
SUBSTITUTE SENATE BILL 5528

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl, Long, Thibaudeau, Franklin, Patterson, Fairley, Winsley, Oke and Rasmussen)

Read first time 03/05/97.

1 AN ACT Relating to protecting children and vulnerable adults by
2 using background checks; amending RCW 28A.400.303, 28A.400.320,
3 28A.400.330, 28A.410.090, 28A.410.110, 28A.405.470, 28A.195.010,
4 9.94A.230, 9.96A.020, 41.06.150, 43.43.740, 43.150.080, 70.128.120,
5 70.128.130, and 70.129.130; reenacting and amending RCW 18.130.040;
6 adding new sections to chapter 28A.400 RCW; adding new sections to
7 chapter 28A.410 RCW; adding a new section to chapter 2.04 RCW; adding
8 a new section to chapter 2.06 RCW; adding a new chapter to Title 70
9 RCW; creating new sections; repealing RCW 41.06.475, 43.43.815,
10 43.43.832, 43.43.834, 43.43.838, and 43.43.842; prescribing penalties;
11 providing an effective date; and providing an expiration date.

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

13 NEW SECTION. **Sec. 1.** FINDINGS--INTENT--PURPOSE. The legislature
14 finds that conducting background checks on individuals who work in
15 sensitive positions serves an important role in helping businesses and
16 organizations protect children, vulnerable adults, and financial
17 assets. The legislature also finds that background checks often reveal
18 information about individuals that, if used, disclosed, or disseminated
19 improperly, could cause significant harm to the individuals who are the

1 subject of the background checks. The legislature intends to improve
2 access to important background check information while safeguarding the
3 privacy of individuals who may be the subject of background checks.

4 The primary purposes of this act are to: (1) Increase the safety
5 of children and vulnerable adults who receive services paid for wholly
6 or partially by the state, who receive supervision, care, and treatment
7 by individuals who are regulated by the state, and who receive
8 supervision, care, and treatment by individuals who are not otherwise
9 regulated by the state; (2) provide a coherent, consistent application
10 of laws and policies regarding the gathering, use, and dissemination of
11 background check information for noncriminal justice purposes; (3)
12 reduce the backlog in entering criminal history record information into
13 the Washington state patrol's data base; (4) decrease delay and
14 duplication in the processing and dissemination of background check
15 requests made by businesses and organizations from the Washington state
16 patrol; and (5) create improved electronic technologies to enhance the
17 services of the Washington state patrol and promote more efficient
18 processing of background check requests by government, businesses, and
19 organizations.

20 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
21 section apply throughout this chapter, unless the context clearly
22 requires otherwise.

23 (1) "Background check" means an investigation into an individual's
24 background for the purposes of determining the individual's suitability
25 for involvement with a business or organization. A background check
26 may include, but is not limited to, an investigation of state and
27 national conviction records, civil adjudications and court orders, and
28 administrative decisions.

29 (2) "Business or organization" means any person, entity, or
30 government agency seeking to hire, or engage as a volunteer, any
31 individual who may have unsupervised access to children or vulnerable
32 adults. "Business or organization" also includes any individual or
33 entity to which a business or organization delegates its authority to
34 request or receive information under this chapter.

35 (3) "Certified copy of a background check record" means a certified
36 document issued by the state patrol to an individual upon his or her
37 request under section 24 of this act identifying the individual's: (a)
38 Conviction record; (b) adverse dependency adjudications; (c) adverse

1 disciplinary board final decisions; and (d) protection orders; or the
2 lack of any such records.

3 (4) "Child" or "children" means an individual or individuals under
4 the age of sixteen.

5 (5) "Conviction record" has the same meaning as in RCW 10.97.030
6 except that the following are not considered conviction records for the
7 purposes of this act: (a) Convictions that have been expunged,
8 reversed, or vacated as the result of a final determination by a court
9 of competent jurisdiction; and (b) records of criminal proceedings that
10 have been sealed by an order of a court of competent jurisdiction.

11 (6) "Credentialing authority" means a state agency, board,
12 disciplining authority, or body authorized to grant, deny, suspend, or
13 revoke a state credential.

14 (7) "Department" means the department of social and health
15 services.

16 (8) "Dependency adjudication" means a final adjudication in a
17 dependency action under chapter 13.34 RCW that includes a finding of
18 physical or sexual abuse, neglect, or exploitation of a child.

19 (9) "Disciplinary board final decisions" means final decisions
20 issued by the secretary of the department of health, a disciplining
21 authority under chapter 18.130 RCW, or the director of the department
22 of licensing.

23 (10) "Disciplining authority" has the same meaning as in RCW
24 18.130.020.

25 (11) "FBI" means the federal bureau of investigation.

26 (12) "Individual" means any natural person.

27 (13) "Involvement" or "involved with" means working for a business
28 or organization for compensation, consideration, or as a volunteer.
29 Individuals involved with a business or organization may include, but
30 are not limited to employees, contractors, trainees, student interns,
31 and volunteers.

32 (14) "Lawful source" means an entity licensed to do business in
33 this state or any other jurisdiction.

34 (15) "May have unsupervised access" means unsupervised access that
35 will or may occur as part of an individual's regularly scheduled
36 activities or work duties or that will or may occur as a likely
37 consequence of the work environment.

38 (16) "Nonprofit business or organization" means a nongovernmental
39 business or organization that operates for any lawful purpose where no

1 part of its income is distributable to its owners, members, directors,
2 or officers.

3 (17) "Protection orders" means court orders, other than ex parte or
4 temporary orders, issued for the purpose of protecting someone from
5 contact, harassment, or domestic violence. Protection orders include
6 criminal antiharassment orders issued under chapter 9A.46 RCW; civil
7 antiharassment protection orders issued under chapter 10.14 RCW;
8 domestic violence no contact orders issued under chapter 10.99 RCW;
9 dissolution decree restraining orders issued under chapter 26.09 RCW;
10 nonparental custody action restraining orders issued under chapter
11 26.10 RCW; uniform parenting act restraining orders issued under
12 chapter 26.26 RCW; domestic violence protection orders issued under
13 chapter 26.50 RCW; and orders for protection of vulnerable adults
14 issued under chapter 74.34 RCW.

15 (18) "Secretary" means the secretary of the department.

16 (19) "Serious violent offense" has the same meaning as in RCW
17 9.94A.030.

18 (20) "Sex offense" has the same meaning as in RCW 9.94A.030.

19 (21) "State credential" means a license, permit, certificate, or
20 registration issued to a health professional under chapter 18.130 RCW
21 or to a teacher under chapter 28A.410 RCW. An "initial state
22 credential" means the first credential obtained by an individual and
23 does not include an expansion, renewal, continuation, or reinstatement
24 of the credential.

25 (22) "State patrol" means the Washington state patrol.

26 (23) "Unsupervised access" means access, for more than a nominal
27 period of time, outside the presence of: (a) Another person who has
28 cleared a background check; or (b) any relative or guardian of the
29 child or vulnerable adult to which the individual may have unsupervised
30 access. For the purposes of this subsection, a person has "cleared a
31 background check" when the business or organization, using the results
32 of its background check investigation, determines the individual is
33 suitable to have unsupervised access to children or vulnerable adults.

34 (24) "Violent offense" has the same meaning as in RCW 9.94A.030.

35 (25) "Volunteer" means a person who: (a) Performs any assigned or
36 authorized duty for the state, its political subdivisions, any
37 federally recognized Indian tribe, the federal government, or a
38 business or organization; (b) receives no wages; and (c) may be

1 voluntarily granted maintenance and reimbursement for actual expenses
2 incurred in the performance of his or her duties.

3 (26) "Vulnerable adult" means an individual over the age of sixteen
4 who lacks the functional, mental, or physical ability to care for
5 himself or herself, including persons found incapacitated under chapter
6 11.88 RCW; individuals with developmental disabilities as defined in
7 chapter 71A.10 RCW; individuals admitted to any long-term care facility
8 that is licensed or required to be licensed under chapter 18.20, 18.51,
9 72.36, or 70.128 RCW; and individuals receiving services from home
10 health, hospice, or home care agencies licensed or required to be
11 licensed under chapter 70.127 RCW.

12 NEW SECTION. **Sec. 3.** SOURCES OF BACKGROUND CHECK INFORMATION. A
13 business or organization may obtain conviction records and background
14 check information from any lawful source, except that government
15 agencies must obtain conviction records from the state patrol. A
16 business or organization may delegate to another individual or entity
17 its authority to request or receive information under this chapter.

18 NEW SECTION. **Sec. 4.** LIMITATION ON STATE LIABILITY. If any
19 information is released under this chapter by the state of Washington,
20 the state and its employees: (1) Make no representation that the
21 subject of the inquiry has no criminal record or adverse civil or
22 administrative decisions; (2) make no determination that the subject of
23 the inquiry is suitable for involvement with a business or
24 organization; and (3) are not liable for defamation, invasion of
25 privacy, negligence, or any other claim in connection with any lawful
26 dissemination of information.

27 NEW SECTION. **Sec. 5.** DISQUALIFICATION FROM STATE EMPLOYMENT. (1)
28 This section applies to individuals who were not employed by the state
29 on or before the effective date of this section. This section also
30 applies to individuals who are employed by the state and, after the
31 effective date of this section, seek a change in positions to one where
32 they may have unsupervised access to children or vulnerable adults.

33 (2) An individual is permanently disqualified from employment by
34 the state for any position where the individual will have unsupervised
35 access to children or vulnerable adults as part of the individual's

1 regularly scheduled activities or work duties if the individual has a
2 conviction record for any of the following criminal offenses:

3 (a) A serious violent offense;

4 (b) A sex offense; or

5 (c) Any felony offense, or its federal or out of state equivalent,
6 involving: (i) Sexual exploitation of a child under chapter 9.68A RCW;
7 (ii) criminal mistreatment of a child or dependent person under chapter
8 9A.42 RCW; or (iii) the sale or purchase of a child under RCW
9 9A.64.030.

10 (3) An individual is disqualified from employment by the state for
11 any position where the individual will have unsupervised access to
12 children or vulnerable adults as part of the individual's regularly
13 scheduled activities or work duties for a period of at least ten years
14 from the date of conviction or release from confinement, whichever is
15 longer, if the individual has a conviction record for any of the
16 following criminal offenses:

17 (a) A violent offense;

18 (b) A sex-related offense under chapter 9.68, 9A.44, or 9A.88 RCW
19 that does not constitute a sex offense under RCW 9.94A.030;

20 (c) A felony offense constituting: (i) Custodial interference
21 under chapter 9A.40 RCW; (ii) malicious harassment under chapter 9A.36
22 RCW; (iii) residential burglary under chapter 9A.52 RCW; (iv) theft 1
23 or 2 under chapter 9A.56 RCW; (v) fraud under chapter 9A.60 RCW; or
24 (vi) unlawful issuance of checks or drafts under chapter 9A.56 RCW; or

25 (d) Any federal or out-of-state offense equivalent to those in (b)
26 and (c) of this subsection.

27 (4) An individual may be disqualified from employment by the state
28 for any position where the individual will have unsupervised access to
29 children or vulnerable adults as part of the individual's regularly
30 scheduled activities or work duties if the individual has a conviction
31 record for any of the following criminal offenses, regardless of the
32 length of time that has elapsed since the individual's conviction or
33 release from confinement:

34 (a) Any offense identified in subsection (3) of this section where
35 the latter of the date of conviction or release from confinement is
36 more than ten years old;

37 (b) A misdemeanor offense, or its federal or out-of-state
38 equivalent, constituting: (i) Assault 4 under chapter 9A.36 RCW; (ii)
39 unlawful imprisonment under chapter 9A.40 RCW; (iii) criminal

1 mistreatment under chapter 9A.42 RCW; or (iv) theft 3 under chapter
2 9A.56 RCW; or

3 (c) Any other offense identified by an agency in rule as being
4 directly related to an individual's suitability to have unsupervised
5 access to children or vulnerable adults.

6 (5) An individual may be disqualified from employment by the state
7 for any position where the individual may have unsupervised access to
8 children or vulnerable adults as a likely consequence of the work
9 environment if the individual has a conviction record for any of the
10 offenses listed in subsections (2), (3), and (4) of this section.

11 NEW SECTION. **Sec. 6.** SELF REPORTING REQUIREMENT FOR STATE
12 EMPLOYEES. (1) An individual employed by the state shall report to his
13 or her supervisor any conviction occurring after the effective date of
14 this section for an offense set forth in, or adopted under, section 5
15 of this act. The report must be made within seven days of the
16 conviction.

17 (2) Failure by an individual to report a conviction shall be
18 considered in any subsequent disciplinary action.

19 NEW SECTION. **Sec. 7.** DISQUALIFICATION FROM STATE CREDENTIALS.
20 (1) This section applies to individuals who have not obtained an
21 initial state credential on or before the effective date of this
22 section.

23 (2) An individual is permanently disqualified from obtaining a
24 state credential that would allow the individual to have unsupervised
25 access to children or vulnerable adults if the individual has a
26 conviction record for any of the following criminal offenses:

27 (a) A serious violent offense;

28 (b) A sex offense; or

29 (c) Any felony offense, or its federal or out-of-state equivalent,
30 constituting: (i) Sexual exploitation of a child under chapter 9.68A
31 RCW; (ii) criminal mistreatment of a child or dependent person under
32 chapter 9A.42 RCW; or (iii) the sale or purchase of a child under RCW
33 9A.64.030.

34 (3) An individual is disqualified from obtaining a state credential
35 that would allow the individual to have unsupervised access to children
36 or vulnerable adults for a period of at least ten years from the date

1 of conviction or release from confinement, whichever is longer, if the
2 individual has a conviction record for any of the following offenses:

3 (a) A violent offense;

4 (b) A sex-related offense under chapter 9.68, 9A.44, or 9A.88 RCW
5 that does not constitute a sex offense under RCW 9.94A.030;

6 (c) A felony offense constituting: (i) Custodial interference
7 under chapter 9A.40 RCW; (ii) malicious harassment under chapter 9A.36
8 RCW; (iii) residential burglary under chapter 9A.52 RCW; (iv) theft 1
9 or 2 under chapter 9A.56 RCW; (v) fraud under chapter 9A.60 RCW; or
10 (vi) unlawful issuance of checks or drafts under chapter 9A.56 RCW; or

11 (d) Any federal or out-of-state equivalent to those in (b) and (c)
12 of this subsection.

13 (4) An individual may be disqualified from obtaining a state
14 credential that would allow the individual to have unsupervised access
15 to children or vulnerable adults if the individual has a conviction
16 record for any of the following offenses, regardless of the length of
17 time that has elapsed since the individual's conviction or release from
18 confinement:

19 (a) Any offense identified in subsection (3) of this section where
20 the latter of the date of conviction or release from confinement is
21 more than ten years old;

22 (b) A misdemeanor offense, or its federal or out-of-state
23 equivalent, constituting: (i) Assault 4 under chapter 9A.36 RCW; (ii)
24 unlawful imprisonment under chapter 9A.40 RCW; (iii) criminal
25 mistreatment under chapter 9A.42 RCW; or (iv) theft 3 under chapter
26 9A.56 RCW; or

27 (c) Any other offense identified by a credentialing authority in
28 rule as being directly related to an individual's suitability to obtain
29 an initial state credential.

30 NEW SECTION. **Sec. 8.** SELF REPORTING REQUIREMENT FOR CREDENTIALLED
31 INDIVIDUALS. (1) An individual with a state credential shall report to
32 the credentialing authority any conviction occurring after the
33 effective date of this section for an offense set forth in, or adopted
34 under, section 7 of this act. The report must be made within seven
35 days of the conviction.

36 (2) The credentialing authorities shall adopt rules to implement
37 this section.

1 (3) Failure by an individual to report a conviction shall be
2 considered by the credentialing authority in any application for
3 renewal or reinstatement of the credential.

4 (4) When an individual required to report under subsection (1) of
5 this section is employed, the individual shall also report the
6 conviction to his or her employer within seven days of the conviction.

7 NEW SECTION. **Sec. 9.** RULES FOR STATE EMPLOYMENT. (1) The
8 Washington personnel resources board shall adopt rules for the
9 implementation of this chapter.

10 (2) The rules adopted under this section shall prescribe, at a
11 minimum, the following:

12 (a) The process by which each agency shall request and receive
13 background check information from the state patrol, the FBI, and other
14 appropriate state agencies;

15 (b) The notifications describing the background check requirements
16 and procedures to be given to individuals seeking employment positions
17 where they may have unsupervised access to children or vulnerable
18 adults;

19 (c) The permissible uses of the background check information, which
20 shall be limited to determining an individual's suitability to have
21 unsupervised access to children or vulnerable adults;

22 (d) That no individual may be involved with a state agency in a
23 position where he or she will have unsupervised access to children or
24 vulnerable adults as part of the individual's regularly scheduled
25 activities or work duties until a background check has been completed;

26 (e) The process for self reporting of convictions as required under
27 section 6 of this act;

28 (f) That persons whose state employment requires obtaining a state
29 credential and who are hired by a state agency other than the agency
30 that issued the credential must meet the background check requirements
31 of the hiring authority and that possession of a state credential does
32 not, by itself in these circumstances, establish suitability for state
33 employment; and

34 (g) That allow state agencies to share information concerning
35 individuals subject to background check requirements, to the extent
36 legally permissible, in order to eliminate situations where the same
37 individual is subject to multiple background checks.

1 (3) Rules adopted under this section apply to employees of the
2 state but do not apply to employees of any unit of local government
3 including counties, cities, port districts, and school districts.

4 (4) Until July 1, 1999, the rules under this chapter shall be
5 adopted in consultation with the state patrol, the department of social
6 and health services, the office of the superintendent of public
7 instruction, the department of health, and the department of
8 corrections.

9 NEW SECTION. **Sec. 10.** DEPARTMENT OF SOCIAL AND HEALTH SERVICES--
10 NEW EMPLOYEES AND CONTRACTORS. (1) This section applies to individuals
11 who were not involved with the department or a business or organization
12 in positions where they may have unsupervised access to children or
13 vulnerable adults on or before the effective date of this section.

14 (2) The secretary shall conduct a background check on individuals
15 who seek involvement with:

16 (a) The department, including transfers, promotions, demotions, or
17 nonpermanent appointments within the department;

18 (b) A business or organization licensed, certified, or contracted
19 by the department;

20 (c) A business or organization contracted by a licensed or
21 certified business or organization, or a subcontractor with a
22 contractor of the department; and

23 (d) A business or organization hiring an individual to perform in-
24 home services or child care that is paid for by the state, in positions
25 where the person may have unsupervised access to children or vulnerable
26 adults.

27 The requirement to conduct background checks on individuals
28 involved with contractors or subcontractors of the department or a
29 business or organization licensed or certified by the department
30 applies only to those individuals working in the programs under
31 contract or subcontract.

32 (3) The background check shall include:

33 (a) A state background check through the state patrol except as
34 provided in subsection (5) of this section; and

35 (b) A national conviction record check through the FBI, except as
36 provided in subsection (5) of this section.

37 (4) The secretary shall:

1 (a) Notify the individual that a background check must be completed
2 before involvement with the department or business or organization may
3 begin;

4 (b) Require the individual to furnish two full sets of fingerprints
5 to the department, except as provided in subsection (5) of this
6 section;

7 (c) Submit the completed fingerprint data to the state patrol along
8 with any fees and other information required by the state patrol in
9 rules adopted pursuant to section 23 of this act;

10 (d) Acknowledge in writing, on a form provided by the state patrol,
11 that the absence of a state patrol or FBI record does not mean the
12 individual has no criminal record, or adverse civil or administrative
13 decision, nor does it represent a determination by the state patrol
14 that the individual is suitable for involvement with the department or
15 a business or organization;

16 (e) Notify the individual of the results of the background check
17 within ten days after receipt by the department if a conviction record
18 or adverse civil or administrative decision is found;

19 (f) Restrict use of the background check results to determining the
20 individual's suitability for involvement with the department or a
21 business or organization; and

22 (g) Protect from further disclosure or dissemination the results of
23 the individual's background check unless such further disclosure or
24 dissemination is otherwise permitted or required by law.

25 (5) For an individual whose only involvement with the department or
26 a business or organization is as a volunteer, the secretary may:

27 (a) Require the background check to be conducted by the appropriate
28 agency if the volunteer does not reside in Washington state; and

29 (b) By rule, waive the requirements that (i) fingerprints be
30 submitted, and (ii) national conviction record checks be done.

31 (6) Notwithstanding any other provision or qualification, for
32 individuals seeking involvement with the department, the secretary:

33 (a) Shall disqualify individuals from positions where they will
34 have unsupervised access to children or vulnerable adults as part of
35 their regularly scheduled activities or work duties, and may disqualify
36 individuals from positions where they may have unsupervised access to
37 children or vulnerable adults as a likely consequence of the work
38 environment, according to the requirements of section 5 of this act;

1 (b) May disqualify individuals from positions where they may have
2 unsupervised access to children or vulnerable adults if their
3 background check reveals: (i) An adverse disciplinary board final
4 decision, dependency adjudication, or protection order; or (ii) a
5 conviction for any offense identified in rule under subsection (10) of
6 this section;

7 (c) May, in consultation with the appropriate disciplining
8 authority, waive the requirements of section 5(3) of this act on a
9 case-by-case basis for individuals employed or who seek employment in
10 the program established under RCW 70.96A.030.

11 (7) Notwithstanding any other provision or qualification, for
12 businesses or organizations licensed, certified, or contracted by the
13 department, the secretary:

14 (a) Shall deny, suspend, or revoke the license, certificate, or
15 contract of a business or organization that authorizes an individual's
16 involvement in a position allowing unsupervised access to children or
17 vulnerable adults as part of the individual's regularly scheduled
18 activities or work duties, and may deny, suspend, or revoke the
19 license, certificate, or contract of a business or organization that
20 authorizes an individual's involvement in a position where the
21 individual may have unsupervised access to children or vulnerable
22 adults as a likely consequence of the work environment, according to
23 the requirements of section 5 of this act;

24 (b) May deny, suspend, or revoke the license, certificate, or
25 contract of a business or organization that authorizes an individual's
26 involvement in a position where the individual may have unsupervised
27 access to children or vulnerable adults if the individual's background
28 check reveals: (i) An adverse disciplinary board final decision,
29 dependency adjudication, or protection order; or (ii) a conviction for
30 any offense identified in rule under subsection (10) of this section.

31 (8) Any business or organization learning of a disqualifying
32 offense under section 5 of this act or subsection (10) of this section
33 shall remove the individual from the position allowing unsupervised
34 access within four days. If a business or organization fails to remove
35 the individual within forty-eight hours, the secretary shall take
36 corrective action as provided in this subsection or section 11 of this
37 act. Any business or organization removing an individual shall notify
38 the department within seventy-two hours of the removal.

1 (9) Notwithstanding any other provision or qualification, for
2 businesses or organizations hiring individuals to perform in-home
3 services or child care that is paid for by the state, the secretary:

4 (a) Shall deny payment for any services rendered by an individual
5 disqualified under the provisions of section 5 of this act;

6 (b) May deny payment for any services rendered by an individual
7 whose background check reveals: (i) An adverse disciplinary board
8 final decision, dependency adjudication, or protection order; or (ii)
9 a conviction for any offense identified in rule under subsection (10)
10 of this section.

11 (10) The secretary may identify, in rule, additional offenses that
12 are directly related to an individual's suitability to have
13 unsupervised access to children or vulnerable adults and that may
14 disqualify an individual, for an appropriate period of time, from
15 involvement with the department or a business or organization, or from
16 payment for services. The rules may distinguish between offenses for
17 which a disqualification must be made and offenses for which a
18 disqualification may be made by the disciplining authority.

19 (11) In determining whether to disqualify an individual under
20 subsection (6), (7), or (9) of this section on the basis of an
21 individual's background check results, the secretary shall consider:

22 (a) The likelihood that the individual may have unsupervised access
23 to children or vulnerable adults as a result of involvement with the
24 department or a business or organization;

25 (b) The age of the individual at the time of the conviction or
26 adverse civil or administrative action;

27 (c) The length of time that has passed since the conviction or
28 adverse civil or administrative action; and

29 (d) Evidence of conduct subsequent to the conviction or adverse
30 civil or administrative action relating to the individual's suitability
31 to have unsupervised access to children or vulnerable adults.

32 (12) The secretary may, by rule, determine appropriate
33 circumstances for the conditional involvement of individuals who are
34 subject to the background check requirements of this section.
35 Involvement may be conditional pending completion of the national
36 conviction record check only after the applicant has completed the
37 fingerprint-based state background check through the state patrol.

1 NEW SECTION. **Sec. 11.** BACKGROUND CHECKS--UPDATES. (1) The
2 secretary shall periodically update the background checks conducted
3 under section 10 of this act for those individuals who remain involved
4 with the department or a business or organization.

5 (2) Updated background checks shall be conducted at least once
6 every four years for each individual, but they may be conducted more
7 often if the secretary has reasonable cause to believe an individual's
8 background check record has changed.

9 (3) The requirements and procedures in section 10 of this act apply
10 to all updated background checks conducted under this section, except
11 the background check need not be fingerprint-based unless the secretary
12 has reasonable cause to believe it is necessary.

13 (4) When an updated background check reveals, or the department
14 otherwise learns of a previously undisclosed conviction, the secretary
15 shall respond as prescribed in section 10 of this act, except that no
16 action shall be taken against a business or organization licensed,
17 certified, or contracted by the department unless the business or
18 organization fails to take corrective action within four days of
19 learning of the previously undisclosed conviction.

20 NEW SECTION. **Sec. 12.** BACKGROUND CHECK COSTS PAID BY DEPARTMENT OF
21 SOCIAL AND HEALTH SERVICES. (1) An individual required to submit to a
22 background check under sections 10 and 11 of this act is not
23 responsible for the expense of obtaining the fingerprint data or for
24 the cost of conducting the background check.

25 (2) When an individual obtains fingerprint data from a local law
26 enforcement agency for the purposes of sections 10 and 11 of this act,
27 the department shall reimburse:

28 (a) The agency for the reasonable costs associated with providing
29 the fingerprint data to the individual; or

30 (b) The individual for the actual costs charged by the agency for
31 providing the fingerprint data.

32 NEW SECTION. **Sec. 13.** REVIEW FOR DISQUALIFIED DEPARTMENT OF
33 SOCIAL AND HEALTH SERVICES EMPLOYEES. (1) Any state employee adversely
34 affected as the result of information obtained through a background
35 check conducted under section 10 or 11 of this act, subject to the
36 conditions and restrictions of chapter 41.06 RCW, be eligible to be

1 transferred to another position that does not afford the individual
2 unsupervised access to children or vulnerable adults.

3 (2) This section applies only to individuals who are employed by
4 the state on the effective date of this section.

5 NEW SECTION. **Sec. 14.** DEPARTMENT OF HEALTH CREDENTIAL
6 REQUIREMENTS--PROCESS. (1) This section applies to individuals who
7 apply for an initial state credential for a health profession under
8 chapter 18.130 RCW on or after the effective date of this section.

9 (2) The disciplining authority shall conduct a background check on
10 each applicant for an initial state credential. The background check
11 shall include:

12 (a) A fingerprint-based state background check through the state
13 patrol; and

14 (b) A national conviction record check through the FBI.

15 (3) The disciplining authority shall:

16 (a) Notify the individual applying for an initial state credential
17 that, subject to the provisions of subsection (8) of this section, a
18 background check must be completed before the credential is issued;

19 (b) Require the individual to furnish two full sets of fingerprints
20 to the disciplining authority;

21 (c) Submit the completed fingerprint data to the state patrol along
22 with any fees and other information required by the state patrol in
23 rules adopted pursuant to section 23 of this act;

24 (d) Acknowledge in writing, on a form provided by the state patrol,
25 that the absence of a state patrol or FBI record does not mean the
26 individual has no criminal record, or adverse civil or administrative
27 decision, nor does it represent a determination by the state patrol
28 that the individual is suitable to obtain an initial state credential;

29 (e) Notify the individual of the results of the background check
30 within ten days after receipt by the disciplining authority if a
31 conviction record, adverse disciplinary board final decision,
32 dependency adjudication, or protection order was found;

33 (f) Restrict use of the background check results to determining the
34 individual's suitability for an initial state credential; and

35 (g) Protect from further disclosure or dissemination the results of
36 the individual's background check unless such further disclosure or
37 dissemination is otherwise permitted or required by law.

1 (4) The expense of the background check and obtaining fingerprint
2 data shall be paid by the individual applying for his or her initial
3 state credential.

4 (5) In addition to any other conditions or criteria under Title 18
5 RCW, the disciplining authority:

6 (a) Shall deny an initial state credential to an individual whose
7 background check reveals a conviction for any offense in section 7(2)
8 of this act;

9 (b) May deny an initial state credential to an individual whose
10 background check reveals: (i) A conviction for any offense in section
11 7(3) of this act; (ii) an adverse disciplinary board final decision,
12 dependency adjudication, or protection order; or (iii) a conviction for
13 any offense identified in rule under subsection (6) of this section;
14 and

15 (c) May, in consultation with the secretary, waive the requirements
16 of section 7(3) of this act on a case-by-case basis for individuals who
17 require a state credential to be employed in the program established
18 under RCW 70.96A.030.

19 (6) The disciplining authority may identify, in rule, additional
20 offenses that are directly related to an individual's suitability to
21 obtain an initial state credential and that may disqualify an
22 individual, for an appropriate period of time, from receiving the
23 credential. The rules may distinguish between offenses for which a
24 disqualification must be made and offenses for which an individual may
25 be disqualified by the disciplining authority.

26 (7) In determining whether to grant or deny an initial state
27 credential on the basis of an individual's background check results,
28 the disciplining authority shall consider:

29 (a) The age of the individual at the time of the conviction or
30 adverse civil or administrative decision;

31 (b) The length of time that has passed since the conviction or
32 adverse civil or administrative decision;

33 (c) Evidence of conduct subsequent to the conviction or adverse
34 civil or administrative decision relating to the individual's
35 suitability to obtain an initial state credential; and

36 (d) The appropriateness of issuing a credential with conditions as
37 provided for in chapter 18.130 RCW.

38 (8) The disciplining authority may, by rule, determine appropriate
39 circumstances for granting a conditional certificate, pending

1 completion of the national investigation after the applicant has
2 completed the fingerprint-based state background check through the
3 state patrol.

4 NEW SECTION. **Sec. 15.** DEPARTMENT OF HEALTH CREDENTIALS--RECHECKS.

5 (1) This section applies to individuals who apply for a renewal or
6 reinstatement of a state credential for a health profession under
7 chapter 18.130 RCW on or after the effective date of this section.

8 (2) The disciplining authority shall conduct a background check,
9 under the schedule adopted pursuant to subsection (3) of this section,
10 on each individual applying for a renewal or reinstatement of a state
11 credential. The background check shall include a state background
12 check through the state patrol, which need not be fingerprint-based
13 unless the authority has reasonable cause to believe a fingerprint-
14 based background check is necessary.

15 (3) The disciplining authority shall establish a schedule for
16 conducting the background checks required under subsection (2) of this
17 section. The schedule shall require all individuals to have a
18 background check conducted within four years, and at least once every
19 four years thereafter.

20 (4) In addition to any other conditions or criteria under Title 18
21 RCW, the disciplining authority:

22 (a) Shall deny a renewal or reinstatement of a state credential to
23 an individual whose background check reveals a conviction for any
24 offense in section 7(2) of this act, unless the disciplinary authority
25 finds good cause to grant a renewed or reinstated credential. In
26 determining whether good cause exists, the disciplining authority shall
27 consider the criteria set forth in subsection (6) of this section; and

28 (b) May deny a renewal or reinstatement of a state credential to an
29 individual whose background check reveals: (i) A conviction for any
30 offense in section 7(3) of this act; (ii) an adverse disciplinary board
31 final decision, dependency adjudication, or protection order; or (iii)
32 a conviction for any offense identified in rule under subsection (5) of
33 this section.

34 (5) The disciplining authority may identify, in rule, additional
35 offenses that are directly related to an individual's suitability to
36 obtain a renewed or reinstated state credential and that may disqualify
37 an individual, for an appropriate period of time, from renewing or
38 reinstating the credential. The rules may distinguish between offenses

1 for which a disqualification must be made and offenses for which an
2 individual may be disqualified by the disciplining authority.

3 (6) In determining whether to grant or deny the renewal or
4 reinstatement of a state credential on the basis of an individual's
5 background check results, the disciplining authority shall consider:

6 (a) The age of the individual at the time of the conviction or
7 adverse civil or administrative decision;

8 (b) The length of time that has passed since the conviction or
9 adverse civil or administrative decision;

10 (c) Evidence of conduct subsequent to the conviction or adverse
11 civil or administrative decision relating to the individual's
12 suitability to obtain the renewal or reinstatement, including the
13 individual's conduct while previously credentialed; and

14 (d) The appropriateness of issuing a credential with conditions as
15 provided for in chapter 18.130 RCW.

16 (7) The disciplining authority may, by rule, determine that the
17 requirements of this section do not apply to persons with a credential
18 who have: (a) Been subject to at least four updated record checks; (b)
19 not been disqualified for an offense set forth in section 7 of this
20 act; and (c) meet other requirements established by the disciplining
21 authority. The disciplining authority may, at any time, conduct a
22 background check for any person meeting the requirements of this
23 section when the authority has probable cause to believe there is a
24 legitimate reason for doing so.

25 NEW SECTION. **Sec. 16.** VULNERABLE ADULTS--ADDITIONAL LICENSING
26 REQUIREMENTS FOR AGENCIES PROVIDING SERVICES. The secretary and the
27 secretary of health shall adopt in rule additional requirements for the
28 licensure or relicensure of agencies or facilities that provide care
29 and treatment to vulnerable adults. These additional requirements
30 shall ensure that any person associated with a licensed agency or
31 facility having direct contact with a vulnerable adult shall not have
32 been: (1) Convicted of a crime set forth in, or adopted under, section
33 5 of this act; (2) found in any disciplinary board final decision to
34 have abused a vulnerable adult; or (3) the subject of a protective
35 order under chapter 74.34 RCW.

36 NEW SECTION. **Sec. 17.** EXISTING COLLECTIVE BARGAINING AGREEMENT.
37 This chapter shall not be construed to alter an existing collective

1 bargaining unit or the provisions of any existing bargaining agreement
2 until the expiration of such agreement. However, the hiring authority
3 may, with probable cause to believe a person employed by a state agency
4 may have been convicted of an offense set forth in section 5 of this
5 act, conduct a background check at any time during the existence of a
6 collective bargaining agreement in place on the effective date of this
7 section.

8 This section expires July 1, 2002.

9 NEW SECTION. **Sec. 18.** APPLICATION--DISCLOSURE. (1) A business or
10 organization shall require each individual seeking involvement with the
11 business or organization in a position where the individual may have
12 unsupervised access to children or vulnerable adults to disclose the
13 following information as part of the application:

14 (a) Convictions for any of the offenses identified in section 5 of
15 this act and, where applicable, offenses identified in agency rules
16 adopted under section 5 of this act;

17 (b) Adverse dependency adjudications;

18 (c) Adverse disciplinary board final decisions; or

19 (d) Adverse protection orders.

20 (2) The disclosure shall be made in writing, signed by the
21 individual, and sworn under penalty of perjury. The disclosure form
22 shall specify all crimes identified in section 5 of this act and, where
23 applicable, all offenses identified in agency rules adopted under
24 section 5 of this act.

25 NEW SECTION. **Sec. 19.** PRIVATE SECTOR CHECKS REGARDING CHILDREN
26 AND VULNERABLE ADULTS. (1) Unless otherwise required by law, no
27 business or organization is required to conduct a background check on
28 an individual who may have unsupervised access to children or
29 vulnerable adults.

30 (2) Any business or organization that conducts a background check
31 on an individual who may have unsupervised access to children or
32 vulnerable adults shall:

33 (a) Notify the individual that such investigation will be made and,
34 if the investigation will be performed by someone other than the
35 business or organization, identify who will conduct the investigation;

1 (b) Notify the individual of the results of the background check
2 within ten days after completion or receipt by the business or
3 organization;

4 (c) Restrict use of the background check results to determining the
5 individual's initial or continued suitability for involvement with the
6 business or organization;

7 (d) Protect from further disclosure or dissemination the results of
8 the individual's background check unless such further disclosure or
9 dissemination is otherwise permitted or required by law; and

10 (e) When requesting or receiving information from the state patrol,
11 acknowledge in writing, on a form provided by the state patrol, that
12 the absence of a state patrol record does not mean the individual has
13 no criminal record, or adverse civil or administrative decision, nor
14 does it represent a determination by the state patrol that the
15 individual is suitable to have unsupervised access to children or
16 vulnerable adults.

17 (3) In addition to the requirements of subsection (2) of this
18 section, any business or organization that conducts a fingerprint-based
19 background check through the state patrol on an individual who may have
20 unsupervised access to children or vulnerable adults shall:

21 (a) Notify the individual that such investigation will be made and
22 require the individual to furnish a full set of fingerprints to the
23 business or organization;

24 (b) Submit the completed fingerprint data to the state patrol along
25 with any fees and other information required by the state patrol in
26 rules adopted pursuant to section 23 of this act; and

27 (c) Acknowledge in writing, on a form provided by the state patrol,
28 that the absence of a state patrol record does not mean the individual
29 has no criminal record, or adverse civil or administrative decision,
30 nor does it represent a determination by the state patrol that the
31 individual is suitable to have unsupervised access to children or
32 vulnerable adults.

33 (4) In addition to the requirements of subsection (2) of this
34 section, any business or organization that conducts a national
35 conviction record check through the FBI on an individual who may have
36 unsupervised access to children or vulnerable adults shall:

37 (a) Notify the individual that such investigation will be made and
38 require the individual to furnish two full sets of fingerprints to the
39 business or organization;

1 (b) Submit the completed fingerprint data to the state patrol along
2 with any fees and other information required by the state patrol in
3 rules adopted under section 23 of this act; and

4 (c) Acknowledge the following in writing, on a form provided by the
5 state patrol: (i) Federal law prohibits the disclosure or
6 dissemination of FBI national conviction records outside of a
7 governmental agency except to the subject of the record; (ii) the state
8 patrol will compare the results of the FBI national conviction record
9 check to the offenses specified under section 5 of this act and
10 disclose only whether or not the individual has a record for any of
11 those offenses; and (iii) the absence of a record for a crime specified
12 under section 5 of this act does not mean the individual has no
13 criminal record nor does it represent a determination by the state
14 patrol that the individual is suitable to have unsupervised access to
15 children or vulnerable adults.

16 (5) For any national conviction record check conducted under
17 subsection (4) of this section, the state patrol shall furnish a copy
18 of the national conviction record to the subject of the record upon the
19 subject's request.

20 NEW SECTION. **Sec. 20.** INSURANCE REQUIREMENTS--LIMITATION. An
21 insurance company may not require, as a condition of issuing a policy
22 of insurance, that a business or organization conduct background checks
23 on individuals who may have unsupervised access to children or
24 vulnerable adults.

25 NEW SECTION. **Sec. 21.** PRIVATE SECTOR CONVICTION RECORD CHECKS--
26 FISCAL POSITIONS. (1) A business or organization may conduct a check
27 of an individual's conviction records for the following purposes:

28 (a) Securing a bond required for any involvement with the business
29 or organization;

30 (b) Conducting preinvolvement and postinvolvement evaluations of
31 individuals who, in the course of their involvement with the business
32 or organization, will or may have access to information affecting
33 national security, trade secrets, confidential or proprietary business
34 information, money, or items of value; or

35 (c) Assisting an investigation of suspected misconduct where such
36 misconduct may also constitute a penal offense under the laws of the
37 United States or any state.

1 (2) A business or organization that conducts a conviction record
2 check through the state patrol for any of the purposes authorized in
3 subsection (1)(a) or (b) of this section shall:

4 (a) Notify the individual that such check will be made and, if the
5 conviction record check will be conducted by someone other than the
6 business or organization, identify who will conduct the check;

7 (b) Notify the individual of the results of the conviction record
8 check within thirty days after completion or receipt by the business or
9 organization and make the record available for examination by the
10 individual upon request; and

11 (c) Restrict disclosure or dissemination of the conviction record
12 check results to only those persons involved in the hiring, background
13 investigation, or job assignment of the individual and restrict the use
14 of the information for only those purposes authorized under subsection
15 (1) of this section.

16 (3) In addition to the requirements of subsection (2) of this
17 section, a business or organization that conducts a fingerprint-based
18 conviction record check through the state patrol for any of the
19 purposes authorized in subsection (1)(a) or (b) of this section shall:

20 (a) Notify the individual that such inquiry will be made and
21 require the individual to furnish two full sets of fingerprints to the
22 employer;

23 (b) Submit the completed fingerprint data to the state patrol along
24 with any fees and other information required by the state patrol in
25 rules adopted pursuant to section 23 of this act; and

26 (c) Acknowledge in writing, on a form provided by the state patrol,
27 that the absence of a state patrol record does not mean the individual
28 has no criminal record, or adverse civil or administrative decision,
29 nor does it represent a determination by the state patrol that the
30 individual is suitable for bonding or involvement with the business or
31 organization.

32 (4) In addition to the requirements of subsections (2) and (3) of
33 this section, a business or organization that conducts a conviction
34 record check for any of the purposes authorized in subsection (1) of
35 this section shall protect from further disclosure or dissemination the
36 results of the individual's conviction record check unless such further
37 disclosure or dissemination is otherwise permitted or required by law.

38 (5) This section shall not be construed to allow a business or
39 organization to make an inquiry not otherwise authorized by law or to

1 affect the policy of the state declared in RCW 9.96A.010 encouraging
2 the employment of ex-offenders.

3 (6) For the purposes of this section, "business or organization"
4 means, in addition to the definition in section 2 of this act, any
5 person, entity, or government agency seeking to hire, or engage as a
6 volunteer, any individual who may have access to information affecting
7 national security, trade secrets, confidential or proprietary business
8 information, money, or items of value.

9 NEW SECTION. **Sec. 22.** STATE PATROL DUTIES. The state patrol
10 shall furnish, in response to any lawful request, conviction record and
11 other background check information maintained in its data base
12 customarily used to provide such information.

13 NEW SECTION. **Sec. 23.** STATE PATROL RULES--PROCESSING AND FEES.
14 (1) The state patrol shall adopt rules to implement this chapter. The
15 rules shall include, at a minimum:

16 (a) Provisions for protecting the security of information received
17 and stored by the state patrol;

18 (b) Provisions for protecting the security and privacy of
19 information disseminated by the state patrol;

20 (c) Provisions for determining if violations of this chapter have
21 occurred and the consequences of such violations;

22 (d) Provisions for verifying when a nongovernment business or
23 organization is nonprofit; and

24 (e) Procedures, forms, and a fee schedule for background checks
25 processed by the state patrol under this chapter.

26 (2) The provisions and procedures adopted by the state patrol under
27 subsection (1) of this section shall include, to the greatest extent
28 possible, alternatives that encourage businesses and organizations and
29 individuals to request and receive information electronically.

30 (3) The fee schedule adopted by the state patrol under subsection
31 (1) of this section shall cover, as nearly as practicable, the direct
32 and indirect costs to the state patrol for processing the checks
33 authorized under this chapter. The fee schedule shall reflect the
34 following:

35 (a) No fee may be charged to a nonprofit business or organization
36 for any conviction record check or background check certified by the
37 nonprofit business or organization to be an initial check on an

1 individual who may have unsupervised access to children or vulnerable
2 adults, except that the state patrol shall collect any fees imposed by
3 the FBI to process national conviction record checks;

4 (b) In the case of background checks using fingerprints requested
5 by a school district or educational service district, the state patrol
6 shall charge only for the incremental costs associated with checking
7 fingerprints in addition to name and date of birth. Record checks
8 requested by districts using only name and date of birth shall be
9 provided free of charge; and

10 (c) The differences in processing costs to the state patrol
11 resulting from differences in (i) the types of background checks
12 requested; (ii) the methods used to request and receive background
13 check information; (iii) the volume of background checks requested by
14 a business or organization; and (iv) any other relevant factors
15 affecting processing costs.

16 NEW SECTION. **Sec. 24.** INDIVIDUALS' REQUESTS FOR RECORDS. (1)
17 Individuals who seek to volunteer with a business or organization where
18 they may have unsupervised access to children or vulnerable adults may
19 request from the state patrol a certified copy of their background
20 check record.

21 (2) Businesses and organizations may require individuals, other
22 than those with valid state credentials, to obtain certified copies of
23 their background check records from the state patrol before engaging
24 them as volunteers in positions where they may have unsupervised access
25 to children or vulnerable adults. A business or organization may
26 accept a valid state credential or a certified copy of an individual's
27 background check record in lieu of requesting a background check
28 through the state patrol. When a business or organization relies on a
29 valid state credential or a certified copy of a background check record
30 to determine the individual's suitability for involvement with the
31 business or organization, the business or organization understands and
32 accepts the risk that a conviction or an adverse civil or
33 administrative decision may have occurred since the date of issuance of
34 the state credential or certified copy of the background check record.

35 (3) An individual requesting a certified copy of his or her
36 background check record shall comply with the process and fee
37 requirements established by the state patrol in rules adopted under
38 section 23 of this act.

1 (4) A certified copy of a background check record is not valid for
2 more than two years from the date issued by the state patrol.

3 NEW SECTION. **Sec. 25.** VIOLATIONS. (1) An individual, or a
4 business or organization other than a government agency, determined by
5 the court or the state patrol to have willfully violated this chapter
6 is prohibited from requesting or receiving background check information
7 from the state patrol.

8 (2) An individual, or a business or organization other than a
9 government agency, determined by the court or the state patrol to have
10 negligently violated this chapter may be prohibited from requesting or
11 receiving background check information from the state patrol for up to
12 one year for each violation.

13 NEW SECTION. **Sec. 26.** LIMITATION ON PRIVATE SECTOR LIABILITY. No
14 individual or business or organization, nor any employee of a business
15 or organization, is liable for defamation, invasion of privacy,
16 negligence, or any other claim in connection with any lawful
17 dissemination of information authorized under this chapter.

18 NEW SECTION. **Sec. 27.** CIVIL REMEDIES. (1) In addition to any
19 other remedy provided by law, any individual may bring an action in
20 superior court to enjoin a continuance of any act in violation of this
21 chapter. Upon finding that a defendant is violating or has violated
22 any provision of this chapter, the court shall enjoin the defendant
23 from continuing the violation.

24 (2) Any person alleging harm from the wrongful use, disclosure, or
25 dissemination of information in violation of this chapter may bring an
26 action for civil damages.

27 (3) The prevailing party in any action brought under this section
28 is entitled to recover reasonable attorneys' fees and costs.

29 NEW SECTION. **Sec. 28.** A new section is added to chapter 28A.400
30 RCW to read as follows:

31 A school district board of directors may identify, in policy,
32 offenses in addition to those set forth in section 5 of this act that
33 are directly related to an individual's suitability to have
34 unsupervised access to children and that may disqualify an individual,
35 for an appropriate period of time, from employment within the school

1 district. The policies may distinguish between offenses for which a
2 disqualification must be made and offenses for which an individual may
3 be disqualified.

4 NEW SECTION. **Sec. 29.** A new section is added to chapter 28A.400
5 RCW to read as follows:

6 (1) This section applies to noncertificated employees of school
7 districts, educational service districts, and their contractors.

8 (2) School districts, educational service districts, and their
9 contractors shall periodically update the record checks conducted under
10 RCW 28A.400.303 for those individuals who remain employed with the
11 school district, educational service district, or contractor. Updated
12 record checks shall be conducted at least once every four years for
13 each employee, but they may be conducted more often if the employer has
14 reasonable cause to believe an individual's record has changed. An
15 updated record check need not be fingerprint-based unless the employer
16 has reasonable cause to believe it is necessary.

17 NEW SECTION. **Sec. 30.** A new section is added to chapter 28A.400
18 RCW to read as follows:

19 (1) This section applies to noncertificated employees of school
20 districts, educational service districts, and their contractors.

21 (2) School districts, educational service districts, and their
22 contractors:

23 (a) Shall immediately terminate the employment of any classified or
24 other noncertificated employee who has contact with children during the
25 course of his or her employment upon a guilty plea or conviction for
26 any offense set forth in section 5(2) of this act; and

27 (b) May terminate the employment of any classified or other
28 noncertificated employee whose record check reveals a guilty plea or
29 conviction for any offense set forth in section 5 (3) or (4) of this
30 act, or adopted under section 28 of this act.

31 NEW SECTION. **Sec. 31.** A new section is added to chapter 28A.410
32 RCW to read as follows:

33 (1) In addition to any other eligibility requirements under this
34 title, including any requirements relating to good moral fitness and
35 personal character, the superintendent of public instruction:

1 (a) Shall deny the issuance, renewal, or reinstatement of a
2 certificate or permit to an individual whose record check reveals a
3 conviction for any offense in section 7 (2) or (3) of this act; and

4 (b) May deny the issuance, renewal, or reinstatement of a
5 certificate or permit to an individual whose record check reveals: (i)
6 A conviction for any offense in section 7(4) of this act; or (ii) a
7 conviction for any offense identified in rule under subsection (2) of
8 this section.

9 (2) The state board of education may identify, in rule, additional
10 offenses that are directly related to an individual's suitability to
11 obtain a certificate or permit and that may disqualify an individual,
12 for an appropriate period of time, from receiving an initial, renewed,
13 or reinstated certificate or permit. The rules may distinguish between
14 offenses for which a disqualification must be made and offenses for
15 which an individual may be disqualified by the superintendent of public
16 instruction.

17 NEW SECTION. **Sec. 32.** A new section is added to chapter 28A.410
18 RCW to read as follows:

19 (1) The superintendent of public instruction shall periodically
20 update the record checks conducted under RCW 28A.410.010 for those
21 individuals who have a credential or permit under this chapter. The
22 updated record check need not be fingerprint-based unless the
23 superintendent of public instruction has reasonable cause to believe it
24 is necessary.

25 (2) The superintendent of public instruction shall establish a
26 schedule for conducting the record checks under this section. The
27 schedule shall require the superintendent of public instruction to:

28 (a) Conduct the update of the record check of every individual who
29 has a certificate or permit within four years of the effective date of
30 this section; and

31 (b) Conduct subsequent updates on individuals at least once every
32 four years.

33 (3) The updated record check requirement under this section does
34 not apply to persons who are not employed by a school district,
35 educational service district, or private school.

36 (4) Until July 1, 2002, this section shall not be construed to
37 alter an existing collective bargaining unit or the provisions of any
38 existing bargaining agreement until the expiration of such agreement.

1 However, the hiring authority may, with probable cause to believe a
2 person employed by a state agency may have been convicted of an offense
3 set forth in section 5 of this act, conduct a background check at any
4 time during the existence of a collective bargaining agreement in place
5 on the effective date of this section.

6 NEW SECTION. **Sec. 33.** A new section is added to chapter 28A.410
7 RCW to read as follows:

8 In addition to the requirements of section 8 of this act, any
9 person with a credential or permit from the superintendent of public
10 instruction and who is employed by any school district, educational
11 service district, or private school is subject to the self-reporting
12 requirements set forth in section 8 of this act.

13 NEW SECTION. **Sec. 34.** A new section is added to chapter 28A.410
14 RCW to read as follows:

15 The superintendent of public instruction may, by rule, determine
16 that the requirements of section 32 of this act do not apply to persons
17 with a credential or permit who: (a) Have been subject to at least
18 four updated record checks; (b) have not been disqualified for an
19 offense set forth in section 7 of this act; and (c) meet other
20 requirements established by the superintendent of public instruction.
21 The superintendent of public instruction may, at any time, conduct an
22 updated record check on any person meeting the requirements of section
23 32 of this act when the superintendent of public instruction has
24 probable cause to believe there is a legitimate reason for doing so.

25 **Sec. 35.** RCW 28A.400.303 and 1992 c 159 s 2 are each amended to
26 read as follows:

27 (1) School districts, educational service districts, and their
28 contractors hiring employees who will have regularly scheduled
29 unsupervised access to children shall require a record check through
30 the Washington state patrol criminal identification system (~~((under RCW~~
31 ~~43.43.830 through 43.43.834, 10.97.030, and 10.97.050))~~) and (~~((through))~~)
32 the federal bureau of investigation before hiring an employee. The
33 record check shall include a fingerprint check using a complete
34 Washington state criminal identification fingerprint card. The
35 requesting entity shall provide a copy of the record report to the
36 applicant.

1 (2) Notwithstanding any other provision or qualification, the
2 school district, educational service district, and their contractors
3 hiring employees:

4 (a) Shall deny employment to any applicant if the applicant's
5 record check reveals a conviction for any offense in section 5(2) of
6 this act; and

7 (b) May deny employment to any applicant if the applicant's record
8 check reveals a conviction for any offense in section 5 (3) or (4) of
9 this act, or adopted under section 28 of this act.

10 (3) When necessary, an applicant((s)) may be employed on a
11 conditional basis pending completion of the national investigation
12 after the applicant has completed the state record check.

13 (4) If the applicant has had a record check within the previous two
14 years, the district or contractor may waive the requirement.

15 (5) The district, pursuant to chapter 41.59 or 41.56 RCW, or
16 contractor hiring the employee shall determine who shall pay costs
17 associated with the record check.

18 **Sec. 36.** RCW 28A.400.320 and 1990 c 33 s 383 are each amended to
19 read as follows:

20 (1) The school district board of directors shall immediately
21 terminate the employment of any classified employee who has contact
22 with children during the course of his or her employment upon a guilty
23 plea or conviction ~~((of any felony crime involving the physical neglect~~
24 ~~of a child under chapter 9A.42 RCW, the physical injury or death of a~~
25 ~~child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations~~
26 ~~under chapter 46.61 RCW), sexual exploitation of a child under chapter~~
27 ~~9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the~~
28 ~~victim, promoting prostitution of a minor under chapter 9A.88 RCW, the~~
29 ~~sale or purchase of a minor child under RCW 9A.64.030, or violation of~~
30 ~~similar laws of another jurisdiction)) for any offense in section 5(2)
31 of this act and may terminate the employment of any classified employee
32 upon a guilty plea or conviction for any offense in section 5 (3) or
33 (4) of this act, or adopted under section 28 of this act.~~

34 (2) The employee shall have a right of appeal under chapter 28A.645
35 RCW including any right of appeal under a collective bargaining
36 agreement.

1 **Sec. 37.** RCW 28A.400.330 and 1989 c 320 s 4 are each amended to
2 read as follows:

3 The school district board of directors shall include in any
4 contract for services with an entity or individual other than an
5 employee of the school district a provision requiring the contractor to
6 prohibit any employee of the contractor from working at a public school
7 who has contact with children at a public school during the course of
8 his or her employment and who has pled guilty to or been convicted of
9 (~~any felony crime involving the physical neglect of a child under~~
10 ~~chapter 9A.42 RCW, the physical injury or death of a child under~~
11 ~~chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under~~
12 ~~chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A~~
13 ~~RCW, sexual offenses under chapter 9A.44 RCW where a minor is the~~
14 ~~victim, promoting prostitution of a minor under chapter 9A.88 RCW, the~~
15 ~~sale or purchase of a minor child under RCW 9A.64.030, or violation of~~
16 ~~similar laws of another jurisdiction)) any offense in section 5(2) of
17 this act and may terminate the employment of any classified employee
18 upon a guilty plea or conviction for any offense in section 5 (3) or
19 (4) of this act, or adopted under section 28 of this act. The contract
20 shall also contain a provision that any failure to comply with this
21 section shall be grounds for the school district immediately
22 terminating the contract.~~

23 **Sec. 38.** RCW 28A.410.090 and 1996 c 126 s 2 are each amended to
24 read as follows:

25 (1) Any certificate or permit authorized under the provisions of
26 this chapter, chapter 28A.405 RCW, or rules promulgated thereunder may
27 be revoked or suspended by the authority authorized to grant the same
28 based upon a criminal records report authorized by law, or upon the
29 complaint of any school district superintendent, educational service
30 district superintendent, or private school administrator for
31 immorality, violation of written contract, unprofessional conduct,
32 intemperance, or crime against the law of the state.

33 If the superintendent of public instruction has reasonable cause to
34 believe that an alleged violation of this chapter or rules adopted
35 under it has occurred, but no complaint has been filed pursuant to this
36 chapter, and that a school district superintendent, educational service
37 district superintendent, or private school administrator has sufficient
38 notice of the alleged violation and opportunity to file a complaint,

1 the superintendent of public instruction may cause an investigation to
2 be made of the alleged violation, together with such other matters that
3 may be disclosed in the course of the investigation related to
4 certificated personnel.

5 (2) Any such certificate or permit authorized under this chapter or
6 chapter 28A.405 RCW shall be revoked by the authority authorized to
7 grant the certificate upon a guilty plea or the conviction ~~((of any
8 felony crime involving the physical neglect of a child under chapter
9 9A.42 RCW, the physical injury or death of a child under chapter 9A.32
10 or 9A.36 RCW (excepting motor vehicle violations under chapter 46.61
11 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual
12 offenses under chapter 9A.44 RCW where a minor is the victim, promoting
13 prostitution of a minor under chapter 9A.88 RCW, the sale or purchase
14 of a minor child under RCW 9A.64.030, or violation of similar laws of
15 another jurisdiction))~~ for any offense in section 7 (2) or (3) of this
16 act and may be revoked upon a guilty plea or conviction for any offense
17 in section 7(4) of this act or adopted under section 31 of this act.
18 The person whose certificate is in question shall be given an
19 opportunity to be heard. ~~((Mandatory permanent revocation upon a
20 guilty plea or the conviction of felony crimes specified under this
21 subsection shall apply to such convictions or guilty pleas which occur
22 after July 23, 1989. Revocation of any certificate or permit
23 authorized under this chapter or chapter 28A.405 RCW for a guilty plea
24 or criminal conviction occurring prior to July 23, 1989, shall be
25 subject to the provisions of subsection (1) of this section.))~~

26 **Sec. 39.** RCW 28A.410.110 and 1990 c 33 s 410 are each amended to
27 read as follows:

28 In case any certificate or permit authorized under this chapter or
29 chapter 28A.405 RCW is revoked, the holder shall not be eligible to
30 receive another certificate or permit for a period of twelve months
31 after the date of revocation. However, if the certificate or permit
32 authorized under this chapter or chapter 28A.405 RCW was revoked
33 because of a guilty plea or ~~((the))~~ conviction ~~((of a felony crime
34 involving the physical neglect of a child under chapter 9A.42 RCW, the
35 physical injury or death of a child under chapter 9A.32 or 9A.36 RCW
36 (except motor vehicle violations under chapter 46.61 RCW), sexual
37 exploitation of a child under chapter 9.68A RCW, sexual offenses under
38 chapter 9A.44 RCW where a minor is the victim, promoting prostitution~~

1 of a minor under chapter 9A.88 RCW, the sale or purchase of a minor
2 child under RCW 9A.64.030, or violation of similar laws of another
3 jurisdiction)) for any offense in section 7(2) of this act, the
4 certificate or permit shall not be reinstated.

5 **Sec. 40.** RCW 28A.405.470 and 1990 c 33 s 405 are each amended to
6 read as follows:

7 The school district shall immediately terminate the employment of
8 any person whose certificate or permit authorized under chapter 28A.405
9 or 28A.410 RCW is subject to revocation under RCW 28A.410.090(2) upon
10 a guilty plea or conviction (~~of any felony crime involving the~~
11 ~~physical neglect of a child under chapter 9A.42 RCW, the physical~~
12 ~~injury or death of a child under chapter 9A.32 or 9A.36 RCW (except~~
13 ~~motor vehicle violations under chapter 46.61 RCW), sexual exploitation~~
14 ~~of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44~~
15 ~~RCW where a minor is the victim, promoting prostitution of a minor~~
16 ~~under chapter 9A.88 RCW, the sale or purchase of a minor child under~~
17 ~~RCW 9A.64.030, or violation of similar laws of another jurisdiction))
18 for any offense in section 5(2) of this act and may terminate the
19 employment upon a guilty plea or conviction for any offense in section
20 5 (3) or (4) of this act or adopted under section 28 of this act.
21 Employment shall remain terminated unless the employee successfully
22 prevails on appeal. This section shall only apply to employees holding
23 a certificate or permit who have contact with children during the
24 course of their employment.~~

25 **Sec. 41.** RCW 28A.195.010 and 1993 c 336 s 1101 are each amended to
26 read as follows:

27 The legislature hereby recognizes that private schools should be
28 subject only to those minimum state controls necessary to insure the
29 health and safety of all the students in the state and to insure a
30 sufficient basic education to meet usual graduation requirements. The
31 state, any agency or official thereof, shall not restrict or dictate
32 any specific educational or other programs for private schools except
33 as hereinafter in this section provided.

34 Principals of private schools or superintendents of private school
35 districts shall file each year with the state superintendent of public
36 instruction a statement certifying that the minimum requirements
37 hereinafter set forth are being met, noting any deviations. After

1 review of the statement, the state superintendent will notify schools
2 or school districts of those deviations which must be corrected. In
3 case of major deviations, the school or school district may request and
4 the state board of education may grant provisional status for one year
5 in order that the school or school district may take action to meet the
6 requirements. Minimum requirements shall be as follows:

7 (1) The minimum school year for instructional purposes shall
8 consist of no less than one hundred eighty school days or the
9 equivalent in annual minimum program hour offerings as prescribed in
10 RCW 28A.150.220.

11 (2) The school day shall be the same as that required in RCW
12 28A.150.030 and 28A.150.220, except that the percentages of total
13 program hour offerings as prescribed in RCW 28A.150.220 for basic
14 skills, work skills, and optional subjects and activities shall not
15 apply to private schools or private sectarian schools.

16 (3) All classroom teachers shall hold appropriate Washington state
17 certification except as follows:

18 (a) Teachers for religious courses or courses for which no
19 counterpart exists in public schools shall not be required to obtain a
20 state certificate to teach those courses.

21 (b) In exceptional cases, people of unusual competence but without
22 certification may teach students so long as a certified person
23 exercises general supervision. Annual written statements shall be
24 submitted to the office of the superintendent of public instruction
25 reporting and explaining such circumstances.

26 (4) An approved private school may operate an extension program for
27 parents, guardians, or persons having legal custody of a child to teach
28 children in their custody. The extension program shall require at a
29 minimum that:

30 (a) The parent, guardian, or custodian be under the supervision of
31 an employee of the approved private school who is certified under
32 chapter 28A.410 RCW;

33 (b) The planning by the certified person and the parent, guardian,
34 or person having legal custody include objectives consistent with this
35 subsection and subsections (1), (2), (5), (6), and (7) of this section;

36 (c) The certified person spend a minimum average each month of one
37 contact hour per week with each student under his or her supervision
38 who is enrolled in the approved private school extension program;

1 (d) Each student's progress be evaluated by the certified person;
2 and

3 (e) The certified employee shall not supervise more than thirty
4 students enrolled in the approved private school's extension program.

5 (5) Appropriate measures shall be taken to safeguard all permanent
6 records against loss or damage.

7 (6) The physical facilities of the school or district shall be
8 adequate to meet the program offered by the school or district:
9 PROVIDED, That each school building shall meet reasonable health and
10 fire safety requirements. However, the state board shall not require
11 private school students to meet the student learning goals, obtain a
12 certificate of mastery to graduate from high school, to master the
13 essential academic learning requirements, or to be assessed pursuant to
14 RCW 28A.630.885. However, private schools may choose, on a voluntary
15 basis, to have their students master these essential academic learning
16 requirements, take these assessments, and obtain certificates of
17 mastery. A residential dwelling of the parent, guardian, or custodian
18 shall be deemed to be an adequate physical facility when a parent,
19 guardian, or person having legal custody is instructing his or her
20 child under subsection (4) of this section.

21 (7) Private school curriculum shall include instruction of the
22 basic skills of occupational education, science, mathematics, language,
23 social studies, history, health, reading, writing, spelling, and the
24 development of appreciation of art and music, all in sufficient units
25 for meeting state board of education graduation requirements.

26 (8) Each school or school district shall be required to maintain
27 up-to-date policy statements related to the administration and
28 operation of the school or school district.

29 (9) All employees hired after the effective date of this section
30 who will have regularly scheduled unsupervised access to children are
31 subject to the record check requirements in RCW 28A.400.303 and section
32 29 of this act.

33 All decisions of policy, philosophy, selection of books, teaching
34 material, curriculum, except as provided in subsection (7) above
35 (~~provided~~), school rules and administration, or other matters not
36 specifically referred to in this section, shall be the responsibility
37 of the administration and administrators of the particular private
38 school involved.

1 **Sec. 42.** RCW 9.94A.230 and 1987 c 486 s 7 are each amended to read
2 as follows:

3 (1) Every offender who has been discharged under RCW 9.94A.220 may
4 apply to the sentencing court for a vacation of the offender's record
5 of conviction. If the court finds the offender meets the tests
6 prescribed in subsection (2) of this section, the court may clear the
7 record of conviction by: (a) Permitting the offender to withdraw the
8 offender's plea of guilty and to enter a plea of not guilty; or (b) if
9 the offender has been convicted after a plea of not guilty, by the
10 court setting aside the verdict of guilty; and (c) by the court
11 dismissing the information or indictment against the offender.

12 (2) An offender may not have the record of conviction cleared if:
13 (a) There are any criminal charges against the offender pending in any
14 court of this state or another state, or in any federal court; (b) the
15 offense was a violent offense as defined in RCW 9.94A.030; (c) the
16 offense was a crime (~~against persons as defined in RCW 43.43.830~~)
17 identified in section 5 or 7 of this act; (d) the offender has been
18 convicted of a new crime in this state, another state, or federal court
19 since the date of the offender's discharge under RCW 9.94A.220; (e) the
20 offense is a class B felony and less than ten years have passed since
21 the date the applicant was discharged under RCW 9.94A.220; and (f) the
22 offense was a class C felony and less than five years have passed since
23 the date the applicant was discharged under RCW 9.94A.220.

24 (3) Once the court vacates a record of conviction under subsection
25 (1) of this section, the fact that the offender has been convicted of
26 the offense shall not be included in the offender's criminal history
27 for purposes of determining a sentence in any subsequent conviction,
28 and the offender shall be released from all penalties and disabilities
29 resulting from the offense. For all purposes, including responding to
30 questions on employment applications, an offender whose conviction has
31 been vacated may state that the offender has never been convicted of
32 that crime. Nothing in this section affects or prevents the use of an
33 offender's prior conviction in a later criminal prosecution.

34 **Sec. 43.** RCW 9.96A.020 and 1993 c 71 s 1 are each amended to read
35 as follows:

36 (1) (~~Subject to the exceptions in subsections (3) and (4) of this~~
37 ~~section, and unless there is another~~) Except as provided in section 32
38 of this act and any other provision of law to the contrary, ((a)) no

1 person is (~~not~~) disqualified from employment by the state of
2 Washington or any of its counties, cities, towns, municipal
3 corporations, or quasi-municipal corporations, nor is a person
4 disqualified to practice, pursue or engage in any occupation, trade,
5 vocation, or business for which a license, permit, certificate or
6 registration is required to be issued by the state of Washington or any
7 of its counties, cities, towns, municipal corporations, or
8 quasi-municipal corporations solely because of a prior conviction of a
9 felony. (~~However,~~) This section does not preclude the fact of any
10 prior conviction of a crime from being considered.

11 (2) In addition to the disqualifications in sections 5, 7, and 31
12 of this act, a person may be denied employment by the state of
13 Washington or any of its counties, cities, towns, municipal
14 corporations, or quasi-municipal corporations, or a person may be
15 denied a license, permit, certificate or registration to pursue,
16 practice or engage in an occupation, trade, vocation, or business by
17 reason of the prior conviction of a felony if the felony for which he
18 or she was convicted directly relates to the position of employment
19 sought or to the specific occupation, trade, vocation, or business for
20 which the license, permit, certificate or registration is sought, and
21 the time elapsed since the conviction is less than ten years.

22 (~~(3) A person is disqualified for any certificate required or~~
23 ~~authorized under chapters 28A.405 or 28A.410 RCW, because of a prior~~
24 ~~guilty plea or the conviction of a felony involving sexual exploitation~~
25 ~~of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44~~
26 ~~RCW where a minor is the victim, promoting prostitution of a minor~~
27 ~~under chapter 9A.88 RCW, or a violation of similar laws of another~~
28 ~~jurisdiction, even if the time elapsed since the guilty plea or~~
29 ~~conviction is ten years or more.~~

30 (~~4) A person is disqualified from employment by school districts,~~
31 ~~educational service districts, and their contractors hiring employees~~
32 ~~who will have regularly scheduled unsupervised access to children,~~
33 ~~because of a prior guilty plea or conviction of a felony involving~~
34 ~~sexual exploitation of a child under chapter 9.68A RCW, sexual offenses~~
35 ~~under chapter 9A.44 RCW where a minor is the victim, promoting~~
36 ~~prostitution of a minor under chapter 9A.88 RCW, or a violation of~~
37 ~~similar laws of another jurisdiction, even if the time elapsed since~~
38 ~~the guilty plea or conviction is ten years or more.~~

1 ~~(5) Subsections (3) and (4) of this section only apply to a person~~
2 ~~applying for a certificate or for employment on or after July 25,~~
3 ~~1993.)~~

4 **Sec. 44.** RCW 41.06.150 and 1996 c 319 s 2 are each amended to read
5 as follows:

6 The board shall adopt rules, consistent with the purposes and
7 provisions of this chapter, as now or hereafter amended, and with the
8 best standards of personnel administration, regarding the basis and
9 procedures to be followed for:

10 (1) The reduction, dismissal, suspension, or demotion of an
11 employee;

12 (2) Certification of names for vacancies, including departmental
13 promotions, with the number of names equal to six more names than there
14 are vacancies to be filled, such names representing applicants rated
15 highest on eligibility lists: PROVIDED, That when other applicants
16 have scores equal to the lowest score among the names certified, their
17 names shall also be certified;

18 (3) Examinations for all positions in the competitive and
19 noncompetitive service;

20 (4) Appointments;

21 (5) Training and career development;

22 (6) Probationary periods of six to twelve months and rejections of
23 probationary employees, depending on the job requirements of the class,
24 except that entry level state park rangers shall serve a probationary
25 period of twelve months;

26 (7) Transfers;

27 (8) Sick leaves and vacations;

28 (9) Hours of work;

29 (10) Layoffs when necessary and subsequent reemployment, both
30 according to seniority;

31 (11) Determination of appropriate bargaining units within any
32 agency: PROVIDED, That in making such determination the board shall
33 consider the duties, skills, and working conditions of the employees,
34 the history of collective bargaining by the employees and their
35 bargaining representatives, the extent of organization among the
36 employees, and the desires of the employees;

37 (12) Certification and decertification of exclusive bargaining
38 representatives: PROVIDED, That after certification of an exclusive

1 bargaining representative and upon the representative's request, the
2 director shall hold an election among employees in a bargaining unit to
3 determine by a majority whether to require as a condition of employment
4 membership in the certified exclusive bargaining representative on or
5 after the thirtieth day following the beginning of employment or the
6 date of such election, whichever is the later, and the failure of an
7 employee to comply with such a condition of employment constitutes
8 cause for dismissal: PROVIDED FURTHER, That no more often than once in
9 each twelve-month period after expiration of twelve months following
10 the date of the original election in a bargaining unit and upon
11 petition of thirty percent of the members of a bargaining unit the
12 director shall hold an election to determine whether a majority wish to
13 rescind such condition of employment: PROVIDED FURTHER, That for
14 purposes of this clause, membership in the certified exclusive
15 bargaining representative is satisfied by the payment of monthly or
16 other periodic dues and does not require payment of initiation,
17 reinstatement, or any other fees or fines and includes full and
18 complete membership rights: AND PROVIDED FURTHER, That in order to
19 safeguard the right of nonassociation of public employees, based on
20 bona fide religious tenets or teachings of a church or religious body
21 of which such public employee is a member, such public employee shall
22 pay to the union, for purposes within the program of the union as
23 designated by such employee that would be in harmony with his or her
24 individual conscience, an amount of money equivalent to regular union
25 dues minus any included monthly premiums for union-sponsored insurance
26 programs, and such employee shall not be a member of the union but is
27 entitled to all the representation rights of a union member;

28 (13) Agreements between agencies and certified exclusive bargaining
29 representatives providing for grievance procedures and collective
30 negotiations on all personnel matters over which the appointing
31 authority of the appropriate bargaining unit of such agency may
32 lawfully exercise discretion;

33 (14) Written agreements may contain provisions for payroll
34 deductions of employee organization dues upon authorization by the
35 employee member and for the cancellation of such payroll deduction by
36 the filing of a proper prior notice by the employee with the appointing
37 authority and the employee organization: PROVIDED, That nothing
38 contained herein permits or grants to any employee the right to strike
39 or refuse to perform his or her official duties;

1 (15) Adoption and revision of a comprehensive classification plan
2 for all positions in the classified service, based on investigation and
3 analysis of the duties and responsibilities of each such position.

4 (a) The board shall not adopt job classification revisions or class
5 studies unless implementation of the proposed revision or study will
6 result in net cost savings, increased efficiencies, or improved
7 management of personnel or services, and the proposed revision or study
8 has been approved by the director of financial management in accordance
9 with chapter 43.88 RCW.

10 (b) Beginning July 1, 1995, through June 30, 1997, in addition to
11 the requirements of (a) of this subsection:

12 (i) The board may approve the implementation of salary increases
13 resulting from adjustments to the classification plan during the 1995-
14 97 fiscal biennium only if:

15 (A) The implementation will not result in additional net costs and
16 the proposed implementation has been approved by the director of
17 financial management in accordance with chapter 43.88 RCW;

18 (B) The implementation will take effect on July 1, 1996, and the
19 total net cost of all such actions approved by the board for
20 implementation during the 1995-97 fiscal biennium does not exceed the
21 amounts specified by the legislature specifically for this purpose; or

22 (C) The implementation is a result of emergent conditions.
23 Emergent conditions are defined as emergency situations requiring the
24 establishment of positions necessary for the preservation of the public
25 health, safety, or general welfare, which do not exceed \$250,000 of the
26 moneys identified in section 718(2), chapter 18, Laws of 1995 2nd sp.
27 sess.

28 (ii) The board shall approve only those salary increases resulting
29 from adjustments to the classification plan if they are due to
30 documented recruitment and retention difficulties, salary compression
31 or inversion, increased duties and responsibilities, or inequities.
32 For these purposes, inequities are defined as similar work assigned to
33 different job classes with a salary disparity greater than 7.5 percent.

34 (iii) Adjustments made to the higher education hospital special pay
35 plan are exempt from (b)(i) through (ii) of this subsection.

36 (c) Reclassifications, class studies, and salary adjustments to be
37 implemented during the 1997-99 and subsequent fiscal biennia are
38 governed by (a) of this subsection and RCW 41.06.152;

1 (16) Allocation and reallocation of positions within the
2 classification plan;

3 (17) Adoption and revision of a state salary schedule to reflect
4 the prevailing rates in Washington state private industries and other
5 governmental units but the rates in the salary schedules or plans shall
6 be increased if necessary to attain comparable worth under an
7 implementation plan under RCW 41.06.155 and that, for institutions of
8 higher education and related boards, shall be competitive for positions
9 of a similar nature in the state or the locality in which an
10 institution of higher education or related board is located, such
11 adoption and revision subject to approval by the director of financial
12 management in accordance with the provisions of chapter 43.88 RCW;

13 (18) Increment increases within the series of steps for each pay
14 grade based on length of service for all employees whose standards of
15 performance are such as to permit them to retain job status in the
16 classified service;

17 (19) Providing for veteran's preference as required by existing
18 statutes, with recognition of preference in regard to layoffs and
19 subsequent reemployment for veterans and their surviving spouses by
20 giving such eligible veterans and their surviving spouses additional
21 credit in computing their seniority by adding to their unbroken state
22 service, as defined by the board, the veteran's service in the military
23 not to exceed five years. For the purposes of this section, "veteran"
24 means any person who has one or more years of active military service
25 in any branch of the armed forces of the United States or who has less
26 than one year's service and is discharged with a disability incurred in
27 the line of duty or is discharged at the convenience of the government
28 and who, upon termination of such service has received an honorable
29 discharge, a discharge for physical reasons with an honorable record,
30 or a release from active military service with evidence of service
31 other than that for which an undesirable, bad conduct, or dishonorable
32 discharge shall be given: PROVIDED, HOWEVER, That the surviving spouse
33 of a veteran is entitled to the benefits of this section regardless of
34 the veteran's length of active military service: PROVIDED FURTHER,
35 That for the purposes of this section "veteran" does not include any
36 person who has voluntarily retired with twenty or more years of active
37 military service and whose military retirement pay is in excess of five
38 hundred dollars per month;

1 (20) Permitting agency heads to delegate the authority to appoint,
2 reduce, dismiss, suspend, or demote employees within their agencies if
3 such agency heads do not have specific statutory authority to so
4 delegate: PROVIDED, That the board may not authorize such delegation
5 to any position lower than the head of a major subdivision of the
6 agency;

7 (21) Assuring persons who are or have been employed in classified
8 positions before July 1, 1993, will be eligible for employment,
9 reemployment, transfer, and promotion in respect to classified
10 positions covered by this chapter;

11 (22) Affirmative action in appointment, promotion, transfer,
12 recruitment, training, and career development; development and
13 implementation of affirmative action goals and timetables; and
14 monitoring of progress against those goals and timetables; and

15 (23) Background checks under chapter 70.-- RCW (sections 1 through
16 27 and 57 of this act).

17 The board shall consult with the human rights commission in the
18 development of rules pertaining to affirmative action. The department
19 of personnel shall transmit a report annually to the human rights
20 commission which states the progress each state agency has made in
21 meeting affirmative action goals and timetables.

22 **Sec. 45.** RCW 43.43.740 and 1989 c 334 s 10 are each amended to
23 read as follows:

24 (1) It shall be the duty of the sheriff or director of public
25 safety of every county, and the chief of police of every city or town,
26 and of every chief officer of other law enforcement agencies duly
27 operating within this state to furnish within seventy-two hours from
28 the time of arrest to the section the required sets of fingerprints
29 together with other identifying data as may be prescribed by the chief,
30 of any person lawfully arrested, fingerprinted, and photographed
31 pursuant to RCW 43.43.735.

32 (2) Law enforcement agencies may retain and file copies of the
33 fingerprints, photographs, and other identifying data and information
34 obtained pursuant to RCW 43.43.735. Said records shall remain in the
35 possession of the law enforcement agency as part of the identification
36 record and are not returnable to the subjects thereof.

37 (3) It shall be the duty of the court having jurisdiction over the
38 dependency action to furnish dependency record information, obtained

1 pursuant to RCW 43.43.735, to the section within seven days, excluding
2 Saturdays, Sundays, and holidays, from the date that the court enters
3 a finding, pursuant to a dependency action brought under chapter 13.34
4 RCW, that a person over the age of eighteen, who is a party to the
5 dependency action, has sexually abused or exploited or physically
6 abused a child.

7 (4) The court having jurisdiction over the dependency or protection
8 proceeding action may retain and file copies of the fingerprints,
9 photographs, and other identifying data and information obtained
10 pursuant to RCW 43.43.735. These records shall remain in the
11 possession of the court as part of the identification record and are
12 not returnable to the subjects thereof.

13 (5) It shall be the duty of a court having jurisdiction over the
14 protection proceeding to furnish protection proceeding record
15 information, obtained under RCW 43.43.735 to the section within seven
16 days, excluding Saturdays, Sundays, and holidays, from the date that
17 the court enters a final order pursuant to a protection proceeding
18 brought under chapter 74.34 RCW, that a person over the age of
19 eighteen, who is the respondent to the protection proceeding, has
20 abused or financially exploited a vulnerable adult as that term is
21 defined in ((RCW 43.43.830)) section 2 of this act.

22 (6) The section shall administer periodic compliance audits for the
23 department of licensing and each court having jurisdiction over
24 dependency and protection proceeding actions as defined in chapters
25 13.34 and 74.34 RCW, respectively. Such audits shall ensure that all
26 dependency record information regarding persons over the age of
27 eighteen years has been furnished to the section as required in
28 subsection (3) of this section.

29 **Sec. 46.** RCW 43.150.080 and 1993 c 365 s 1 are each amended to
30 read as follows:

31 A volunteer organization or individual volunteer may assist a
32 public agency, with the agency's approval, in a collaborative program
33 designed to serve the needs of at-risk children. The center, with the
34 advice and counsel of the attorney general, shall develop guidelines
35 defining at-risk children and establish reasonable safety standards to
36 protect the safety of program participants and volunteers, including
37 but not limited to background checks as appropriate as provided in
38 ((RCW 43.43.830 through 43.43.834)) chapter 70.-- RCW (sections 1

1 through 27 and 57 of this act). In carrying out the volunteer
2 activity, the individual volunteer or member of the volunteer
3 organization shall not be considered to be an employee or agent of any
4 public agency involved in the collaborative program. The public agency
5 shall have no liability for any acts of the individual volunteer or
6 volunteer organization. Prior to participation, a volunteer and the
7 public agency administering the collaborative program shall sign a
8 written master agreement, approved in form by the attorney general,
9 that includes provisions defining the scope of the volunteer activities
10 and waiving any claims against each other. A volunteer organization or
11 individual volunteer shall not be liable for civil damages resulting
12 from any act or omission arising from volunteer activities which comply
13 with safety standards issued by the center for volunteerism and citizen
14 service, other than acts or omissions constituting gross negligence or
15 willful or wanton misconduct.

16 **Sec. 47.** RCW 70.128.120 and 1996 c 81 s 1 are each amended to read
17 as follows:

18 Each adult family home provider and each resident manager shall
19 have the following minimum qualifications:

- 20 (1) Twenty-one years of age or older;
- 21 (2) Good moral and responsible character and reputation;
- 22 (3) Literacy;
- 23 (4) Management and administrative ability to carry out the
24 requirements of this chapter;
- 25 (5) Satisfactory completion of department-approved initial training
26 and continuing education training as specified by the department in
27 rule;
- 28 (6) Satisfactory completion of department-approved, or equivalent,
29 special care training before a provider may provide special care
30 services to a resident;
- 31 (7) Not been convicted of any crime (~~listed in RCW 43.43.830 and~~
32 ~~43.43.842~~) identified in, or adopted under, sections 5 and 16 of this
33 act; and
- 34 (8) Effective July 1, 1996, registered with the department of
35 health.

36 **Sec. 48.** RCW 70.128.130 and 1995 c 260 s 6 are each amended to
37 read as follows:

1 (1) Adult family homes shall be maintained internally and
2 externally in good repair and condition. Such homes shall have safe
3 and functioning systems for heating, cooling, hot and cold water,
4 electricity, plumbing, garbage disposal, sewage, cooking, laundry,
5 artificial and natural light, ventilation, and any other feature of the
6 home.

7 (2) Adult family homes shall be maintained in a clean and sanitary
8 manner, including proper sewage disposal, food handling, and hygiene
9 practices.

10 (3) Adult family homes shall develop a fire drill plan for
11 emergency evacuation of residents, shall have smoke detectors in each
12 bedroom where a resident is located, shall have fire extinguishers on
13 each floor of the home, and shall not keep nonambulatory patients above
14 the first floor of the home.

15 (4) Adult family homes shall have clean, functioning, and safe
16 household items and furnishings.

17 (5) Adult family homes shall provide a nutritious and balanced diet
18 and shall recognize residents' needs for special diets.

19 (6) Adult family homes shall establish health care procedures for
20 the care of residents including medication administration and emergency
21 medical care.

22 (a) Adult family home residents shall be permitted to self-
23 administer medications.

24 (b) Adult family home providers may administer medications and
25 deliver special care only to the extent authorized by law.

26 (7) Adult family home providers shall either: (a) Reside at the
27 adult family home; or (b) employ or otherwise contract with a qualified
28 resident manager to reside at the adult family home. The department
29 may exempt, for good cause, a provider from the requirements of this
30 subsection by rule.

31 (8) A provider will ensure that any volunteer, student, employee,
32 or person residing within the adult family home who will have
33 unsupervised access to any resident shall not have been convicted of a
34 crime (~~(listed under RCW 43.43.830 or 43.43.842)~~) identified in, or
35 adopted under, sections 5 and 16 of this act. Except that a person may
36 be conditionally employed pending the completion of a (~~(criminal~~
37 ~~conviction background inquiry)~~) national conviction record check after
38 clearing a state background check.

1 (9) A provider shall offer activities to residents under care as
2 defined by the department in rule.

3 (10) An adult family home provider shall ensure that staff are
4 competent and receive necessary training to perform assigned tasks.

5 **Sec. 49.** RCW 70.129.130 and 1994 c 214 s 14 are each amended to
6 read as follows:

7 The resident has the right to be free from verbal, sexual,
8 physical, and mental abuse, corporal punishment, and involuntary
9 seclusion.

10 (1) The facility must not use verbal, mental, sexual, or physical
11 abuse, including corporal punishment or involuntary seclusion.

12 (2) Subject to available resources, the department of social and
13 health services shall provide background checks required by ((RCW
14 43.43.842)) section 10 or 16 of this act for employees of facilities
15 licensed under chapter 18.20 RCW without charge to the facility.

16 **Sec. 50.** RCW 18.130.040 and 1996 c 200 s 32 and 1996 c 81 s 5 are
17 each reenacted and amended to read as follows:

18 (1) This chapter applies only to the secretary and the boards and
19 commissions having jurisdiction in relation to the professions licensed
20 under the chapters specified in this section. This chapter does not
21 apply to any business or profession not licensed under the chapters
22 specified in this section.

23 (2)(a) The secretary has authority under this chapter in relation
24 to the following professions:

25 (i) Dispensing opticians licensed under chapter 18.34 RCW;

26 (ii) Naturopaths licensed under chapter 18.36A RCW;

27 (iii) Midwives licensed under chapter 18.50 RCW;

28 (iv) Ocularists licensed under chapter 18.55 RCW;

29 (v) Massage operators and businesses licensed under chapter 18.108
30 RCW;

31 (vi) Dental hygienists licensed under chapter 18.29 RCW;

32 (vii) Acupuncturists licensed under chapter 18.06 RCW;

33 (viii) Radiologic technologists certified and X-ray technicians
34 registered under chapter 18.84 RCW;

35 (ix) Respiratory care practitioners certified under chapter 18.89
36 RCW;

37 (x) Persons registered or certified under chapter 18.19 RCW;

1 (xi) Persons registered as nursing pool operators under chapter
2 18.52C RCW;

3 (xii) Nursing assistants registered or certified under chapter
4 18.79 RCW;

5 (xiii) Health care assistants certified under chapter 18.135 RCW;

6 (xiv) Dietitians and nutritionists certified under chapter 18.138
7 RCW;

8 (xv) Sex offender treatment providers certified under chapter
9 18.155 RCW;

10 (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW
11 18.71.205;

12 (xvii) Persons registered as adult family home providers and
13 resident managers under RCW 18.48.020; and

14 (xviii) Denturists licensed under chapter 18.30 RCW.

15 (b) The boards and commissions having authority under this chapter
16 are as follows:

17 (i) The podiatric medical board as established in chapter 18.22
18 RCW;

19 (ii) The chiropractic quality assurance commission as established
20 in chapter 18.25 RCW;

21 (iii) The dental quality assurance commission as established in
22 chapter 18.32 RCW;

23 (iv) The board of hearing and speech as established in chapter
24 18.35 RCW;

25 (v) The board of examiners for nursing home administrators as
26 established in chapter 18.52 RCW;

27 (vi) The optometry board as established in chapter 18.54 RCW
28 governing licenses issued under chapter 18.53 RCW;

29 (vii) The board of osteopathic medicine and surgery as established
30 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
31 18.57A RCW;

32 (viii) The board of pharmacy as established in chapter 18.64 RCW
33 governing licenses issued under chapters 18.64 and 18.64A RCW;

34 (ix) The medical quality assurance commission as established in
35 chapter 18.71 RCW governing licenses and registrations issued under
36 chapters 18.71 and 18.71A RCW;

37 (x) The board of physical therapy as established in chapter 18.74
38 RCW;

1 (xi) The board of occupational therapy practice as established in
2 chapter 18.59 RCW;

3 (xii) The nursing care quality assurance commission as established
4 in chapter 18.79 RCW governing licenses issued under that chapter;

5 (xiii) The examining board of psychology and its disciplinary
6 committee as established in chapter 18.83 RCW; and

7 (xiv) The veterinary board of governors as established in chapter
8 18.92 RCW.

9 (3) In addition to the authority to discipline license holders, the
10 disciplining authority has the authority to grant or deny licenses
11 based on the conditions and criteria established in this chapter
12 (~~and~~), the chapters specified in subsection (2) of this section, and
13 sections 14 and 15 of this act. This chapter also governs any
14 investigation, hearing, or proceeding relating to denial of licensure
15 or issuance of a license conditioned on the applicant's compliance with
16 an order entered pursuant to RCW 18.130.160 by the disciplining
17 authority.

18 (4) All disciplining authorities shall adopt procedures to ensure
19 substantially consistent application of this chapter, the Uniform
20 Disciplinary Act, among the disciplining authorities listed in
21 subsection (2) of this section.

22 NEW SECTION. Sec. 51. A new section is added to chapter 2.04 RCW
23 to read as follows:

24 If the court reaches a final determination of a criminal appeal and
25 the determination results in a dismissal, reversal, or vacation of a
26 conviction, the court shall furnish notice of its determination to the
27 identification section of the Washington state patrol.

28 NEW SECTION. Sec. 52. A new section is added to chapter 2.06 RCW
29 to read as follows:

30 If the court reaches a final determination of a criminal appeal and
31 the determination results in a dismissal, reversal, or vacation of a
32 conviction, the court shall furnish notice of its determination to the
33 identification section of the Washington state patrol.

34 NEW SECTION. Sec. 53. A new section is added to chapter 28A.410
35 RCW to read as follows:

1 Chapter 70.-- RCW (sections 1 through 27 and 57 of this act)
2 applies to applicants for certification under this chapter.

3 NEW SECTION. **Sec. 54.** This act does not apply to offenders
4 employed or volunteering while incarcerated in a state correctional
5 institution.

6 NEW SECTION. **Sec. 55.** The state patrol shall examine the
7 feasibility and costs associated with creating a reliable,
8 electronically available data base for storing and disseminating
9 background check information regarding those civil adjudications, court
10 orders, and administrative decisions that are required to be reported
11 to the state patrol under RCW 43.43.840. The state patrol shall
12 prepare a report of the results of its examination and submit the
13 report to the governor and the legislature no later than January 1,
14 1998. All agencies required to report information to the state patrol
15 shall cooperate in the examination, and the state patrol shall consult
16 regularly with the agencies during its examination and report
17 preparation.

18 NEW SECTION. **Sec. 56.** The following acts or parts of acts are
19 each repealed:

- 20 (1) RCW 41.06.475 and 1993 c 281 s 38 & 1986 c 269 s 2;
21 (2) RCW 43.43.815 and 1995 c 169 s 1 & 1982 c 202 s 1;
22 (3) RCW 43.43.832 and 1995 c 250 s 2, 1993 c 281 s 51, & 1990 c 3
23 s 1102;
24 (4) RCW 43.43.834 and 1990 c 3 s 1103;
25 (5) RCW 43.43.838 and 1995 c 29 s 1, 1992 c 159 s 7, & 1990 c 3 s
26 1104; and
27 (6) RCW 43.43.842 and 1992 c 104 s 1 & 1989 c 334 s 11.

28 NEW SECTION. **Sec. 57.** CAPTIONS NOT LAW. Captions used in this
29 chapter are not any part of the law.

30 NEW SECTION. **Sec. 58.** Sections 1 through 27 and 57 of this act
31 constitute a new chapter in Title 70 RCW.

32 NEW SECTION. **Sec. 59.** This act takes effect July 1, 1998.

1 NEW SECTION. **Sec. 60.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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