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SENATE BILL 5421

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State of Washington

54th Legislature

1995 Regular Session

By Senator Fraser

Read first time 01/23/95. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to background checks; and amending RCW 43.43.830.

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

3 **Sec. 1.** RCW 43.43.830 and 1994 c 108 s 1 are each amended to read  
4 as follows:

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

7 (1) "Applicant" means:

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

12 (b) Any prospective volunteer who will have regularly scheduled  
13 unsupervised access to children under sixteen years of age,  
14 developmentally disabled persons, or vulnerable adults during the  
15 course of his or her employment or involvement with the business or  
16 organization under circumstances where such access will or may involve  
17 groups of (i) five or fewer children under twelve years of age, (ii)  
18 three or fewer children between twelve and sixteen years of age, (iii)  
19 developmentally disabled persons, or (iv) vulnerable adults; or

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

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

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

21 (4) "Conviction record" means "conviction record" information as  
22 defined in RCW 10.97.030(3) relating to a crime against children or  
23 other persons committed by either an adult or a juvenile. It does not  
24 include a conviction for an offense that has been the subject of an  
25 expungement, pardon, annulment, certificate of rehabilitation, or other  
26 equivalent procedure based on a finding of the rehabilitation of the  
27 person convicted, or a conviction that has been the subject of a  
28 pardon, annulment, or other equivalent procedure based on a finding of  
29 innocence. It does include convictions for offenses for which the  
30 defendant received a deferred or suspended sentence, unless the record  
31 has been expunged according to law.

32 (5) "Crime against children or other persons" means a conviction of  
33 any of the following offenses: Aggravated murder; first or second  
34 degree murder; first or second degree kidnaping; first, second, or  
35 third degree assault; first, second, or third degree assault of a  
36 child; first, second, or third degree rape; first, second, or third  
37 degree rape of a child; first or second degree robbery; first degree  
38 arson; first degree burglary; first or second degree manslaughter;  
39 first or second degree extortion; indecent liberties; incest; vehicular

1 homicide; first degree promoting prostitution; communication with a  
2 minor; unlawful imprisonment; simple assault; sexual exploitation of  
3 minors; first or second degree criminal mistreatment; child abuse or  
4 neglect as defined in RCW 26.44.020; first or second degree custodial  
5 interference; malicious harassment; first, second, or third degree  
6 child molestation; first or second degree sexual misconduct with a  
7 minor; first or second degree rape of a child; patronizing a juvenile  
8 prostitute; child abandonment; promoting pornography; selling or  
9 distributing erotic material to a minor; custodial assault; violation  
10 of child abuse restraining order; child buying or selling;  
11 prostitution; felony indecent exposure; or any of these crimes as they  
12 may be renamed in the future.

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

17 (7) "Disciplinary board final decision" means any final decision  
18 issued by the disciplinary board or the director of the department of  
19 licensing for the following businesses or professions:

- 20 (a) Chiropractic;
- 21 (b) Dentistry;
- 22 (c) Dental hygiene;
- 23 (d) Massage;
- 24 (e) Midwifery;
- 25 (f) Naturopathy;
- 26 (g) Osteopathy;
- 27 (h) Physical therapy;
- 28 (i) Physicians;
- 29 (j) Practical nursing;
- 30 (k) Registered nursing;
- 31 (l) Psychology; and
- 32 (m) Real estate brokers and salesmen.

33 (8) "Unsupervised" means not in the presence of:

34 (a) Another employee or volunteer from the same business or  
35 organization as the applicant; or

36 (b) Any relative or guardian of any of the children or  
37 developmentally disabled persons to which the applicant has access  
38 during the course of his or her employment or involvement with the  
39 business or organization.

1 (9) "Vulnerable adult" means a person (~~sixty years of age or~~  
2 ~~elder~~) who has the functional, mental, or physical inability to care  
3 for himself or herself or who is a patient in a state hospital as  
4 defined in chapter 72.23 RCW.

5 (10) "Financial exploitation" means the illegal or improper use of  
6 a vulnerable adult or that adult's resources for another person's  
7 profit or advantage.

8 (11) "Agency" means any person, firm, partnership, association,  
9 corporation, or facility which receives, provides services to, houses  
10 or otherwise cares for vulnerable adults.

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