

2 **2SSB 6230** - S AMD - 162

3 By Senators Kohl, Hargrove, Long, Schow, Franklin and Wood

4 SCOPE AND OBJECT RAISED; RULED BEYOND S/O; AMEND NOT ADPT 2/13/96

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds that consumers of
8 child care services have a legitimate interest in receiving timely
9 information about complaints against child care service providers in
10 order to make meaningful choices regarding the facilities and people
11 who provide care for their children. The legislature further finds
12 that as a result of improvements in information management systems, the
13 state's ability to provide relevant information to child care service
14 consumers has also improved.

15 The legislature intends to utilize the state's improved ability to
16 collect and manage information about complaints against child care
17 service providers by requiring the department of social and health
18 services to report all relevant licensing actions and complaints
19 alleging serious issues affecting the health and safety of children to
20 appropriate individuals and organizations in a timely manner. The
21 legislature further intends to authorize the department to report such
22 information to the general public when necessary and appropriate for
23 the health and safety of children.

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.15 RCW
25 to read as follows:

26 (1) The department shall report any adverse licensing actions
27 against a child day-care center or family day-care provider taken under
28 this chapter as a result of serious issues affecting the health and
29 safety of children as follows: (a) Within two business days of taking
30 the action, by posting for at least two weeks a prominent notice of the
31 licensing action at the facility; and (b) within two business days of
32 taking the action, by notifying the referent and appropriate public or
33 private child care resource and referral agencies. Upon request, a
34 center or provider subject to an adverse licensing action under this
35 chapter shall provide the department, within two business days, a

1 complete list of the names, addresses, and telephone numbers of its
2 current clients. The report shall include a description of the grounds
3 for the adverse licensing action.

4 (2) The department shall report any complaints against a child day-
5 care center or family day-care provider alleging serious issues
6 affecting the health and safety of children that are determined to be
7 well-founded or valid as follows: (a) Within two business days of
8 making the determination, by posting for at least two weeks a prominent
9 notice of the determination at the facility; and (b) within two
10 business days of making the determination, by notifying the referent
11 and appropriate public or private child care resource and referral
12 agencies. Upon request, a center or provider subject to a complaint
13 that must be reported under this subsection shall provide the
14 department, within two business days, a complete list of the names,
15 addresses, and telephone numbers of its current clients. The report
16 shall include a description of the well-founded or valid allegations
17 and a summary of the resolution of the complaint or the follow-up
18 actions taken by the department and the center or provider in response
19 to the complaint.

20 (3) The department is authorized to report to the general public
21 and counterpart licensing departments in other states, as may be
22 necessary and appropriate to protect the health or safety of children,
23 any information that is required to be reported under subsection (1) or
24 (2) of this section.

25 (4) If the child day-care center or family day-care provider is
26 later found to have not committed the acts or conduct justifying the
27 adverse licensing action or alleged in a complaint reported under
28 subsection (1), (2), or (3) of this section, the department shall
29 forthwith prepare a notice of public exoneration. Such notice shall
30 also be maintained as part of the department's permanent record of the
31 licensing action or complaint.

32 (5) The department shall disclose, upon request, the receipt,
33 general nature, and resolution or current status of all complaints on
34 record with the department after the effective date of this act against
35 a child day-care center or family day-care provider alleging serious
36 issues affecting the health and safety of children, regardless of
37 whether an investigation is pending or the complaint has been
38 determined to be invalid, inconclusive, or unfounded.

1 (6) This section shall not be construed to require the reporting of
2 any information that is exempt from public disclosure under chapter
3 42.17 RCW.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.15 RCW
5 to read as follows:

6 At any time during a pending adverse licensing action, a pending
7 investigation of a complaint alleging serious issues affecting the
8 health and safety of children, or an ongoing corrective action plan,
9 the department may, as necessary and appropriate to protect the health
10 or safety of children, (a) place a child day-care center or family day-
11 care provider on nonreferral status, and (b) notify appropriate public
12 and private child care resource and referral agencies of the
13 department's investigation and decision to place the center or provider
14 on nonreferral status.

15 NEW SECTION. **Sec. 4.** A new section is added to chapter 74.15 RCW
16 to read as follows:

17 (1) The department shall compile an annual report summarizing all
18 investigations for the previous fiscal year relating to serious issues
19 affecting the health or safety of children in the care of child day-
20 care centers and family day-care providers. The report shall be
21 provided to the legislature, the child care coordinating committee, and
22 child care resource and referral agencies by August 1st of each year
23 beginning in 1997.

24 (2) The report shall include, at a minimum, (a) an analysis of the
25 volume and general nature of all reports and disclosures made by the
26 department as required or authorized under section 2 of this act; (b)
27 an analysis of the volume and general nature of the pending adverse
28 licensing actions, pending complaint investigations, and ongoing
29 corrective action plans for which the department placed centers and
30 providers on nonreferral status under section 3 of this act; (c) an
31 analysis of the volume and general nature of complaints determined to
32 be invalid, inconclusive, or unfounded; and (d) information about the
33 average length of time required by the department to complete
34 investigations determined to be valid or well-founded, inconclusive,
35 and invalid or unfounded.

1 **Sec. 5.** RCW 74.15.020 and 1995 c 311 s 18 and 1995 c 302 s 3 are
2 each reenacted and amended to read as follows:

3 For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless
4 otherwise clearly indicated by the context thereof, the following terms
5 shall mean:

6 (1) (~~("Department" means the state department of social and health~~
7 ~~services;~~

8 ~~(2) "Secretary" means the secretary of social and health services;~~

9 ~~(3))~~ "Adverse licensing action" means a denial, suspension,
10 revocation, or nonrenewal of a license authorized under this chapter.

11 (2) "Agency" means any person, firm, partnership, association,
12 corporation, or facility which receives children, expectant mothers, or
13 persons with developmental disabilities for control, care, or
14 maintenance outside their own homes, or which places, arranges the
15 placement of, or assists in the placement of children, expectant
16 mothers, or persons with developmental disabilities for foster care or
17 placement of children for adoption, and shall include the following
18 irrespective of whether there is compensation to the agency or to the
19 children, expectant mothers or persons with developmental disabilities
20 for services rendered:

21 (a) "Group-care facility" means an agency, other than a foster-
22 family home, which is maintained and operated for the care of a group
23 of children on a twenty-four hour basis;

24 (b) "Child-placing agency" means an agency which places a child or
25 children for temporary care, continued care, or for adoption;

26 (c) "Maternity service" means an agency which provides or arranges
27 for care or services to expectant mothers, before or during
28 confinement, or which provides care as needed to mothers and their
29 infants after confinement;

30 (d) "Child day-care center" means an agency which regularly
31 provides care for a group of children for periods of less than twenty-
32 four hours;

33 (e) "Family day-care provider" means a child day-care provider who
34 regularly provides child day care for not more than twelve children in
35 the provider's home in the family living quarters;

36 (f) "Foster-family home" means an agency which regularly provides
37 care on a twenty-four hour basis to one or more children, expectant
38 mothers, or persons with developmental disabilities in the family abode
39 of the person or persons under whose direct care and supervision the

1 child, expectant mother, or person with a developmental disability is
2 placed;

3 (g) "Crisis residential center" means an agency which is a
4 temporary protective residential facility operated to perform the
5 duties specified in chapter 13.32A RCW, in the manner provided in RCW
6 74.13.032 through 74.13.036.

7 (~~(4)~~) (3) "Agency" shall not include the following:

8 (a) Persons related to the child, expectant mother, or person with
9 developmental disabilities in the following ways:

10 (i) Any blood relative, including those of half blood, and
11 including first cousins, nephews or nieces, and persons of preceding
12 generations as denoted by prefixes of grand, great, or great-great;

13 (ii) Stepfather, stepmother, stepbrother, and stepsister;

14 (iii) A person who legally adopts a child or the child's parent as
15 well as the natural and other legally adopted children of such persons,
16 and other relatives of the adoptive parents in accordance with state
17 law;

18 (iv) Spouses of any persons named in (a)(i), (ii), or (iii) of this
19 subsection, even after the marriage is terminated; or

20 (v) Extended family members, as defined by the law or custom of the
21 Indian child's tribe or, in the absence of such law or custom, a person
22 who has reached the age of eighteen and who is the Indian child's
23 grandparent, aunt or uncle, brother or sister, brother-in-law or
24 sister-in-law, niece or nephew, first or second cousin, or stepparent
25 who provides care in the family abode on a twenty-four-hour basis to an
26 Indian child as defined in 25 U.S.C. Sec. 1903(4);

27 (b) Persons who are legal guardians of the child, expectant mother,
28 or persons with developmental disabilities;

29 (c) Persons who care for a neighbor's or friend's child or
30 children, with or without compensation, where: (i) The person
31 providing care for periods of less than twenty-four hours does not
32 conduct such activity on an ongoing, regularly scheduled basis for the
33 purpose of engaging in business, which includes, but is not limited to,
34 advertising such care; or (ii) the parent and person providing care on
35 a twenty-four-hour basis have agreed to the placement in writing and
36 the state is not providing any payment for the care;

37 (d) Parents on a mutually cooperative basis exchange care of one
38 another's children;

1 (e) A person, partnership, corporation, or other entity that
2 provides placement or similar services to exchange students or
3 international student exchange visitors or persons who have the care of
4 an exchange student in their home;

5 (f) Nursery schools or kindergartens which are engaged primarily in
6 educational work with preschool children and in which no child is
7 enrolled on a regular basis for more than four hours per day;

8 (g) Schools, including boarding schools, which are engaged
9 primarily in education, operate on a definite school year schedule,
10 follow a stated academic curriculum, accept only school-age children
11 and do not accept custody of children;

12 (h) Seasonal camps of three months' or less duration engaged
13 primarily in recreational or educational activities;

14 (i) Hospitals licensed pursuant to chapter 70.41 RCW when
15 performing functions defined in chapter 70.41 RCW, nursing homes
16 licensed under chapter 18.51 RCW and boarding homes licensed under
17 chapter 18.20 RCW;

18 (j) Licensed physicians or lawyers;

19 (k) Facilities providing care to children for periods of less than
20 twenty-four hours whose parents remain on the premises to participate
21 in activities other than employment;

22 (l) Facilities approved and certified under chapter 71A.22 RCW;

23 (m) Any agency having been in operation in this state ten years
24 prior to June 8, 1967, and not seeking or accepting moneys or
25 assistance from any state or federal agency, and is supported in part
26 by an endowment or trust fund;

27 (n) Persons who have a child in their home for purposes of
28 adoption, if the child was placed in such home by a licensed child-
29 placing agency, an authorized public or tribal agency or court or if a
30 replacement report has been filed under chapter 26.33 RCW and the
31 placement has been approved by the court;

32 (o) An agency operated by any unit of local, state, or federal
33 government or an agency, located within the boundaries of a federally
34 recognized Indian reservation, licensed by the Indian tribe;

35 (p) An agency located on a federal military reservation, except
36 where the military authorities request that such agency be subject to
37 the licensing requirements of this chapter.

38 (4) "Department" means the state department of social and health
39 services.

1 (5) "Probationary license" means a license issued as a disciplinary
2 measure to an agency that has previously been issued a full license but
3 is out of compliance with licensing standards.

4 (6) "Referent" means a person or agency who brings to the attention
5 of the department a complaint or information resulting in an
6 investigation or adverse licensing action.

7 (7) "Requirement" means any rule, regulation, or standard of care
8 to be maintained by an agency.

9 (~~(6) "Probationary license" means a license issued as a~~
10 ~~disciplinary measure to an agency that has previously been issued a~~
11 ~~full license but is out of compliance with licensing standards.))~~

12 (8) "Secretary" means the secretary of social and health services.

13 (9) "Serious issues affecting the health and safety of children"
14 means allegations, which if true, place children at serious risk of
15 harm. Such allegations may include, but are not limited to,
16 allegations of child abuse or neglect or allegations of licensing
17 violations related to safety or health hazards, supervision problems,
18 accidental injuries, or excessive discipline or mistreatment of a
19 child.

20 NEW SECTION. Sec. 6. The department of social and health services
21 shall adopt rules as necessary to implement RCW 74.15.020 and sections
22 2 through 4 of this act.

23 **Sec. 7.** RCW 74.13.090 and 1995 c 399 s 204 are each amended to
24 read as follows:

25 (1) There is established a child care coordinating committee to
26 provide coordination and communication between state agencies
27 responsible for child care and early childhood education services. The
28 child care coordinating committee shall be composed of not less than
29 (~~seventeen~~) twenty-three nor more than thirty-three members who shall
30 include:

31 (a) One representative each from the department of social and
32 health services, the department of community, trade, and economic
33 development, the office of the superintendent of public instruction,
34 and any other agency having responsibility for regulation, provision,
35 or funding of child care services in the state;

36 (b) One representative from the department of labor and industries;

37 (c) One representative from the department of revenue;

- 1 (d) One representative from the employment security department;
2 (e) One representative from the department of personnel;
3 (f) One representative from the department of health;
4 (g) One representative from the higher education coordinating
5 board;
6 (h) One representative from the state board of education;
7 (i) One representative from the state board for community and
8 technical colleges;
9 (j) At least one representative of family home child care providers
10 and one representative of center care providers;
11 (~~(h)~~) (k) At least one representative of early childhood
12 development experts;
13 (~~(i)~~) (l) At least one representative of school districts and
14 teachers involved in the provision of child care and preschool
15 programs;
16 (~~(j)~~) (m) At least one parent education specialist;
17 (~~(k)~~) (n) At least one representative of resource and referral
18 programs;
19 (~~(l)~~) (o) One pediatric or other health professional;
20 (~~(m)~~) (p) At least one representative of college or university
21 child care providers;
22 (~~(n)~~) (q) At least one representative of a citizen group
23 concerned with child care;
24 (~~(o)~~) (r) At least one representative of a labor organization;
25 (~~(p)~~) (s) At least one representative of a head start - early
26 childhood education assistance program agency;
27 (~~(q)~~) (t) At least one employer who provides child care
28 assistance to employees;
29 (~~(r)~~) (u) Parents of children receiving, or in need of, child
30 care, half of whom shall be parents needing or receiving subsidized
31 child care and half of whom shall be parents who are able to pay for
32 child care.

33 The named state agencies shall select their representative to the
34 child care coordinating committee. The department of social and health
35 services shall select the remaining members, considering
36 recommendations from lists submitted by professional associations and
37 other interest groups until such time as the committee adopts a member
38 selection process. The department shall use any federal funds which

1 may become available to accomplish the purposes of RCW 74.13.085
2 through 74.13.095.

3 The committee shall elect officers from among its membership and
4 shall adopt policies and procedures specifying the lengths of terms,
5 methods for filling vacancies, and other matters necessary to the
6 ongoing functioning of the committee. The secretary of social and
7 health services shall appoint a temporary chair until the committee has
8 adopted policies and elected a chair accordingly. Child care
9 coordinating committee members shall be reimbursed for travel expenses
10 as provided in RCW 43.03.050 and 43.03.060.

11 (2) To the extent possible within available funds, the child care
12 coordinating committee shall:

13 (a) Serve as an advisory coordinator for all state agencies
14 responsible for early childhood or child care programs for the purpose
15 of improving communication and interagency coordination;

16 (b) Annually review state programs and make recommendations to the
17 agencies and the legislature which will maximize funding and promote
18 furtherance of the policies set forth in RCW 74.13.085. Reports shall
19 be provided to all appropriate committees of the legislature by
20 December 1 of each year. At a minimum the committee shall:

21 ~~(i) ((Review and propose changes to the child care subsidy system
22 in its December 1989 report;~~

23 ~~(ii))~~ Review alternative models for child care service systems, in
24 the context of the policies set forth in RCW 74.13.085, and recommend
25 to the legislature a new child care service structure; and

26 ~~((iii))~~ (ii) Review options and make recommendations on the
27 feasibility of establishing an allocation for day care facilities when
28 constructing state buildings;

29 (c) Review department of social and health services administration
30 of the child care expansion grant program described in RCW 74.13.095;

31 (d) Review rules regarding child care facilities and services for
32 the purpose of identifying those which unnecessarily obstruct the
33 availability and affordability of child care in the state;

34 (e) Advise and assist the office of child care policy in
35 implementing his or her duties under RCW 74.13.0903;

36 (f) Perform other functions to improve the quantity and quality of
37 child care in the state, including compliance with existing and future
38 prerequisites for federal funding; ~~((and))~~

1 (g) Advise and assist the department of personnel in its
2 responsibility for establishing policies and procedures that provide
3 for the development of quality child care programs for state employees;
4 and

5 (h) Review the department's annual reports required under section
6 4 of this act. The committee shall make recommendations to the
7 legislature as necessary to improve the availability of information in
8 the department's possession that is relevant to making meaningful
9 choices regarding child day-care centers and family day-care providers.

10 NEW SECTION. **Sec. 8.** The legislature finds that information
11 regarding the history of employees and licensees in social service
12 programs has proven to be a valuable tool for increasing the safety of
13 clients of the programs. The legislature intends, with sections 9
14 through 13, chapter . . . , Laws of 1996 (sections 9 through 13 of this
15 act), to enhance the capacity of program operators who wish to obtain
16 the information by authorizing but not requiring postengagement
17 inquiries about the criminal history of employees and licensees.

18 **Sec. 9.** RCW 43.43.830 and 1995 c 250 s 1 are each amended to read
19 as follows:

20 Unless the context clearly requires otherwise, the definitions in
21 this section apply throughout RCW 43.43.830 through 43.43.840.

22 (1) "Applicant" means:

23 (a) Any prospective employee who will or may have unsupervised
24 access to children under sixteen years of age or developmentally
25 disabled persons or vulnerable adults during the course of his or her
26 employment or involvement with the business or organization;

27 (b) Any prospective volunteer who will have regularly scheduled
28 unsupervised access to children under sixteen years of age,
29 developmentally disabled persons, or vulnerable adults during the
30 course of his or her employment or involvement with the business or
31 organization under circumstances where such access will or may involve
32 groups of (i) five or fewer children under twelve years of age, (ii)
33 three or fewer children between twelve and sixteen years of age, (iii)
34 developmentally disabled persons, or (iv) vulnerable adults; or

35 (c) Any prospective adoptive parent, as defined in RCW 26.33.020.

36 (2) "Employee" means a person who has unsupervised access to
37 children under sixteen years of age, developmentally disabled persons,

1 or vulnerable adults, during the course of his or her employment or
2 involvement with the business or organization, developmentally disabled
3 person, or vulnerable adult.

4 (3) "Licensee" means any person who has received from a business or
5 organization express or implied permission to provide services to
6 children, developmentally disabled persons, or vulnerable adults and
7 has unsupervised access to children under sixteen years of age,
8 developmentally disabled persons, or vulnerable adults, during the
9 course of his or her involvement with the business or organization.

10 (4) "Business or organization" means a business or organization
11 licensed in this state, any agency of the state, or other governmental
12 entity, that educates, trains, treats, supervises, houses, or provides
13 recreation to developmentally disabled persons, vulnerable adults, or
14 children under sixteen years of age, including but not limited to
15 public housing authorities, school districts, and educational service
16 districts.

17 ~~((+3))~~ (5) "Civil adjudication" means a specific court finding of
18 sexual abuse or exploitation or physical abuse in a dependency action
19 under RCW 13.34.040 or in a domestic relations action under Title 26
20 RCW. In the case of vulnerable adults, civil adjudication means a
21 specific court finding of abuse or financial exploitation in a
22 protection proceeding under chapter 74.34 RCW. It does not include
23 administrative proceedings. The term "civil adjudication" is further
24 limited to court findings that identify as the perpetrator of the abuse
25 a named individual, over the age of eighteen years, who was a party to
26 the dependency or dissolution proceeding or was a respondent in a
27 protection proceeding in which the finding was made and who contested
28 the allegation of abuse or exploitation.

29 ~~((+4))~~ (6) "Conviction record" means "conviction record"
30 information as defined in RCW 10.97.030(3) relating to a crime against
31 children or other persons committed by either an adult or a juvenile.
32 It does not include a conviction for an offense that has been the
33 subject of an expungement, pardon, annulment, certificate of
34 rehabilitation, or other equivalent procedure based on a finding of the
35 rehabilitation of the person convicted, or a conviction that has been
36 the subject of a pardon, annulment, or other equivalent procedure based
37 on a finding of innocence. It does include convictions for offenses
38 for which the defendant received a deferred or suspended sentence,
39 unless the record has been expunged according to law.

1 (~~(5)~~) (7) "Crime against children or other persons" means a
2 conviction of any of the following offenses: Aggravated murder; first
3 or second degree murder; first or second degree kidnaping; first,
4 second, or third degree assault; first, second, or third degree assault
5 of a child; first, second, or third degree rape; first, second, or
6 third degree rape of a child; first or second degree robbery; first
7 degree arson; first degree burglary; first or second degree
8 manslaughter; first or second degree extortion; indecent liberties;
9 incest; vehicular homicide; first degree promoting prostitution;
10 communication with a minor; unlawful imprisonment; simple assault;
11 sexual exploitation of minors; first or second degree criminal
12 mistreatment; child abuse or neglect as defined in RCW 26.44.020; first
13 or second degree custodial interference; malicious harassment; first,
14 second, or third degree child molestation; first or second degree
15 sexual misconduct with a minor; first or second degree rape of a child;
16 patronizing a juvenile prostitute; child abandonment; promoting
17 pornography; selling or distributing erotic material to a minor;
18 custodial assault; violation of child abuse restraining order; child
19 buying or selling; prostitution; felony indecent exposure; criminal
20 abandonment; or any of these crimes as they may be renamed in the
21 future.

22 (~~(6)~~) (8) "Crimes relating to financial exploitation" means a
23 conviction for first, second, or third degree extortion; first, second,
24 or third degree theft; first or second degree robbery; forgery; or any
25 of these crimes as they may be renamed in the future.

26 (~~(7)~~) (9) "Disciplinary board final decision" means any final
27 decision issued by a disciplining authority under chapter 18.130 RCW or
28 the secretary of the department of health for the following businesses
29 or professions:

- 30 (a) Chiropractic;
- 31 (b) Dentistry;
- 32 (c) Dental hygiene;
- 33 (d) Massage;
- 34 (e) Midwifery;
- 35 (f) Naturopathy;
- 36 (g) Osteopathy;
- 37 (h) Physical therapy;
- 38 (i) Physicians;
- 39 (j) Practical nursing;

1 (k) Registered nursing; and

2 (l) Psychology.

3 "Disciplinary board final decision," for real estate brokers and
4 salespersons, means any final decision issued by the director of the
5 department of licensing for real estate brokers and salespersons.

6 ~~((+8+))~~ (10) "Unsupervised" means not in the presence of:

7 (a) Another employee or volunteer from the same business or
8 organization as the applicant; or

9 (b) Any relative or guardian of any of the children or
10 developmentally disabled persons or vulnerable adults to which the
11 applicant has access during the course of his or her employment or
12 involvement with the business or organization.

13 ~~((+9+))~~ (11) "Vulnerable adult" means "vulnerable adult" as defined
14 in chapter 74.34 RCW, except that for the purposes of requesting and
15 receiving background checks pursuant to RCW 43.43.832, it shall also
16 include adults of any age who lack the functional, mental, or physical
17 ability to care for themselves.

18 ~~((+10+))~~ (12) "Financial exploitation" means the illegal or
19 improper use of a vulnerable adult or that adult's resources for
20 another person's profit or advantage.

21 ~~((+11+))~~ (13) "Agency" means any person, firm, partnership,
22 association, corporation, or facility which receives, provides services
23 to, houses or otherwise cares for vulnerable adults.

24 **Sec. 10.** RCW 43.43.832 and 1995 c 250 s 2 are each amended to read
25 as follows:

26 (1) The legislature finds that businesses and organizations
27 providing services to children, developmentally disabled persons, and
28 vulnerable adults need adequate information to determine which
29 employees or licensees to hire ~~((or)),~~ engage, or retain. The
30 legislature further finds that many developmentally disabled
31 individuals and vulnerable adults desire to hire their own employees
32 directly and also need adequate information to determine which
33 employees or licensees to hire ~~((or)),~~ engage, or retain. Therefore,
34 ~~((the Washington state patrol criminal identification system may
35 disclose, upon the request of))~~ a business or organization as defined
36 in RCW 43.43.830, a developmentally disabled person, or a vulnerable
37 adult as defined in RCW 43.43.830, or his or her guardian, may receive
38 upon request from the Washington state patrol criminal identification

1 system an applicant's, employee's, or licensee's record for convictions
2 of offenses against children or other persons, convictions for crimes
3 relating to financial exploitation, but only if the victim was a
4 vulnerable adult, adjudications of child abuse in a civil action, the
5 issuance of a protection order against the respondent under chapter
6 74.34 RCW, and disciplinary board final decisions and any subsequent
7 criminal charges associated with the conduct that is the subject of the
8 disciplinary board final decision. When necessary, applicants may be
9 employed on a conditional basis pending completion of such a background
10 investigation.

11 (2) The legislature also finds that the state board of education
12 may request of the Washington state patrol criminal identification
13 system information regarding a certificate applicant's record for
14 convictions under subsection (1) of this section.

15 (3) The legislature also finds that law enforcement agencies, the
16 office of the attorney general, prosecuting authorities, and the
17 department of social and health services may request this same
18 information to aid in the investigation and prosecution of child,
19 developmentally disabled person, and vulnerable adult abuse cases and
20 to protect children and adults from further incidents of abuse.

21 (4) The legislature further finds that the department of social and
22 health services, when considering persons for state positions directly
23 responsible for the care, supervision, or treatment of children,
24 developmentally disabled persons, or vulnerable adults or when
25 licensing or authorizing such persons or agencies pursuant to its
26 authority under chapter 74.15, 18.51, 18.20, or 72.23 RCW, or any
27 later-enacted statute which purpose is to license or regulate a
28 facility which handles vulnerable adults, must consider the information
29 listed in subsection (1) of this section. However, when necessary,
30 persons may be employed on a conditional basis pending completion of
31 the background investigation. The Washington personnel resources board
32 shall adopt rules to accomplish the purposes of this subsection as it
33 applies to state employees.

34 **Sec. 11.** RCW 43.43.834 and 1990 c 3 s 1103 are each amended to
35 read as follows:

36 (1) A business or organization shall not make an inquiry to the
37 Washington state patrol under RCW 43.43.832 or an equivalent inquiry to
38 a federal law enforcement agency unless the business or organization

1 has: (a) Notified the applicant who has been offered a position as an
2 employee or volunteer((7)) that an inquiry may be made; or (b) notified
3 the employee or licensee that an inquiry may be made.

4 (2) A business or organization shall require each applicant,
5 employee, and licensee, to disclose to the business or organization
6 whether the applicant, employee, or licensee has been:

7 (a) Convicted of any crime against children or other persons;

8 (b) Convicted of crimes relating to financial exploitation if the
9 victim was a vulnerable adult;

10 (c) Found in any dependency action under RCW 13.34.040 to have
11 sexually assaulted or exploited any minor or to have physically abused
12 any minor;

13 (d) Found by a court in a domestic relations proceeding under Title
14 26 RCW to have sexually abused or exploited any minor or to have
15 physically abused any minor;

16 (e) Found in any disciplinary board final decision to have sexually
17 or physically abused or exploited any minor or developmentally disabled
18 person or to have abused or financially exploited any vulnerable adult;
19 or

20 (f) Found by a court in a protection proceeding under chapter 74.34
21 RCW, to have abused or financially exploited a vulnerable adult.

22 The disclosure shall be made in writing and signed by the
23 applicant, employee, or licensee and sworn under penalty of perjury.
24 The disclosure sheet shall specify all crimes against children or other
25 persons and all crimes relating to financial exploitation as defined in
26 RCW 43.43.830 in which the victim was a vulnerable adult.

27 (3) The business or organization shall pay such reasonable fee for
28 the records check as the state patrol may require under RCW 43.43.838.

29 (4) The business or organization shall notify the applicant,
30 employee, or licensee of the state patrol's response within ten days
31 after receipt by the business or organization. The employer shall
32 provide a copy of the response to the applicant, employee, or licensee
33 and shall notify the applicant, employee, or licensee of such
34 availability.

35 (5) The business or organization shall use this record only in:
36 (a) Making the initial employment or engagement decision; or (b)
37 conducting biennial reviews to assure the continued eligibility of
38 employees and licensees to have unsupervised access to children,
39 developmentally disabled persons, or vulnerable adults. Further

1 dissemination or use of the record is prohibited. A business or
2 organization violating this subsection is subject to a civil action for
3 damages.

4 (6) An insurance company shall not require a business or
5 organization to request background information on any employee or
6 licensee before issuing a policy of insurance.

7 (7) The business and organization shall be immune from civil
8 liability for failure to request background information on an
9 applicant, employee, or licensee unless the failure to do so
10 constitutes gross negligence.

11 **Sec. 12.** RCW 43.43.838 and 1995 c 29 s 1 are each amended to read
12 as follows:

13 (1) (~~After January 1, 1988, and~~) Notwithstanding any provision of
14 RCW 43.43.700 through 43.43.810 to the contrary, the state patrol shall
15 furnish a transcript of the conviction record, disciplinary board final
16 decision and any subsequent criminal charges associated with the
17 conduct that is the subject of the disciplinary board final decision,
18 or civil adjudication record pertaining to any person for whom the
19 state patrol or the federal bureau of investigation has a record upon
20 the written request of:

21 (a) The subject of the inquiry;

22 (b) Any business or organization, developmentally disabled person,
23 or vulnerable adult, for the purpose of conducting evaluations under
24 RCW 43.43.832;

25 (c) The department of social and health services;

26 (d) Any law enforcement agency, prosecuting authority, or the
27 office of the attorney general; or

28 (e) The department of social and health services for the purpose of
29 meeting responsibilities set forth in chapter 74.15, 18.51, 18.20, or
30 72.23 RCW, or any later-enacted statute which purpose is to regulate or
31 license a facility which handles vulnerable adults. However, access to
32 conviction records pursuant to this subsection (1)(e) does not limit or
33 restrict the ability of the department to obtain additional information
34 regarding conviction records and pending charges as set forth in RCW
35 74.15.030(2)(b).

36 After processing the request, if the conviction record,
37 disciplinary board final decision and any subsequent criminal charges
38 associated with the conduct that is the subject of the disciplinary

1 board final decision, or adjudication record shows no evidence of a
2 crime against children or other persons or, in the case of vulnerable
3 adults, no evidence of crimes relating to financial exploitation in
4 which the victim was a vulnerable adult, an identification declaring
5 the showing of no evidence shall be issued to the (~~business or~~
6 ~~organization~~) recipients identified in subsection (1)(b) of this
7 section by the state patrol and shall be issued within fourteen working
8 days of the request. The (~~business or organization~~) recipient shall
9 provide a copy of the identification declaring the showing of no
10 evidence to the applicant, employee, or licensee. Possession of such
11 identification shall satisfy future record check requirements for the
12 applicant, employee, or licensee for a two-year period unless the
13 prospective employee is any current school district employee who has
14 applied for a position in another school district.

15 (2) The state patrol shall by rule establish fees for disseminating
16 records under this section to recipients identified in subsection
17 (1)(a) and (b) of this section. The state patrol shall also by rule
18 establish fees for disseminating records in the custody of the national
19 crime information center. The revenue from the fees shall cover, as
20 nearly as practicable, the direct and indirect costs to the state
21 patrol of disseminating the records: PROVIDED, That no fee shall be
22 charged to a nonprofit organization for the initial records check of a
23 person who is, or seeks to become, an employee or licensee: PROVIDED
24 FURTHER, That in the case of record checks using fingerprints requested
25 by school districts and educational service districts, the state patrol
26 shall charge only for the incremental costs associated with checking
27 fingerprints in addition to name and date of birth. Record checks
28 requested by school districts and educational service districts using
29 only name and date of birth shall (~~continue to~~) be provided free of
30 charge.

31 (3) No employee of the state, employee of a business or
32 organization, or (~~the business or organization~~) recipient identified
33 in subsection (1)(b) of this section is liable for defamation, invasion
34 of privacy, negligence, or any other claim in connection with any
35 lawful dissemination of information under RCW 43.43.830 through
36 43.43.840 or 43.43.760.

37 (4) (~~Before July 26, 1987,~~) The state patrol shall adopt rules
38 and forms to implement this section and to provide for security and
39 privacy of information disseminated under this section, giving first

1 priority to the criminal justice requirements of this chapter. The
2 rules may include requirements for users, audits of users, and other
3 procedures to prevent use of civil adjudication record information or
4 criminal history record information inconsistent with this chapter.

5 (5) Nothing in RCW 43.43.830 through 43.43.840 shall authorize an
6 employer to make an inquiry not specifically authorized by this
7 chapter, or be construed to affect the policy of the state declared in
8 chapter 9.96A RCW.

9 **Sec. 13.** RCW 43.43.840 and 1989 c 334 s 5 and 1989 c 90 s 5 are
10 each reenacted and amended to read as follows:

11 (1) The supreme court shall by rule require the courts of the state
12 to notify the state patrol of any dependency action under RCW
13 (~~((13.34.030(2)(b)))~~) 13.34.040, domestic relations action under Title 26
14 RCW, or protection action under chapter 74.34 RCW, in which the court
15 makes specific findings of physical abuse or sexual abuse or
16 exploitation of a child or abuse or financial exploitation of a
17 vulnerable adult.

18 (2) The department of licensing shall notify the state patrol of
19 any disciplinary board final decision that includes specific findings
20 of physical abuse or sexual abuse or exploitation of a child or abuse
21 or financial exploitation of a vulnerable adult.

22 (3) When a business or an organization terminates, fires,
23 dismisses, fails to renew the contract, or permits the resignation of
24 an employee because of crimes against children or other persons or
25 because of crimes relating to the financial exploitation of a
26 vulnerable adult, and if that employee is employed in a position
27 requiring a certificate or license issued by a licensing agency such as
28 the state board of education, the business or organization shall notify
29 the licensing agency of such termination of employment."

30 **2SSB 6230** - S AMD - 162

31 By Senators Kohl, Hargrove, Long, Schow, Franklin and Wood

32

33 On page 1, line 1 of the title, after "services;" strike the
34 remainder of the title and insert "amending RCW 74.13.090, 43.43.830,
35 43.43.832, 43.43.834, and 43.43.838; reenacting and amending RCW

- 1 74.15.020 and 43.43.840; adding new sections to chapter 74.15 RCW; and
- 2 creating new sections."

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