
SENATE BILL 5876

State of Washington

56th Legislature

1999 Regular Session

By Senators Kohl-Welles, Winsley, Thibaudeau and Oke; by request of Department of Social and Health Services

Read first time 02/15/1999. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to criminal history background checks for potential
2 state employees and contractors; amending RCW 43.43.832 and 43.20A.710;
3 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~~) involving
22 unsupervised access to children, developmentally disabled persons, or
23 vulnerable adults;

24 (b) When licensing agencies or facilities with individuals in
25 positions directly responsible for the care, supervision, or treatment
26 of children, developmentally disabled persons, or vulnerable adults,
27 including but not limited to agencies or facilities licensed under
28 chapter 74.15 or 18.51 RCW;

29 (c) When contracting with individuals or businesses or
30 organizations (~~for the care, supervision, or treatment of~~) where the
31 contractor or staff will have unsupervised access to children,
32 developmentally disabled persons, or vulnerable adults, including but
33 not limited to services contracted for under chapter 18.20, 18.48,
34 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A RCW.

35 (5) Whenever a state conviction record check is required by state
36 law, persons may be employed or engaged as volunteers or independent
37 contractors on a conditional basis pending completion of the state
38 background investigation. Whenever a national criminal record check
39 through the federal bureau of investigation is required by state law,

1 a person may be employed or engaged as a volunteer or independent
2 contractor on a conditional basis pending completion of the national
3 check. The Washington personnel resources board shall adopt rules to
4 accomplish the purposes of this subsection as it applies to state
5 employees.

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

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

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

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

32 (e) Health care facilities that share criminal background inquiry
33 information shall be immune from any claim of defamation, invasion of
34 privacy, negligence, or any other claim in connection with any
35 dissemination of this information in accordance with this subsection.

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

1 (g) For the purposes of this subsection, "health care facility"
2 means a nursing home licensed under chapter 18.51 RCW, a boarding home
3 licensed under chapter 18.20 RCW, or an adult family home licensed
4 under chapter 70.128 RCW.

5 **Sec. 2.** RCW 43.20A.710 and 1997 c 392 s 525 are each amended to
6 read as follows:

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

9 (a) Persons being considered for state employment in positions
10 (~~directly responsible for the supervision, care, or treatment of~~)
11 involving unsupervised access to children or individuals with physical
12 disabilities, mental illness, or developmental disabilities; and

13 (b) Individual providers who are paid by the state for in-home
14 services and hired by individuals with physical disabilities,
15 developmental disabilities, mental illness, or mental impairment,
16 including but not limited to services provided under chapter 74.39A
17 RCW.

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

22 (3) The secretary shall provide the results of the state background
23 check on individual providers to the individuals with physical
24 disabilities, developmental disabilities, mental illness, or mental
25 impairment or to their legal guardians, if any, for their determination
26 of the character, suitability, and competence of the applicants. If an
27 individual elects to hire or retain an individual provider after
28 receiving notice from the department that the applicant has a
29 conviction for an offense that would disqualify the applicant from
30 employment with the department, then the secretary may deny payment for
31 any subsequent services rendered by the disqualified individual
32 provider.

33 (4) Criminal justice agencies shall provide the secretary such
34 information as they may have and that the secretary may require for
35 such purpose.

36 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
37 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect
2 immediately.

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