
SECOND SUBSTITUTE HOUSE BILL 2637

State of Washington

56th Legislature

2000 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Tokuda, Conway, Cody, Schual-Berke, McIntire, Campbell, Rockefeller, Kenney, Haigh, O'Brien, Kagi, Hurst, Anderson and Van Luven; by request of Department of Social and Health Services)

Read first time 02/07/2000. Referred to Committee on .

1 AN ACT Relating to background checks on persons in contact with
2 vulnerable adults; amending RCW 43.43.832 and 43.20A.710; creating a
3 new section; and declaring an emergency.

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

5 **Sec. 1.** RCW 43.43.832 and 1997 c 392 s 524 are each amended to
6 read as follows:

7 (1) The legislature finds that businesses and organizations
8 providing services to children, developmentally disabled persons, and
9 vulnerable adults need adequate information to determine which
10 employees or licensees to hire or engage. The legislature further
11 finds that many developmentally disabled individuals and vulnerable
12 adults desire to hire their own employees directly and also need
13 adequate information to determine which employees or licensees to hire
14 or engage. Therefore, the Washington state patrol criminal
15 identification system shall disclose, upon the request of a business or
16 organization as defined in RCW 43.43.830, a developmentally disabled
17 person, or a vulnerable adult as defined in RCW 43.43.830 or his or her
18 guardian, an applicant's record for convictions of offenses against
19 children or other persons, convictions for crimes relating to financial

1 exploitation, but only if the victim was a vulnerable adult,
2 adjudications of child abuse in a civil action, the issuance of a
3 protection order against the respondent under chapter 74.34 RCW, and
4 disciplinary board final decisions and any subsequent criminal charges
5 associated with the conduct that is the subject of the disciplinary
6 board final decision.

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

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

17 (4) The legislature further finds that the department of social and
18 health services must consider the information listed in subsection (1)
19 of this section in the following circumstances:

20 (a) When considering persons for state positions directly
21 responsible for the care, supervision, or treatment of children,
22 developmentally disabled persons, or vulnerable adults;

23 (b) When considering persons for state positions involving
24 unsupervised access to vulnerable adults to conduct comprehensive
25 assessments, financial eligibility determinations, licensing and
26 certification activities, investigations, surveys, or case management;
27 or for state positions otherwise required by federal law to meet
28 employment standards;

29 (c) When licensing agencies or facilities with individuals in
30 positions directly responsible for the care, supervision, or treatment
31 of children, developmentally disabled persons, or vulnerable adults,
32 including but not limited to agencies or facilities licensed under
33 chapter 74.15 or 18.51 RCW;

34 ((+e)) (d) When contracting with individuals or businesses or
35 organizations for the care, supervision, case management, or treatment
36 of children, developmentally disabled persons, or vulnerable adults,
37 including but not limited to services contracted for under chapter
38 18.20, 18.48, 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A RCW.

1 (5) Whenever a state conviction record check is required by state
2 law, persons may be employed or engaged as volunteers or independent
3 contractors on a conditional basis pending completion of the state
4 background investigation. Whenever a national criminal record check
5 through the federal bureau of investigation is required by state law,
6 a person may be employed or engaged as a volunteer or independent
7 contractor on a conditional basis pending completion of the national
8 check. The Washington personnel resources board shall adopt rules to
9 accomplish the purposes of this subsection as it applies to state
10 employees.

11 (6)(a) For purposes of facilitating timely access to criminal
12 background information and to reasonably minimize the number of
13 requests made under this section, recognizing that certain health care
14 providers change employment frequently, health care facilities may,
15 upon request from another health care facility, share copies of
16 completed criminal background inquiry information.

17 (b) Completed criminal background inquiry information may be shared
18 by a willing health care facility only if the following conditions are
19 satisfied: The licensed health care facility sharing the criminal
20 background inquiry information is reasonably known to be the person's
21 most recent employer, no more than twelve months has elapsed from the
22 date the person was last employed at a licensed health care facility to
23 the date of their current employment application, and the criminal
24 background information is no more than two years old.

25 (c) If criminal background inquiry information is shared, the
26 health care facility employing the subject of the inquiry must require
27 the applicant to sign a disclosure statement indicating that there has
28 been no conviction or finding as described in RCW 43.43.842 since the
29 completion date of the most recent criminal background inquiry.

30 (d) Any health care facility that knows or has reason to believe
31 that an applicant has or may have a disqualifying conviction or finding
32 as described in RCW 43.43.842, subsequent to the completion date of
33 their most recent criminal background inquiry, shall be prohibited from
34 relying on the applicant's previous employer's criminal background
35 inquiry information. A new criminal background inquiry shall be
36 requested pursuant to RCW 43.43.830 through 43.43.842.

37 (e) Health care facilities that share criminal background inquiry
38 information shall be immune from any claim of defamation, invasion of

1 privacy, negligence, or any other claim in connection with any
2 dissemination of this information in accordance with this subsection.

3 (f) Health care facilities shall transmit and receive the criminal
4 background inquiry information in a manner that reasonably protects the
5 subject's rights to privacy and confidentiality.

6 (g) For the purposes of this subsection, "health care facility"
7 means a nursing home licensed under chapter 18.51 RCW, a boarding home
8 licensed under chapter 18.20 RCW, or an adult family home licensed
9 under chapter 70.128 RCW.

10 (7) Background checks required under this section shall be
11 completed within one month of the initial request. If a federal bureau
12 of investigation check is required in addition to the state background
13 check, an applicant who is not disqualified based on the results of the
14 state background check shall be eligible for a one hundred twenty day
15 provisional approval to hire, pending the outcome of the federal bureau
16 of investigation check. If the federal bureau of investigation check
17 disqualifies an applicant, the department shall notify the requestor
18 that the provisional approval to hire is withdrawn and the applicant
19 may be terminated.

20 **Sec. 2.** RCW 43.20A.710 and 1999 c 336 s 7 are each amended to read
21 as follows:

22 (1) The secretary shall investigate the conviction records, pending
23 charges or disciplinary board final decisions of:

24 (a) Persons being considered for state employment in positions
25 directly responsible for the supervision, care, or treatment of
26 children, vulnerable adults, or individuals with mental illness or
27 developmental disabilities; ~~((and))~~

28 (b) Persons being considered for state employment in positions
29 involving unsupervised access to vulnerable adults to conduct
30 comprehensive assessments, financial eligibility determinations,
31 licensing and certification activities, investigations, surveys, or
32 case management; or for state positions otherwise required by federal
33 law to meet employment standards; and

34 (c) Individual providers who are paid by the state for in-home
35 services and hired by individuals with physical disabilities,
36 developmental disabilities, mental illness, or mental impairment,
37 including but not limited to services provided under chapter 74.39A
38 RCW.

1 (2) The investigation may include an examination of state and
2 national criminal identification data. The secretary shall use the
3 information solely for the purpose of determining the character,
4 suitability, and competence of these applicants.

5 (3) The secretary shall provide the results of the state background
6 check on individual providers to the individuals with physical
7 disabilities, developmental disabilities, mental illness, or mental
8 impairment or to their legal guardians, if any, for their determination
9 of the character, suitability, and competence of the applicants. If an
10 individual elects to hire or retain an individual provider after
11 receiving notice from the department that the applicant has a
12 conviction for an offense that would disqualify the applicant from
13 employment with the department, then the secretary shall deny payment
14 for any subsequent services rendered by the disqualified individual
15 provider.

16 (4) Criminal justice agencies shall provide the secretary such
17 information as they may have and that the secretary may require for
18 such purpose.

19 NEW SECTION. **Sec. 3.** If specific funding for the purposes of this
20 act, referencing this act by bill or chapter number, is not provided by
21 June 30, 2000, in the omnibus appropriations act, this act is null and
22 void.

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

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