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ENGROSSED SUBSTITUTE HOUSE BILL 1385

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State of Washington

69th Legislature

2025 Regular Session

By House Early Learning & Human Services (originally sponsored by Representatives Taylor, Burnett, Leavitt, Ley, Davis, Reeves, Obras, Salahuddin, and Wylie; by request of Washington State Patrol)

READ FIRST TIME 02/18/25.

1 AN ACT Relating to the fingerprint background check on national  
2 child protection act and volunteers for children's act program;  
3 amending RCW 43.43.830; and adding a new section to chapter 43.43  
4 RCW.

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

6 **Sec. 1.** RCW 43.43.830 and 2019 c 271 s 10 are each amended to  
7 read as follows:

8 Unless the context clearly requires otherwise, the definitions in  
9 this section apply throughout ((RCW 43.43.830)) this section and RCW  
10 43.43.832 through 43.43.845.

11 (1) "Agency" means any person, firm, partnership, association,  
12 corporation, or facility which receives, provides services to, houses  
13 or otherwise cares for vulnerable adults, juveniles, or children, or  
14 which provides child day care, early learning, or early childhood  
15 education services.

16 (2) "Applicant" means:

17 (a) Any prospective employee, volunteer, or contractor who will  
18 or may have supervised or unsupervised access to children ((~~under~~  
19 ~~sixteen years of age or developmentally disabled persons or~~  
20 ~~vulnerable adults during the course of his or her employment or~~  
21 ~~involvement with~~)), the elderly, or individuals with disabilities

1 during the course of his or her employment or involvement with the  
2 business or organization;

3 (b) Any prospective volunteer who will have regularly scheduled  
4 unsupervised access to children under sixteen years of age,  
5 developmentally disabled persons, or vulnerable adults during the  
6 course of his or her employment or involvement with the business or  
7 organization under circumstances where such access will or may  
8 involve groups of (i) five or fewer children under twelve years of  
9 age, (ii) three or fewer children between twelve and sixteen years of  
10 age, (iii) developmentally disabled persons, or (iv) vulnerable  
11 adults;

12 (c) Any prospective adoptive parent, as defined in RCW 26.33.020;  
13 or

14 (d) Any prospective custodian in a nonparental custody proceeding  
15 under chapter 26.10 RCW.

16 (3) "Business or organization" means a person, business, or  
17 organization licensed in this state, any agency of the state, or  
18 other governmental entity, that educates, trains, treats, supervises,  
19 houses, or provides recreation to developmentally disabled persons,  
20 vulnerable adults, or children under sixteen years of age, or that  
21 provides child day care, early learning, or early learning childhood  
22 education services, including but not limited to public housing  
23 authorities, school districts, and educational service districts.

24 (4) "Care" means the provision of care, treatment, education,  
25 training, instruction, supervision, or recreation to children, the  
26 elderly, or individuals with disabilities.

27 (5) "Civil adjudication proceeding" is a judicial or  
28 administrative adjudicative proceeding that results in a finding of,  
29 or upholds an agency finding of, domestic violence, abuse, sexual  
30 abuse, neglect, abandonment, violation of a professional licensing  
31 standard regarding a child or vulnerable adult, or exploitation or  
32 financial exploitation of a child or vulnerable adult under any  
33 provision of law, including but not limited to chapter 13.34, 26.44,  
34 or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW.  
35 "Civil adjudication proceeding" also includes judicial or  
36 administrative findings that become final due to the failure of the  
37 alleged perpetrator to timely exercise a legal right to  
38 administratively challenge such findings.

1        ~~((5))~~ (6) "Client" or "resident" means a child, person with  
2 developmental disabilities, or vulnerable adult applying for housing  
3 assistance from a business or organization.

4        ~~((6))~~ (7) "Conviction record" means "conviction record"  
5 information as defined in RCW 10.97.030 and 10.97.050 relating to a  
6 crime committed by either an adult or a juvenile. It does not include  
7 a conviction for an offense that has been the subject of an  
8 expungement, pardon, annulment, certificate of rehabilitation, or  
9 other equivalent procedure based on a finding of the rehabilitation  
10 of the person convicted, or a conviction that has been the subject of  
11 a pardon, annulment, or other equivalent procedure based on a finding  
12 of innocence. It does include convictions for offenses for which the  
13 defendant received a deferred or suspended sentence, unless the  
14 record has been expunged according to law.

15        ~~((7))~~ (8) "Covered individual" means an individual:

16        (a) Who has, seeks to have, or may have access to children, the  
17 elderly, or individuals with disabilities, served by a qualified  
18 entity; and

19        (b) Who:

20        (i) Is employed by, volunteers with, or contracts with, or seeks  
21 to be employed by or volunteer or contract with a qualified entity;  
22 or

23        (ii) Owns or operates or seeks to own or operate, a qualified  
24 entity.

25        (9) "Crime against children or other persons" means a conviction  
26 of any of the following offenses: Aggravated murder; first or second  
27 degree murder; first or second degree kidnapping; first, second, or  
28 third degree assault; fourth degree assault (if a violation of RCW  
29 9A.36.041(3)); first, second, or third degree assault of a child;  
30 first, second, or third degree rape; first, second, or third degree  
31 rape of a child; first or second degree robbery; first degree arson;  
32 first degree burglary; first or second degree manslaughter; first or  
33 second degree extortion; indecent liberties; incest; vehicular  
34 homicide; first degree promoting prostitution; communication with a  
35 minor; unlawful imprisonment; simple assault; sexual exploitation of  
36 minors; first or second degree criminal mistreatment; endangerment  
37 with a controlled substance; child abuse or neglect as defined in RCW  
38 26.44.020; first or second degree custodial interference; first or  
39 second degree custodial sexual misconduct; hate crime; first, second,  
40 or third degree child molestation; first or second degree sexual

1 misconduct with a minor; commercial sexual abuse of a minor; child  
2 abandonment; promoting pornography; selling or distributing erotic  
3 material to a minor; custodial assault; violation of child abuse  
4 restraining order; child buying or selling; prostitution; felony  
5 indecent exposure; criminal abandonment; or any of these crimes as  
6 they may be renamed in the future.

7 ~~((8))~~ (10) "Crimes relating to drugs" means a conviction of a  
8 crime to manufacture, delivery, or possession with intent to  
9 manufacture or deliver a controlled substance.

10 ~~((9))~~ (11) "Crimes relating to financial exploitation" means a  
11 conviction for first, second, or third degree extortion; first,  
12 second, or third degree theft; first or second degree robbery;  
13 forgery; or any of these crimes as they may be renamed in the future.

14 ~~((10))~~ (12) "Elderly" means a person 60 years of age or older;  
15 (13) "Financial exploitation" means "financial exploitation" as  
16 defined in RCW 74.34.020.

17 ~~((11))~~ (14) "Health care facility" means a nursing home  
18 licensed under chapter 18.51 RCW, an assisted living facility  
19 licensed under chapter 18.20 RCW, or an adult family home licensed  
20 under chapter 70.128 RCW.

21 ~~((12))~~ (15) "Individuals with disabilities" means persons with  
22 the functional, mental, or physical inability to care for themselves,  
23 individuals with developmental disabilities, or individuals subject  
24 to a conservatorship or guardianship.

25 (16) "Peer counselor" means a nonprofessional person who has  
26 equal standing with another person, providing advice on a topic about  
27 which the nonprofessional person is more experienced or  
28 knowledgeable, and who is a counselor for a peer counseling program  
29 that contracts with or is otherwise approved by the department,  
30 another state or local agency, or the court.

31 ~~((13))~~ (17) "Qualified entity" means a business or  
32 organization, whether public, private, for profit, not for profit, or  
33 voluntary, that provides care or care placement services, including a  
34 business or organization that licenses or certifies others to provide  
35 care or care placement services.

36 (18) "Unsupervised" means not in the presence of:

37 (a) Another employee or volunteer from the same business or  
38 organization as the applicant; or

39 (b) Any relative or guardian of any of the children ~~((or~~  
40 ~~developmentally disabled persons or vulnerable adults)),~~ the elderly,

1 or individuals with disabilities to which the applicant has access  
2 during the course of his or her employment or involvement with the  
3 qualified entity, business, or organization.

4 With regard to peer counselors, "unsupervised" does not include  
5 incidental contact with children under age sixteen at the location at  
6 which the peer counseling is taking place. "Incidental contact" means  
7 minor or casual contact with a child in an area accessible to and  
8 within visual or auditory range of others. It could include passing a  
9 child while walking down a hallway but would not include being alone  
10 with a child for any period of time in a closed room or office.

11 ~~((14))~~ (19) "Vulnerable adult" means "vulnerable adult" as  
12 defined in chapter 74.34 RCW, except that for the purposes of  
13 requesting and receiving background checks pursuant to RCW 43.43.832,  
14 it shall also include adults of any age who lack the functional,  
15 mental, or physical ability to care for themselves.

16 NEW SECTION. Sec. 2. A new section is added to chapter 43.43  
17 RCW to read as follows:

18 (1) In order to facilitate the authorized interstate exchange of  
19 criminal history information for noncriminal justice purposes of  
20 background checks for the licensing and screening of employees and  
21 volunteers under the national child protection act of 1993, as  
22 amended, 34 U.S.C. Sec. 40102, and to implement the national crime  
23 prevention and privacy compact, 34 U.S.C. Sec. 40316, the Washington  
24 state patrol shall execute the compact on behalf of the state.

25 (2) The Washington state patrol is the repository of criminal  
26 history records for purposes of the compact and shall do all things  
27 necessary or incidental to carrying out the compact.

28 (3) The chief, or the chief's designee, is the state's compact  
29 officer and shall administer the compact within the state. The  
30 Washington state patrol may establish procedures for the cooperative  
31 exchange of criminal history records between the state and federal  
32 government for use in noncriminal justice cases.

33 (4) The state's ratification of the compact remains in effect  
34 until legislation is enacted which specifically renounces the  
35 compact.

36 (5) Authorized qualified entities and federally recognized tribes  
37 are authorized to conduct a state and national fingerprint-based  
38 criminal history record check on applicants and covered individuals  
39 for noncriminal justice purposes for any employment, licensing, or

1 volunteering purpose which provides care to children, the elderly, or  
2 individuals with disabilities.

3 (6) Fingerprints must be searched by the Washington state patrol  
4 prior to being forwarded to the federal bureau of investigation for a  
5 national search.

6 (7) In order to participate in this program:

7 (a) Qualified entities and federally recognized tribes must  
8 notify the applicant or covered individual that:

9 (i) They have the right to obtain a copy of their own state and  
10 federal criminal history record from the qualified entity or  
11 federally recognized tribe that conducted the fingerprint check  
12 within a specified amount of time determined by the qualified entity  
13 or federally recognized tribe;

14 (ii) They have the right to appeal the results of the criminal  
15 history record to challenge the accuracy or completion of information  
16 in the criminal history record.

17 (b) Qualified entities and federally recognized tribes are  
18 obligated to:

19 (i) Seek approval from the Washington state patrol before  
20 submitting a request for screening under this section;

21 (ii) Submit fingerprints on each applicant and covered individual  
22 when requesting criminal history record information under this  
23 section;

24 (iii) Maintain a signed waiver for each applicant and covered  
25 individual allowing the release of the state and national criminal  
26 history record information to the qualified entity or federally  
27 recognized tribe;

28 (iv) Ensure the applicant or covered individual is provided  
29 notification that the results of the state and federal criminal  
30 history records check are handled in a manner that protects the  
31 applicant or covered individual's privacy;

32 (v) Provide applicants and covered individuals the opportunity to  
33 challenge the accuracy of the information in the state and federal  
34 bureau of investigation's criminal history record, if one exists, if  
35 using the record to make a determination of the applicant or covered  
36 individual's suitability for employment, licensing, or volunteering  
37 purposes;

38 (vi) Advise the applicant or covered individual the procedures  
39 for obtaining a change, correction, or updating the federal criminal  
40 history record are set forth under 28 C.F.R. Sec. 16.34; and

1 (vii) Use the state and federal criminal history record  
2 information only for the purpose of screening employees, contractor,  
3 and volunteers or persons applying to be an employee, contractor, or  
4 volunteer with a qualified entity or federally recognized tribe.

5 (8) Qualified entities or federally recognized tribes must not  
6 deny employment, licenses, or volunteer positions based on  
7 information in the criminal history record until the applicant or  
8 covered individual has been afforded a reasonable time to correct or  
9 complete the record or has declined to do so.

10 (9) The Washington state patrol shall by rule establish fees for  
11 submission of fingerprints from and dissemination of records to  
12 qualified entities or federally recognized tribes under this section.  
13 The revenue from the fees shall cover, as nearly as practicable, the  
14 direct and indirect costs to the Washington state patrol of  
15 processing the submissions and disseminating the records. The cost of  
16 record checks must also include the fee the federal bureau of  
17 investigation charges for the criminal history background checks.

18 (10) A qualified entity or federally recognized tribe is not  
19 liable for damages solely for failing to obtain the information  
20 authorized under this section with respect to an employee,  
21 contractor, or volunteer. The state, any political subdivision of the  
22 state, or any agency, officer, or employee of the state or a  
23 political subdivision is not liable for damages for providing  
24 information requested under this section.

25 (11) The Washington state patrol has authority to adopt rules to  
26 implement this section.

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