
SENATE BILL 5555

State of Washington 56th Legislature 1999 Regular Session

By Senators Kohl-Welles, Hargrove, Long, Thibaudeau and Prentice

Read first time 01/27/1999. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to protecting children, vulnerable adults, and
2 other consumers of health care by using background checks; amending RCW
3 18.130.040; adding new sections to chapter 18.130 RCW; adding a new
4 section to chapter 43.70 RCW; creating a new section; and providing
5 effective dates.

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

7 NEW SECTION. **Sec. 1.** The legislature intends to protect children,
8 vulnerable adults, and other consumers of health care by requiring
9 background checks of all individuals applying for and holding
10 registrations, certifications, and licenses to practice as health care
11 practitioners in the state.

12 **Sec. 2.** RCW 18.130.040 and 1998 c 243 s 16 are each amended to
13 read as follows:

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

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

- 3 (i) Dispensing opticians licensed under chapter 18.34 RCW;
- 4 (ii) Naturopaths licensed under chapter 18.36A RCW;
- 5 (iii) Midwives licensed under chapter 18.50 RCW;
- 6 (iv) Ocularists licensed under chapter 18.55 RCW;
- 7 (v) Massage operators and businesses licensed under chapter 18.108
8 RCW;
- 9 (vi) Dental hygienists licensed under chapter 18.29 RCW;
- 10 (vii) Acupuncturists licensed under chapter 18.06 RCW;
- 11 (viii) Radiologic technologists certified and X-ray technicians
12 registered under chapter 18.84 RCW;
- 13 (ix) Respiratory care practitioners licensed under chapter 18.89
14 RCW;
- 15 (x) Persons registered or certified under chapter 18.19 RCW;
- 16 (xi) Persons registered as nursing pool operators under chapter
17 18.52C RCW;
- 18 (xii) Nursing assistants registered or certified under chapter
19 18.88A RCW;
- 20 (xiii) Health care assistants certified under chapter 18.135 RCW;
- 21 (xiv) Dietitians and nutritionists certified under chapter 18.138
22 RCW;
- 23 (xv) Chemical dependency professionals certified under chapter
24 18.205 RCW;
- 25 (xvi) Sex offender treatment providers certified under chapter
26 18.155 RCW;
- 27 (xvii) Persons licensed and certified under chapter 18.73 RCW or
28 RCW 18.71.205;
- 29 (xviii) Persons registered as adult family home providers and
30 resident managers under RCW 18.48.020;
- 31 (xix) Denturists licensed under chapter 18.30 RCW; and
- 32 (xx) Orthotists and prosthetists licensed under chapter 18.200 RCW.

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

- 35 (i) The podiatric medical board as established in chapter 18.22
36 RCW;
- 37 (ii) The chiropractic quality assurance commission as established
38 in chapter 18.25 RCW;

1 (iii) The dental quality assurance commission as established in
2 chapter 18.32 RCW;

3 (iv) The board of hearing and speech as established in chapter
4 18.35 RCW;

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

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

9 (vii) The board of osteopathic medicine and surgery as established
10 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
11 18.57A RCW;

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

14 (ix) The medical quality assurance commission as established in
15 chapter 18.71 RCW governing licenses and registrations issued under
16 chapters 18.71 and 18.71A RCW;

17 (x) The board of physical therapy as established in chapter 18.74
18 RCW;

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

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

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

25 (xiv) The veterinary board of governors as established in chapter
26 18.92 RCW.

27 (3) In addition to the authority to discipline license holders, the
28 disciplining authority has the authority to grant or deny licenses
29 based on the conditions and criteria established in this chapter
30 (~~and~~), the chapters specified in subsection (2) of this section, and
31 sections 4 through 6 of this act. This chapter also governs any
32 investigation, hearing, or proceeding relating to denial of licensure
33 or issuance of a license conditioned on the applicant's compliance with
34 an order entered pursuant to RCW 18.130.160 by the disciplining
35 authority.

36 (4) All disciplining authorities shall adopt procedures to ensure
37 substantially consistent application of this chapter, the Uniform
38 Disciplinary Act, among the disciplining authorities listed in
39 subsection (2) of this section.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 18.130 RCW
2 to read as follows:

3 (1) Notwithstanding RCW 9.96A.020, an individual is permanently
4 disqualified from holding a license under this chapter if the
5 individual has a conviction record of any of the following offenses:

6 (a) A serious violent offense as defined in RCW 9.94A.030;

7 (b) A sex offense as defined in RCW 9.94A.030;

8 (c) Any felony offense constituting: (i) Sexual exploitation of a
9 minor under chapter 9.68A RCW; (ii) criminal mistreatment of a child or
10 dependent person under chapter 9A.42 RCW; or (iii) the sale or purchase
11 of a minor child under RCW 9A.64.030; or

12 (d) Any federal or out-of-state equivalent to those in (a) through
13 (c) of this subsection.

14 (2) Notwithstanding RCW 9.96A.020, an individual is disqualified
15 from holding a license under this chapter if the individual has a
16 conviction record of any of the offenses in this subsection. The
17 disqualification shall last for ten years from the date of conviction
18 or release from confinement, whichever is later. At the end of the
19 disqualification period, the individual may reapply but must
20 demonstrate ability to practice with reasonable skill and safety.

21 (a) A violent offense as defined in RCW 9.94A.030;

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

24 (c) A felony offense constituting: (i) Malicious harassment under
25 chapter 9A.36 RCW; (ii) residential burglary under chapter 9A.52 RCW;
26 (iii) theft in the first degree under chapter 9A.56 RCW; (iv) unlawful
27 issuance of checks or drafts under chapter 9A.56 RCW; or (v) fraud
28 under chapter 9A.60 RCW; or

29 (d) Any federal or out-of-state equivalent to those in (a) through
30 (c) of this subsection.

31 (3) The department may establish by rule disqualifying criminal
32 offenses in addition to those established in subsections (1) and (2) of
33 this section. Notwithstanding RCW 9.96A.020, the disqualification may
34 be permanent or for a duration established in rule.

35 (4) Conviction of any offense not set forth in this section may be
36 grounds for disciplinary action under RCW 18.130.180.

37 NEW SECTION. **Sec. 4.** A new section is added to chapter 18.130 RCW
38 to read as follows:

1 (1) This section applies to individuals who apply for an initial
2 license under this chapter on or after the effective date of this
3 section.

4 (2) Under RCW 18.130.050(13), the department shall require a state
5 background check through the state patrol on each applicant for an
6 initial license. The background check may be fingerprint based at the
7 discretion of the department. The background check must be completed
8 before the license is issued.

9 (3) The department shall:

10 (a) Require the applicant to submit full sets of fingerprints if
11 necessary to complete the background check;

12 (b) Require the applicant to submit any fees and other information
13 required by the state patrol;

14 (c) Notify the applicant of the results of the background check;
15 and

16 (d) Restrict use of the background check results to determining the
17 individual's suitability for a license.

18 (4) The disciplining authority shall deny a license to any
19 individual whose background check reveals a conviction for any offense
20 in section 3 of this act. Prior to denying the license, the
21 disciplining authority shall provide an opportunity for a brief
22 adjudicative proceeding under RCW 34.05.485 through 34.05.494.

23 NEW SECTION. **Sec. 5.** A new section is added to chapter 18.130 RCW
24 to read as follows:

25 (1) This section applies to individuals who apply for an initial
26 license under this chapter on or after the effective date of this
27 section.

28 (2) Under RCW 18.130.050(13), the department shall require an
29 electronic fingerprint-based national background check through the
30 state patrol and federal bureau of investigation on each applicant for
31 an initial license. The background check must be completed before the
32 license is issued.

33 (3) The department shall:

34 (a) Require the individual to submit full sets of fingerprints as
35 necessary to complete the background check;

36 (b) Require the individual to submit any fees and other information
37 required by the state patrol;

1 (c) Notify the applicant of the results of the background check;
2 and

3 (d) Restrict use of the background check results to determining the
4 individual's suitability for a license.

5 (4) The disciplining authority shall deny a license to any
6 individual whose background check reveals a conviction for any offense
7 in section 3 of this act. Prior to denying the license, the
8 disciplining authority shall provide an opportunity for a brief
9 adjudicative proceeding under RCW 34.05.485 through 34.05.494.

10 NEW SECTION. **Sec. 6.** A new section is added to chapter 18.130 RCW
11 to read as follows:

12 (1) This section applies to license holders.

13 (2) The department shall require state background checks through
14 the state patrol on each license holder. The background checks may be
15 fingerprint based when the department has probable cause to believe
16 that an offense has occurred. Where a license holder's initial
17 background check did not include a fingerprint-based national
18 background check, the first subsequent check shall include a
19 fingerprint-based national background check.

20 (3) The department shall establish a schedule for conducting the
21 background checks required under subsection (2) of this section. The
22 schedule shall require all license holders to have a background check
23 conducted within four years of the effective date of this section and
24 within every four years thereafter. If three successive background
25 checks conducted at regular intervals over the following twelve years
26 show no offense under section 3 of this act, no further background
27 checks are required unless the department has probable cause to believe
28 that an offense has occurred.

29 (4) The department shall:

30 (a) Require the license holder to submit full sets of fingerprints
31 if necessary to complete the background check;

32 (b) Require the license holder to submit any fees and other
33 information required by the state patrol; and

34 (c) Restrict use of the background check results to determining the
35 individual's suitability for a license.

36 (5) The disciplining authority shall revoke for the specified time
37 period the license held by any individual if a background check reveals
38 a conviction for any offense in section 3 of this act. Prior to

1 revoking or suspending the license, the disciplining authority shall
2 provide an opportunity for a brief adjudicative proceeding under RCW
3 34.05.485 through 34.05.494.

4 (6) If any investigation under this chapter reveals a conviction
5 for any offense specified in section 3 of this act, the disciplining
6 authority shall revoke the license. Prior to revoking or suspending
7 the license, the disciplining authority shall provide an opportunity
8 for a brief adjudicative proceeding under RCW 34.05.485 through
9 34.05.494.

10 (7) The license holder shall report to the disciplining authority
11 and to the individual's employer any conviction occurring after the
12 effective date of this section for an offense under section 3 of this
13 act. The report must be made within fourteen days of the conviction.

14 NEW SECTION. **Sec. 7.** A new section is added to chapter 18.130 RCW
15 to read as follows:

16 Nothing in this act limits the authority of the disciplining
17 authority to investigate the suitability of an individual for
18 licensure.

19 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.70 RCW
20 to read as follows:

21 To implement this act, the department may:

22 (1) Increase application and renewal fees by amounts that exceed
23 the fiscal growth factor under RCW 43.135.055; and

24 (2) Adopt rules.

25 NEW SECTION. **Sec. 9.** If any provision of this act or its
26 application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

29 NEW SECTION. **Sec. 10.** (1) Section 4 of this act takes effect
30 January 1, 2001.

31 (2) Section 5 of this act takes effect January 1, 2003.

32 (3) Section 6 of this act takes effect January 1, 2002.

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