfounded or inconclusive
28 allegation of child abuse or neglect as defined in RCW 26.44.020 may
29 be disclosed to a provider licensed under this chapter.

1 (b) The department may not deny or delay a license to provide
2 child care and early learning services under this chapter to an
3 individual solely because of a founded finding of physical abuse or
4 negligent treatment or maltreatment involving the individual revealed
5 in the background check process or solely because the individual's
6 child was found by a court to be dependent as a result of a finding
7 that the individual abused or neglected their child pursuant to RCW
8 13.34.030(6)(b) when that founded finding or court finding is
9 accompanied by a certificate of parental improvement as defined in
10 chapter 74.13 RCW related to the same incident.

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

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

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

23 (c) The secretary shall use the fingerprint criminal history
24 record check information solely for the purpose of determining
25 eligibility for a license and for determining the character,
26 suitability, and competence of those persons or agencies, excluding
27 parents, not required to be licensed who are authorized to care for
28 children.

29 (d) Criminal justice agencies shall provide the secretary such
30 information as they may have and that the secretary may require for
31 such purpose.

32 (e) No later than July 1, 2013, all agency licensees holding
33 licenses prior to July 1, 2012, persons who were employees before
34 July 1, 2012, and persons who have been qualified by the department
35 before July 1, 2012, to have unsupervised access to children in child
36 care, must submit a new background application to the department.

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

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

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

15 (h) The applicant and agency shall maintain on-site for
16 inspection a copy of the background check clearance card or
17 certificate.

18 (i) Individuals who have been issued a background check clearance
19 card or certificate shall report nonconviction and conviction
20 information to the department within twenty-four hours of the event
21 constituting the nonconviction or conviction information.

22 (j) The department shall investigate and conduct a
23 redetermination of an applicant's or licensee's background clearance
24 if the department receives a complaint or information from
25 individuals, a law enforcement agency, or other federal, state, or
26 local government agency. Subject to the requirements contained in RCW
27 43.216.325 and 43.216.327 and based on a determination that an
28 individual lacks the appropriate character, suitability, or
29 competence to provide child care or early learning services to
30 children, the department may: (i) Invalidate the background card or
31 certificate; or (ii) suspend, modify, or revoke any license
32 authorized by this chapter.

33 (3) To satisfy the shared background check requirements of the
34 department of children, youth, and families, the office of the
35 superintendent of public instruction, and the department of social
36 and health services, each department shall share federal fingerprint-
37 based background check results as permitted under the law. The
38 purpose of this provision is to allow these departments to fulfill
39 their joint background check responsibility of checking any
40 individual who may have unsupervised access to vulnerable adults,

1 children, or juveniles. These departments may not share the federal
2 background check results with any other state agency or person.

3 (4) Individuals who have completed a fingerprint background check
4 as required by the office of the superintendent of public
5 instruction, consistent with RCW 28A.400.303, and have been
6 continuously employed by the same school district or educational
7 service district, can meet the requirements in subsection (2) of this
8 section by providing a true and accurate copy of their Washington
9 state patrol and federal bureau of investigation background check
10 report results to the department or if the school district or the
11 educational service district provides an affidavit to the department
12 that the individual has been authorized to work by the school
13 district or educational service district after completing a record
14 check consistent with RCW 28A.400.303. The department may require
15 that additional background checks be completed that do not require
16 additional fingerprinting.

17 (5) Subject to the availability of amounts appropriated for this
18 specific purpose and to help satisfy the background check
19 requirements in this section, the department shall maintain the
20 capacity to roll, print, or scan fingerprints in at least seven of
21 the department's early learning and child welfare offices for the
22 purposes of Washington state patrol and federal bureau of
23 investigation fingerprint-based background checks. Office locations
24 must:

25 (a) Be prioritized based on proximity to existing fingerprinting
26 service capacity, regional demand, and criteria to enhance timely
27 access;

28 (b) Provide staff support of a minimum of 0.5 full-time
29 equivalent employees per office location; and

30 (c) Provide fingerprinting services solely for prospective and
31 current child care employees, licensed group care employees,
32 families, and relatives involved in child welfare.

33 **Sec. 3.** RCW 74.15.030 and 2019 c 470 s 20 are each amended to
34 read as follows:

35 The secretary shall have the power and it shall be the
36 secretary's duty:

37 (1) In consultation with the children's services advisory
38 committee, and with the advice and assistance of persons
39 representative of the various type agencies to be licensed, to

1 designate categories of facilities for which separate or different
2 requirements shall be developed as may be appropriate whether because
3 of variations in the ages, sex and other characteristics of persons
4 served, variations in the purposes and services offered or size or
5 structure of the agencies to be licensed hereunder, or because of any
6 other factor relevant thereto;

7 (2) In consultation with the children's services advisory
8 committee, and with the advice and assistance of persons
9 representative of the various type agencies to be licensed, to adopt
10 and publish minimum requirements for licensing applicable to each of
11 the various categories of agencies to be licensed.

12 The minimum requirements shall be limited to:

13 (a) The size and suitability of a facility and the plan of
14 operation for carrying out the purpose for which an applicant seeks a
15 license;

16 (b) Obtaining background information and any out-of-state
17 equivalent, to determine whether the applicant or service provider is
18 disqualified and to determine the character, competence, and
19 suitability of an agency, the agency's employees, volunteers, and
20 other persons associated with an agency;

21 (c) Conducting background checks for those who will or may have
22 unsupervised access to children or expectant mothers; however, a
23 background check is not required if a caregiver approves an activity
24 pursuant to the prudent parent standard contained in RCW 74.13.710;

25 (d) Obtaining child protective services information or records
26 maintained in the department case management information system. No
27 unfounded allegation of child abuse or neglect as defined in RCW
28 26.44.020 may be disclosed to a child-placing agency, private
29 adoption agency, or any other provider licensed under this chapter;

30 (e) Submitting a fingerprint-based background check through the
31 Washington state patrol under chapter 10.97 RCW and through the
32 federal bureau of investigation for:

33 (i) Agencies and their staff, volunteers, students, and interns
34 when the agency is seeking license or relicense;

35 (ii) Foster care and adoption placements; and

36 (iii) Any adult living in a home where a child may be placed;

37 (f) If any adult living in the home has not resided in the state
38 of Washington for the preceding five years, the department shall
39 review any child abuse and neglect registries maintained by any state
40 where the adult has resided over the preceding five years;

1 (g) The cost of fingerprint background check fees will be paid as
2 required in RCW 43.43.837;

3 (h) The capacity to roll, print, or scan fingerprints in the
4 department's early learning and child welfare offices for the
5 purposes of Washington state patrol and federal bureau of
6 investigation fingerprint-based background checks as provided in RCW
7 43.216.270(5);

8 (i) National and state background information must be used solely
9 for the purpose of determining eligibility for a license and for
10 determining the character, suitability, and competence of those
11 persons or agencies, excluding parents, not required to be licensed
12 who are authorized to care for children or expectant mothers;

13 ~~((i))~~ (j) The number of qualified persons required to render
14 the type of care and treatment for which an agency seeks a license;

15 ~~((j))~~ (k) The safety, cleanliness, and general adequacy of the
16 premises to provide for the comfort, care and well-being of children
17 or expectant mothers;

18 ~~((k))~~ (l) The provision of necessary care, including food,
19 clothing, supervision and discipline; physical, mental and social
20 well-being; and educational, recreational and spiritual opportunities
21 for those served;

22 ~~((l))~~ (m) The financial ability of an agency to comply with
23 minimum requirements established pursuant to this chapter and RCW
24 74.13.031; and

25 ~~((m))~~ (n) The maintenance of records pertaining to the
26 admission, progress, health and discharge of persons served;

27 (3) To investigate any person, including relatives by blood or
28 marriage except for parents, for character, suitability, and
29 competence in the care and treatment of children or expectant mothers
30 prior to authorizing that person to care for children or expectant
31 mothers. However, if a child is placed with a relative under RCW
32 13.34.065 or 13.34.130, and if such relative appears otherwise
33 suitable and competent to provide care and treatment the criminal
34 history background check required by this section need not be
35 completed before placement, but shall be completed as soon as
36 possible after placement;

37 (4) On reports of alleged child abuse and neglect, to investigate
38 agencies in accordance with chapter 26.44 RCW, including agencies or
39 facilities operated by the department of social and health services
40 that receive children for care outside their own homes, child day-

1 care centers, and family day-care homes, to determine whether the
2 alleged abuse or neglect has occurred, and whether child protective
3 services or referral to a law enforcement agency is appropriate;

4 (5) To issue, revoke, or deny licenses to agencies pursuant to
5 this chapter and RCW 74.13.031. Licenses shall specify the category
6 of care which an agency is authorized to render and the ages, sex and
7 number of persons to be served;

8 (6) To prescribe the procedures and the form and contents of
9 reports necessary for the administration of this chapter and RCW
10 74.13.031 and to require regular reports from each licensee;

11 (7) To inspect agencies periodically to determine whether or not
12 there is compliance with this chapter and RCW 74.13.031 and the
13 requirements adopted hereunder;

14 (8) To review requirements adopted hereunder at least every two
15 years and to adopt appropriate changes after consultation with
16 affected groups for child day-care requirements and with the
17 children's services advisory committee for requirements for other
18 agencies; and

19 (9) To consult with public and private agencies in order to help
20 them improve their methods and facilities for the care of children or
21 expectant mothers.

22 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
23 preservation of the public peace, health, or safety, or support of
24 the state government and its existing public institutions, and takes
25 effect immediately."

26 Correct the title.

EFFECT: Retains the provisions of the underlying bill with the
following changes:

Provides that the Department of Children, Youth, and Families
(DCYF) must maintain the capacity to capture fingerprints in at least
7, rather than 10, of its early learning and child welfare offices;

Requires a minimum of 0.5 full-time equivalent staff at each
location for this purpose, rather than .025 full-time equivalent
staff for this purpose;

Specifies that fingerprinting services at DCYF offices are solely
for prospective and current child care employees, licensed group care
employees, families, and relatives involved in child welfare; and

Makes conforming changes to intent language.

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