
SUBSTITUTE SENATE BILL 6152

State of Washington

56th Legislature

2000 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens, Hochstatter, Swecker and Kohl-Welles)

Read first time 02/04/2000.

1 AN ACT Relating to the care, supervision, and treatment of
2 children, developmentally disabled persons, and vulnerable adults; and
3 amending RCW 43.43.832 and 74.15.030.

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

28 (c) When contracting with individuals or businesses or
29 organizations, or when authorizing payment, for the care, supervision,
30 or treatment of children, developmentally disabled persons, or
31 vulnerable adults, including but not limited to services contracted for
32 under chapter 18.20, 18.48, 70.127, 70.128, 72.36, or 74.39A RCW or
33 Title 71A RCW.

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

1 contractor on a conditional basis pending completion of the national
2 check. The Washington personnel resources board shall adopt rules to
3 accomplish the purposes of this subsection as it applies to state
4 employees.

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

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

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

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

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

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

38 (g) For the purposes of this subsection, "health care facility"
39 means a nursing home licensed under chapter 18.51 RCW, a boarding home

1 licensed under chapter 18.20 RCW, or an adult family home licensed
2 under chapter 70.128 RCW.

3 **Sec. 2.** RCW 74.15.030 and 1997 c 386 s 33 are each amended to read
4 as follows:

5 The secretary shall have the power and it shall be the secretary's
6 duty:

7 (1) In consultation with the children's services advisory
8 committee, and with the advice and assistance of persons representative
9 of the various type agencies to be licensed, to designate categories of
10 facilities for which separate or different requirements shall be
11 developed as may be appropriate whether because of variations in the
12 ages, sex and other characteristics of persons served, variations in
13 the purposes and services offered or size or structure of the agencies
14 to be licensed hereunder, or because of any other factor relevant
15 thereto;

16 (2) In consultation with the children's services advisory
17 committee, and with the advice and assistance of persons representative
18 of the various type agencies to be licensed, to adopt and publish
19 minimum requirements for licensing applicable to each of the various
20 categories of agencies to be licensed and minimum requirements when
21 authorizing payment for exempt child care providers.

22 The minimum requirements shall be limited to:

23 (a) The size and suitability of a facility and the plan of
24 operation for carrying out the purpose for which an applicant seeks a
25 license;

26 (b) The character, suitability and competence of an agency and
27 other persons associated with an agency directly responsible for the
28 care and treatment of children, expectant mothers or developmentally
29 disabled persons. In consultation with law enforcement personnel, the
30 secretary shall investigate the conviction record or pending charges
31 and dependency record information under chapter 43.43 RCW of each
32 agency and its staff seeking licensure or relicensure. In order to
33 determine the character, suitability, and competence of applicants for
34 an agency license, licensees, their employees, ((and)) other persons
35 who have unsupervised access to children in care, and when authorizing
36 payment for services by a person who has unsupervised access to a
37 child, the department shall:

1 (i) In consultation with law enforcement personnel, investigate the
2 conviction record or pending charges and dependency record information
3 under chapter 43.43 RCW of any such person;

4 (ii) Require that any such person who ((have)) has not resided in
5 the state of Washington during the three-year period before being
6 authorized to care for children shall be fingerprinted. The
7 requirement for fingerprints does not include those individuals or
8 businesses or organizations named in RCW 43.43.832(4)(c). The
9 fingerprints shall be forwarded to the Washington state patrol and
10 federal bureau of investigation for a criminal history records check.
11 To investigate criminal history information, the department may
12 reasonably rely on a criminal history records check of the Washington
13 state patrol criminal identification system and, where a federal bureau
14 of investigation check is required, a federal bureau of investigation
15 check by another governmental agency or the United States military if
16 the check is less than one year old. The fingerprint criminal history
17 records checks will be at the expense of the licensee except that in
18 the case of a foster family home, if this expense would work a hardship
19 on the licensee, the department shall pay the expense. The licensee
20 may not pass this cost on to the employee or prospective employee,
21 unless the employee is determined to be unsuitable due to his or her
22 criminal history record. The secretary shall use the information
23 solely for the purpose of determining eligibility for a license and for
24 determining the character, suitability, and competence of those persons
25 or agencies, excluding parents, not required to be licensed who are
26 authorized to care for children, expectant mothers, and developmentally
27 disabled persons. The department shall share the conviction record,
28 pending charges, and dependency record information with the child
29 placing agency that is responsible for certifying the licensee or
30 applicant. Criminal justice agencies shall provide the secretary such
31 information as they may have and that the secretary may require for
32 such purpose;

33 (iii) For applicants requiring a federal bureau of investigation
34 fingerprint check, after the Washington state patrol clears the
35 individual, issue a one hundred twenty day work permit to foster
36 parents and child welfare agency staff. Final clearance may be made
37 only after the federal bureau of investigation clearance is complete;
38 and

1 (iv) Permit a waiver to any exempt child care provider whose
2 background check would otherwise preclude the department from
3 authorizing payment for his or her services when the background check
4 results have been shared with the parent and when an administrative law
5 judge under chapter 34.12 RCW has made a determination that care by the
6 exempt child care provider presents no substantial risk of harm to the
7 child;

8 (c) The number of qualified persons required to render the type of
9 care and treatment for which an agency seeks a license;

10 (d) The safety, cleanliness, and general adequacy of the premises
11 to provide for the comfort, care and well-being of children, expectant
12 mothers or developmentally disabled persons;

13 (e) The provision of necessary care, including food, clothing,
14 supervision and discipline; physical, mental and social well-being; and
15 educational, recreational and spiritual opportunities for those served;

16 (f) The financial ability of an agency to comply with minimum
17 requirements established pursuant to this chapter ((~~74.15~~ RCW)) and RCW
18 74.13.031; and

19 (g) The maintenance of records pertaining to the admission,
20 progress, health and discharge of persons served;

21 (3) To investigate any person, including relatives by blood or
22 marriage except for parents, for character, suitability, and competence
23 in the care and treatment of children, expectant mothers, and
24 developmentally disabled persons prior to authorizing that person to
25 care for children, expectant mothers, and developmentally disabled
26 persons. However, if a child is placed with a relative under RCW
27 13.34.060 or 13.34.130, and if such relative appears otherwise suitable
28 and competent to provide care and treatment the criminal history
29 background check required by this section need not be completed before
30 placement, but shall be completed as soon as possible after placement;

31 (4) On reports of alleged child abuse and neglect, to investigate
32 agencies in accordance with chapter 26.44 RCW, including child day-care
33 centers and family day-care homes, to determine whether the alleged
34 abuse or neglect has occurred, and whether child protective services or
35 referral to a law enforcement agency is appropriate;

36 (5) To issue, revoke, or deny licenses to agencies pursuant to this
37 chapter ((~~74.15~~ RCW)) and RCW 74.13.031. Licenses shall specify the
38 category of care which an agency is authorized to render and the ages,
39 sex and number of persons to be served;

1 (6) To prescribe the procedures and the form and contents of
2 reports necessary for the administration of this chapter ((74.15-RCW))
3 and RCW 74.13.031 and to require regular reports from each licensee;
4 (7) To inspect agencies periodically to determine whether or not
5 there is compliance with this chapter ((74.15-RCW)) and RCW 74.13.031
6 and the requirements adopted hereunder;
7 (8) To review requirements adopted hereunder at least every two
8 years and to adopt appropriate changes after consultation with the
9 child care coordinating committee and other affected groups for child
10 day-care requirements and with the children's services advisory
11 committee for requirements for other agencies; and
12 (9) To consult with public and private agencies in order to help
13 them improve their methods and facilities for the care of children,
14 expectant mothers and developmentally disabled persons.

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