
SENATE BILL 5606

State of Washington

57th Legislature

2001 Regular Session

By Senators Kohl-Welles and Long; by request of Department of Social and Health Services

Read first time 01/29/2001. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to making the background check requirements for
2 department of social and health services' employees consistent with
3 background check requirements for service providers, agencies, and
4 entities serving vulnerable adults and children; amending RCW
5 9.96A.020, 41.06.475, 43.20A.020, 43.20A.710, 43.43.830, 43.43.832,
6 72.05.440, and 72.23.035; reenacting and amending RCW 74.15.030;
7 creating a new section; and declaring an emergency.

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

9 **Sec. 1.** RCW 9.96A.020 and 1999 c 16 s 1 are each amended to read
10 as follows:

11 (1) Subject to the exceptions in subsections (3) (~~and (4)~~)
12 through (5) of this section, and unless there is another provision of
13 law to the contrary, a person is not disqualified from employment by
14 the state of Washington or any of its counties, cities, towns,
15 municipal corporations, or quasi-municipal corporations, nor is a
16 person disqualified to practice, pursue or engage in any occupation,
17 trade, vocation, or business for which a license, permit, certificate
18 or registration is required to be issued by the state of Washington or
19 any of its counties, cities, towns, municipal corporations, or quasi-

1 municipal corporations solely because of a prior conviction of a
2 felony. However, this section does not preclude the fact of any prior
3 conviction of a crime from being considered.

4 (2) A person may be denied employment by the state of Washington or
5 any of its counties, cities, towns, municipal corporations, or quasi-
6 municipal corporations, or a person may be denied a license, permit,
7 certificate or registration to pursue, practice or engage in an
8 occupation, trade, vocation, or business by reason of the prior
9 conviction of a felony if the felony for which he or she was convicted
10 directly relates to the position of employment sought or to the
11 specific occupation, trade, vocation, or business for which the
12 license, permit, certificate or registration is sought, and the time
13 elapsed since the conviction is less than ten years. However, for
14 positions in the county treasurer's office, a person may be
15 disqualified from employment because of a prior guilty plea or
16 conviction of a felony involving embezzlement or theft, even if the
17 time elapsed since the guilty plea or conviction is ten years or more.

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

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

35 (5) The department of social and health services is exempt from the
36 requirements of subsections (1) and (2) of this section when employing
37 a person who, in the course of his or her employment, will or may have
38 unsupervised access to children, juveniles as defined in RCW 72.05.020,

1 vulnerable adults as defined in RCW 43.20A.020, or individuals with
2 developmental disabilities or mental illness.

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

5 **Sec. 2.** RCW 41.06.475 and 1993 c 281 s 38 are each amended to read
6 as follows:

7 (1) The Washington personnel resources board shall adopt rules,
8 consistent with RCW 43.20A.710, and in cooperation with the secretary
9 of social and health services, (~~for~~) concerning the background
10 investigation of (~~persons being considered for state employment in~~
11 positions directly responsible for the supervision, care, or treatment
12 of children or developmentally disabled persons)) current employees or
13 applicants seeking or being considered for any position that will or
14 may allow unsupervised access, as defined in RCW 43.43.830, to
15 children, juveniles, vulnerable adults, or individuals with
16 developmental disabilities or mental illness.

17 (2) The rules shall:

18 (a) Specify that the department of social and health services shall
19 conduct a background investigation, including a conviction record check
20 through the Washington state patrol in accordance with chapter 10.97
21 RCW, on all current department of social and health services'
22 employees, volunteers and students, and all applicants who are being
23 considered for any existing or new position under this act;

24 (b) Require that the background investigation conducted on
25 applicants or current department of social and health services'
26 employees be equivalent to the investigation required to be conducted
27 for any service provider, entity, agency, facility, organization or
28 business, their staff, and volunteers and students. The secretary of
29 social and health services shall use the information solely to
30 determine the character, suitability, and competence of the applicant
31 to have unsupervised access to children, juveniles, vulnerable adults,
32 or individuals with developmental disabilities or mental illness;

33 (c) Require that the disqualification of an applicant or current
34 department of social and health services' employee from unsupervised
35 access to children, juveniles, vulnerable adults, or individuals with
36 developmental disabilities or mental illness is based on a standard
37 equivalent to the disqualification requirements for service providers
38 who are not department of social and health services' employees;

1 (d) Specify that one year from the effective date of this act, the
2 department of social and health services will initiate background check
3 investigations for all current department of social and health
4 services' employees, students, and volunteers who hold positions
5 covered by this section and have not previously had a department of
6 social and health services' background check investigation under this
7 act;

8 (e) Specify that any current employee or applicant seeking or being
9 considered for employment with the department of social and health
10 services in a position covered under this act who has resided in the
11 state less than three years prior to the application for the position
12 will be required to be fingerprinted for the purpose of conducting a
13 background check through the federal bureau of investigation;

14 (f) Describe the actions the department of social and health
15 services will take if, as a result of a background investigation, a
16 current permanent employee is not eligible to have unsupervised access
17 to children, juveniles, vulnerable adults, or individuals with
18 developmental disabilities or mental illness;

19 (g) Ensure that if an employee's position is changed due to a
20 reduction in force or reorganization, and the new position includes
21 unsupervised access to children, juveniles, vulnerable adults, or
22 individuals with developmental disabilities or mental illness, the
23 department of social and health services will conduct a background
24 investigation unless a background investigation has previously been
25 conducted in accordance with this section;

26 (h) Require that information obtained from a background
27 investigation will be private in accordance with chapter 10.97 RCW,
28 Washington state criminal records privacy act, and be handled under the
29 confidentiality requirements of the Washington state patrol and the
30 federal bureau of investigation; and

31 (i) Specify that department of social and health services'
32 employees who work for more than one administration, or those that
33 transfer from one administration to another, will be responsible to
34 meet the background investigation standards of the administration with
35 the more rigorous requirement.

36 **Sec. 3.** RCW 43.20A.020 and 1987 c 283 s 1 are each amended to read
37 as follows:

38 As used in this chapter, unless the context indicates otherwise:

1 (1) "Applicant" means applicant as defined in RCW 43.43.830.

2 (2) "Background investigation" means a review of conviction
3 records, and may include: Review of in-state and/or out-of-state
4 disciplinary board final decisions; civil adjudication records; records
5 of protection orders issued against the applicant; department findings;
6 license status; and pending charges.

7 (3) "Department" means the department of social and health
8 services.

9 ~~((2) "Secretary" means the secretary of the department of social~~
10 ~~and health services.~~

11 ~~(3))~~ (4) "Department finding" means a determination by the
12 department that an individual has physically, sexually, or verbally
13 abused, neglected, or exploited a child, juvenile, vulnerable adult, or
14 individual with a developmental disability or mental illness.

15 (5) "Deputy secretary" means the deputy secretary of the department
16 of social and health services.

17 ~~((4))~~ (6) "Disciplinary board final decision" means the same as
18 defined in RCW 43.43.830 and includes the following additional
19 professions:

20 (a) Physicians' assistant;
21 (b) Nursing assistant registered or certified;
22 (c) Occupational therapist;
23 (d) Recreational therapist and certified therapeutic specialists;
24 (e) Speech therapist; and
25 (f) Forensic therapist;

26 (7) "Juvenile" means a person under the age of twenty-one who has
27 been sentenced to a term of confinement under the supervision of the
28 department under RCW 13.40.185.

29 (8) "License status" means the current and past history of an
30 individual's professional license, certification, or registration or
31 the current and past history of a license issued to a service provider,
32 organization, agency, or other entity to provide care or service to
33 children, juveniles, vulnerable adults, or individuals with
34 developmental disabilities or mental illness.

35 (9) "Overpayment" means any department payment or department
36 benefit to a recipient or to a vendor in excess of that to which the
37 recipient or vendor is entitled by law, rule, or contract, including
38 amounts in dispute pending resolution.

1 (~~(5)~~) (10) "Secretary" means the secretary of the department of
2 social and health services.

3 (11) "Vendor" means an entity that provides goods or services to or
4 for clientele of the department and that controls operational
5 decisions.

6 (12) "Vulnerable adult, or an individual with a developmental
7 disability or mental illness" means the same as those terms are defined
8 in RCW 43.43.830 and chapter 74.34 RCW, except for agencies certified
9 under chapter 70.96A RCW, vulnerable adult means individuals admitted
10 for detoxification treatment or who are involuntarily committed under
11 chapter 70.96A RCW.

12 **Sec. 4.** RCW 43.20A.710 and 2000 c 87 s 2 are each amended to read
13 as follows:

14 (1) The secretary shall (~~(investigate the conviction records,~~
15 ~~pending charges or disciplinary board final decisions of)~~) conduct
16 background investigations for:

17 (a) (~~(Persons being considered for state employment in positions~~
18 ~~directly responsible for the supervision, care, or treatment of)~~) Any
19 current employee or applicant seeking or being considered for any
20 position with the department who will or may have unsupervised access
21 to children, juveniles, vulnerable adults, or individuals with mental
22 illness or developmental disabilities according to rules adopted under
23 RCW 41.06.475;

24 (b) (~~(Persons being considered for state employment in positions~~
25 ~~involving unsupervised access to vulnerable adults)~~) Any current
26 employee or applicant seeking or being considered for any position with
27 the department who will or may have unsupervised access to children,
28 juveniles, vulnerable adults, or individuals with developmental
29 disabilities or mental illness to conduct comprehensive assessments,
30 financial eligibility determinations, licensing and certification
31 activities, investigations, surveys, or case management; or for state
32 positions otherwise required by federal law to meet employment
33 standards according to rules adopted under RCW 41.06.475;

34 (c) Individual providers who are paid by the state and providers
35 who are paid by home care agencies to provide in-home services
36 involving unsupervised access to persons with physical, mental, or
37 developmental disabilities or mental illness, or to vulnerable adults

1 as defined in chapter 74.34 RCW, including but not limited to services
2 provided under chapter 74.39 or 74.39A RCW; and

3 (d) Individuals or businesses or organizations for the care,
4 supervision, case management, or treatment of children, developmentally
5 disabled persons, or vulnerable adults, including but not limited to
6 services contracted for under chapter 18.20, 18.48, 70.127, 70.128,
7 72.36, or 74.39A RCW or Title 71A RCW.

8 (2) The investigation may include an examination of state and
9 national criminal identification data. The secretary shall use the
10 information solely (~~for the purpose of determining~~) to determine the
11 character, suitability, and competence of (~~these~~) applicants to have
12 unsupervised access to children, juveniles, vulnerable adults, or
13 individuals with developmental disabilities or mental illness.

14 (3) An individual provider or home care agency provider who has
15 resided in the state less than three years before applying for
16 employment involving unsupervised access to a vulnerable adult as
17 defined in chapter 74.34 RCW must be fingerprinted for the purpose of
18 investigating conviction records both through the Washington state
19 patrol and the federal bureau of investigation. This subsection
20 applies only with respect to the provision of in-home services funded
21 by medicaid personal care under RCW 74.09.520, community options
22 program entry system waiver services under RCW 74.39A.030, or chore
23 services under RCW 74.39A.110. However, this subsection does not
24 supersede RCW 74.15.030(2)(b).

25 (4) An individual provider or home care agency provider hired to
26 provide in-home care for and having unsupervised access to a vulnerable
27 adult as defined in chapter 74.34 RCW must have no conviction for a
28 disqualifying crime under RCW 43.43.830 and 43.43.842. An individual
29 or home care agency provider must also have no conviction for a crime
30 relating to drugs as defined in RCW 43.43.830. This subsection applies
31 only with respect to the provision of in-home services funded by
32 medicaid personal care under RCW 74.09.520, community options program
33 entry system waiver services under RCW 74.39A.030, or chore services
34 under RCW 74.39A.110.

35 (5) The secretary shall provide the results of the background check
36 on individual providers to the persons hiring them or to their legal
37 guardians, if any, for their determination of the character,
38 suitability, and competence of the applicants. If the person elects to
39 hire or retain an individual provider after receiving notice from the

1 department that the applicant has a conviction for an offense that
2 would disqualify the applicant from having unsupervised access to
3 persons with physical, mental, or developmental disabilities or mental
4 illness, or to vulnerable adults as defined in chapter 74.34 RCW, then
5 the secretary shall deny payment for any subsequent services rendered
6 by the disqualified individual provider.

7 (6) Criminal justice agencies shall provide the secretary such
8 information as they may have and that the secretary may require for
9 such purpose.

10 **Sec. 5.** RCW 43.43.830 and 1999 c 45 s 5 are each amended to read
11 as follows:

12 Unless the context clearly requires otherwise, the definitions in
13 this section apply throughout RCW 43.43.830 through ~~((43.43.840))~~
14 43.43.842.

15 (1) "Applicant" means:

16 (a) Any prospective employee or student who will or may have
17 unsupervised access to children under sixteen years of age ~~((or~~
18 ~~developmentally disabled persons or))~~, juveniles, vulnerable adults, or
19 individuals with developmental disabilities or mental illness during
20 the course of his or her employment or involvement with the business or
21 organization;

22 (b) Any prospective volunteer who will or may have regularly
23 scheduled unsupervised access to children under sixteen years of age,
24 ~~((developmentally disabled persons, or))~~ juveniles, vulnerable adults,
25 or individuals with developmental disabilities or mental illness during
26 the course of his or her employment or involvement with the business or
27 organization under circumstances where such access will or may involve
28 groups of (i) five or fewer children under twelve years of age, (ii)
29 three or fewer children between twelve and sixteen years of age, (iii)
30 developmentally disabled persons, or (iv) vulnerable adults; or

31 (c) Any prospective adoptive parent, as defined in RCW 26.33.020.

32 (2) "Business or organization" means a business or organization
33 licensed in this state, any agency of the state, or other governmental
34 entity, that educates, trains, treats, supervises, houses, or provides
35 recreation to ~~((developmentally disabled persons,))~~ vulnerable adults,
36 ~~((or))~~ individuals with developmental disabilities or mental illness,
37 children under sixteen years of age, or juveniles, including but not

1 limited to public housing authorities, school districts, and
2 educational service districts.

3 (3) "Civil adjudication" means a specific court finding of sexual
4 abuse or exploitation or physical abuse in a dependency action under
5 RCW 13.34.040 or in a domestic relations action under Title 26 RCW. In
6 the case of vulnerable adults, civil adjudication means a specific
7 court finding of abuse or financial exploitation in a protection
8 proceeding under chapter 74.34 RCW. It does not include administrative
9 proceedings. The term "civil adjudication" is further limited to court
10 findings that identify as the perpetrator of the abuse a named
11 individual, over the age of eighteen years, who was a party to the
12 dependency or dissolution proceeding or was a respondent in a
13 protection proceeding in which the finding was made and who contested
14 the allegation of abuse or exploitation.

15 (4) "Conviction record" means "conviction record" information as
16 defined in RCW 10.97.030(3) relating to a crime against children or
17 other persons committed by either an adult or a juvenile. It does not
18 include a conviction for an offense that has been the subject of an
19 expungement, pardon, annulment, certificate of rehabilitation, or other
20 equivalent procedure based on a finding of the rehabilitation of the
21 person convicted, or a conviction that has been the subject of a
22 pardon, annulment, or other equivalent procedure based on a finding of
23 innocence. It does include convictions for offenses for which the
24 defendant received a deferred or suspended sentence, unless the record
25 has been expunged according to law.

26 (5) "Crime against children or other persons" means a conviction of
27 any of the following offenses: Aggravated murder; first or second
28 degree murder; first or second degree kidnaping; first, second, or
29 third degree assault; first, second, or third degree assault of a
30 child; first, second, or third degree rape; first, second, or third
31 degree rape of a child; first or second degree robbery; first degree
32 arson; first degree burglary; first or second degree manslaughter;
33 first or second degree extortion; indecent liberties; incest; vehicular
34 homicide; first degree promoting prostitution; communication with a
35 minor; unlawful imprisonment; simple assault; sexual exploitation of
36 minors; first or second degree criminal mistreatment; child abuse or
37 neglect as defined in RCW 26.44.020; first or second degree custodial
38 interference; first or second degree custodial sexual misconduct;
39 malicious harassment; first, second, or third degree child molestation;

1 first or second degree sexual misconduct with a minor; patronizing a
2 juvenile prostitute; child abandonment; promoting pornography; selling
3 or distributing erotic material to a minor; custodial assault;
4 violation of child abuse restraining order; child buying or selling;
5 prostitution; felony indecent exposure; criminal abandonment; or any of
6 these crimes as they may be renamed in the future.

7 (6) "Crimes relating to drugs" means a conviction of a crime to
8 manufacture, delivery, or possession with intent to manufacture or
9 deliver a controlled substance.

10 (7) "Crimes relating to financial exploitation" means a conviction
11 for first, second, or third degree extortion; first, second, or third
12 degree theft; first or second degree robbery; forgery; or any of these
13 crimes as they may be renamed in the future.

14 (8) "Disciplinary board final decision" means any final decision
15 issued by a disciplining authority under chapter 18.130 RCW or the
16 secretary of the department of health for the following businesses or
17 professions:

- 18 (a) Chiropractic;
- 19 (b) Dentistry;
- 20 (c) Dental hygiene;
- 21 (d) Massage;
- 22 (e) Midwifery;
- 23 (f) Naturopathy;
- 24 (g) Osteopathic medicine and surgery;
- 25 (h) Physical therapy;
- 26 (i) Physicians;
- 27 (j) Practical nursing;
- 28 (k) Registered nursing; and
- 29 (l) Psychology.

30 "Disciplinary board final decision," for real estate brokers and
31 salespersons, means any final decision issued by the director of the
32 department of licensing for real estate brokers and salespersons.

33 (9) "Unsupervised" means not in the presence of:

34 (a) Another employee or volunteer from the same business or
35 organization as the applicant; or

36 (b) Any relative or guardian of any of the children or
37 (~~developmentally disabled persons~~) individuals with developmental
38 disabilities or vulnerable adults to which the applicant has access

1 during the course of his or her employment or involvement with the
2 business or organization.

3 (10) "Vulnerable adult" means "vulnerable adult" as defined in
4 chapter 74.34 RCW, except that for the purposes of requesting and
5 receiving background checks pursuant to RCW 43.43.832, it shall also
6 include adults of any age who lack the functional, mental, or physical
7 ability to care for themselves.

8 (11) "Financial exploitation" means the illegal or improper use of
9 a vulnerable adult or that adult's resources for another person's
10 profit or advantage.

11 (12) "Agency" means any person, firm, partnership, association,
12 corporation, or facility which receives, provides services to, houses,
13 or otherwise cares for vulnerable adults, children, juveniles, or
14 individuals with developmental disabilities or mental illness.

15 (13) "Juvenile" means juvenile as defined in RCW 43.20A.020.

16 **Sec. 6.** RCW 43.43.832 and 2000 c 87 s 1 are each amended to read
17 as follows:

18 (1) The legislature finds that businesses and organizations
19 providing services to children, ~~((developmentally disabled persons,~~
20 ~~and)) juveniles, vulnerable adults, or individuals with developmental
21 disabilities or mental illness need adequate information to determine
22 which employees or licensees to hire or engage. The legislature
23 further finds that many ~~((developmentally disabled))~~ individuals
24 ~~((and)) with developmental disabilities or mental illness, or other~~
25 vulnerable adults desire to hire their own employees directly and also
26 need adequate information to determine which employees or licensees to
27 hire or engage. Therefore, the Washington state patrol criminal
28 identification system shall disclose, upon the request of a business or
29 organization as defined in RCW 43.43.830, ~~((a developmentally disabled~~
30 ~~person)) an individual with a developmental disability or mental~~
31 illness, or a vulnerable adult as defined in RCW 43.43.830 or his or
32 her guardian, an applicant's record for convictions of offenses against
33 children or other persons, convictions for crimes relating to financial
34 exploitation, but only if the victim was a vulnerable adult,
35 adjudications of child abuse in a civil action, the issuance of a
36 protection order against the respondent under chapter 74.34 RCW, and
37 disciplinary board final decisions and any subsequent criminal charges~~

1 associated with the conduct that is the subject of the disciplinary
2 board final decision.

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

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

13 (4) The legislature further finds that the department of social and
14 health services must ~~((consider the information listed in subsection
15 (1) of this section in the following circumstances))~~ conduct a
16 background investigation in accordance with RCW 43.20A.710 and follow
17 the rules adopted under RCW 41.06.475 when:

18 (a) ~~((When))~~ Considering ((persons)) any current employee or other
19 applicant for state employment in ((positions directly responsible for
20 the supervision, care, or treatment of)) any position that will or may
21 have unsupervised access to children, juveniles, vulnerable adults, or
22 individuals with mental illness or developmental disabilities; and

23 (b) ~~((When))~~ Considering ((persons)) any current employee or other
24 applicant for any state position((s involving)) that will or may allow
25 unsupervised access to children, juveniles, vulnerable adults, or
26 individuals with developmental disabilities or mental illness to
27 conduct comprehensive assessments, financial eligibility
28 determinations, licensing and certification activities, investigations,
29 surveys, or case management; or for state positions otherwise required
30 by federal law to meet employment standards((+)).

31 ~~((+e))~~ (5) The department of social and health services must
32 consider the information listed in subsection (1) of this section when:

33 (a) Licensing agencies or facilities with individuals in positions
34 directly responsible for the care, supervision, or treatment of
35 children, ((developmentally disabled persons)) juveniles, ((or))
36 vulnerable adults, ((including but not limited to agencies or
37 facilities licensed under chapter 74.15 or 18.51 RCW)) or individuals
38 with developmental disabilities or mental illness;

1 (~~(d) When~~) (b) Contracting with individuals or businesses or
2 organizations for the care, supervision, case management, or treatment
3 of children, (~~developmentally disabled persons~~) juveniles, (or)
4 vulnerable adults, (~~including but not limited to services contracted~~
5 ~~for under chapter 18.20, 18.48, 70.127, 70.128, 72.36, or 74.39A RCW or~~
6 ~~Title 71A RCW~~) or individuals with developmental disabilities or
7 mental illness; and

8 (~~(e) When~~) (c) Individual providers are paid by the state or
9 providers are paid by home care agencies to provide in-home services
10 involving unsupervised access to persons with physical, mental, or
11 developmental disabilities or mental illness, or to vulnerable adults
12 as defined in (~~chapter 74.34~~) RCW 43.43.830, including but not
13 limited to services provided under chapter 74.39 or 74.39A RCW.

14 (~~(5)~~) (6) Whenever a state conviction record check is required by
15 state law, persons may be employed or engaged as volunteers or
16 independent contractors on a conditional basis pending completion of
17 the state background investigation. Whenever a national criminal
18 record check through the federal bureau of investigation is required by
19 state law, a person may be employed or engaged as a volunteer or
20 independent contractor on a conditional basis pending completion of the
21 national check.

22 (7) The Washington personnel resources board shall adopt rules in
23 accordance with RCW 41.06.475 to accomplish the purposes of this
24 subsection as it applies to state employees.

25 (~~(6)~~) (8)(a) For purposes of facilitating timely access to
26 criminal background information and to reasonably minimize the number
27 of requests made under this section, recognizing that certain health
28 care providers change employment frequently, health care facilities
29 may, upon request from another health care facility, share copies of
30 completed criminal background inquiry information.

31 (b) Completed criminal background inquiry information may be shared
32 by a willing health care facility only if the following conditions are
33 satisfied: The licensed health care facility sharing the criminal
34 background inquiry information is reasonably known to be the person's
35 most recent employer, no more than twelve months has elapsed from the
36 date the person was last employed at a licensed health care facility to
37 the date of their current employment application, and the criminal
38 background information is no more than two years old.

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

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

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

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

20 (g) For the purposes of this subsection, "health care facility"
21 means a nursing home licensed under chapter 18.51 RCW, a boarding home
22 licensed under chapter 18.20 RCW, or an adult family home licensed
23 under chapter 70.128 RCW.

24 ~~((7))~~ (9) If a federal bureau of investigation check is required
25 in addition to the state background check by the department of social
26 and health services, an applicant who is not disqualified based on the
27 results of the state background check shall be eligible for a one
28 hundred twenty day provisional approval to hire, pending the outcome of
29 the federal bureau of investigation check. The department may extend
30 the provisional approval until receipt of the federal bureau of
31 investigation check. If the federal bureau of investigation check
32 disqualifies an applicant, the department shall notify the requestor
33 that the provisional approval to hire is withdrawn and the applicant
34 may be terminated.

35 **Sec. 7.** RCW 72.05.440 and 1998 c 269 s 16 are each amended to read
36 as follows:

37 (1) A person shall not be eligible for an employed or volunteer
38 position within the juvenile rehabilitation administration or any

1 agency with which it contracts in which the person may have regular or
2 unsupervised access, as defined in RCW 43.43.830, to juveniles under
3 the jurisdiction of the department of social and health services or the
4 department of corrections if the person has been convicted of one or
5 more of the following:

6 (a) Any felony sex offense;

7 (b) Any violent offense, as defined in RCW 9.94A.030.

8 (2) Subsection (1) of this section applies only to persons hired by
9 the department or any of its contracting agencies after September 1,
10 1998.

11 (3) Any person employed by the juvenile rehabilitation
12 administration, or by any contracting agency, who may have regular or
13 unsupervised access, as defined in RCW 43.43.830, to juveniles under
14 the jurisdiction of the department or the department of corrections and
15 who is convicted of an offense set forth in this section after
16 September 1, 1998, shall report the conviction to his or her
17 supervisor. The report must be made within seven days of conviction.
18 Failure to report within seven days of conviction constitutes
19 misconduct under Title 50 RCW.

20 (4) For purposes of this section "may have regular access to
21 juveniles" means access for more than a nominal amount of time.

22 (5) The department shall adopt rules to implement this section.

23 **Sec. 8.** RCW 72.23.035 and 1989 c 334 s 12 are each amended to read
24 as follows:

25 (1) In consultation with law enforcement personnel and other state
26 agencies, the secretary shall have the power and duty to investigate
27 the ((conviction record and the protection proceeding record
28 information under chapter 43.43 RCW of each prospective employee of))
29 background of any current employee or applicant, as defined in RCW
30 43.20A.020, seeking or being considered for any position that will or
31 may allow unsupervised access, as defined in RCW 43.43.830, to clients
32 residing in a state hospital.

33 (2) The background investigation that is conducted must be the same
34 as described in RCW 43.20A.710 and shall meet the rules adopted in
35 accordance with RCW 41.06.475.

36 **Sec. 9.** RCW 74.15.030 and 2000 c 162 s 20 and 2000 c 122 s 40 are
37 each reenacted and amended to read as follows:

1 The secretary shall have the power and it shall be the secretary's
2 duty:

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

12 (2) In consultation with the children's services advisory
13 committee, and with the advice and assistance of persons representative
14 of the various type agencies to be licensed, to adopt and publish
15 minimum requirements for licensing applicable to each of the various
16 categories of agencies to be licensed.

17 The minimum requirements shall be limited to:

18 (a) The size and suitability of a facility and the plan of
19 operation for carrying out the purpose for which an applicant seeks a
20 license;

21 (b) The character, suitability, and competence of an agency and
22 other persons associated with an agency directly responsible for the
23 care and treatment of, or in positions that will or may allow
24 unsupervised access to, children, expectant mothers, or
25 ((developmentally disabled persons)) individuals with developmental
26 disabilities. In consultation with law enforcement personnel, the
27 secretary shall investigate the conviction record or pending charges
28 and dependency record information under chapter 43.43 RCW of each
29 agency and its staff seeking licensure or relicensure. No unfounded
30 allegation of child abuse or neglect as defined in RCW 26.44.020 may be
31 disclosed to a child-placing agency, private adoption agency, or any
32 other provider licensed under this chapter. In order to determine the
33 suitability of applicants for an agency license, licensees, their
34 employees, and other persons who have unsupervised access to children
35 in care, and who have not resided in the state of Washington during the
36 three-year period before being authorized to care for children shall be
37 fingerprinted. The fingerprints shall be forwarded to the Washington
38 state patrol and federal bureau of investigation for a criminal history
39 records check. The fingerprint criminal history records checks will be

1 at the expense of the licensee except that in the case of a foster
2 family home, if this expense would work a hardship on the licensee, the
3 department shall pay the expense. The licensee may not pass this cost
4 on to the employee or prospective employee, unless the employee is
5 determined to be unsuitable due to his or her criminal history record.
6 The secretary shall use the information solely for the purpose of
7 determining eligibility for a license and for determining the
8 character, suitability, and competence of those persons or agencies,
9 excluding parents, not required to be licensed who are authorized to
10 care for children, expectant mothers, and (~~developmentally disabled~~
11 ~~persons~~) individuals with developmental disabilities. Criminal
12 justice agencies shall provide the secretary such information as they
13 may have and that the secretary may require for such purpose;

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

16 (d) The safety, cleanliness, and general adequacy of the premises
17 to provide for the comfort, care and well-being of children, expectant
18 mothers, or (~~developmentally disabled persons~~) individuals with
19 developmental disabilities;

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

23 (f) The financial ability of an agency to comply with minimum
24 requirements established pursuant to chapter 74.15 RCW and RCW
25 74.13.031; and

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

28 (3) To investigate any person, including relatives by blood or
29 marriage except for parents, for character, suitability, and competence
30 in the care and treatment of children, expectant mothers, and
31 (~~developmentally disabled persons~~) individuals with developmental
32 disabilities prior to authorizing that person to care for children,
33 expectant mothers, and (~~developmentally disabled persons~~) individuals
34 with developmental disabilities. However, if a child is placed with a
35 relative under RCW 13.34.065 or 13.34.130, and if such relative appears
36 otherwise suitable and competent to provide care and treatment the
37 criminal history background check required by this section need not be
38 completed before placement, but shall be completed as soon as possible
39 after placement;

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

6 (5) To issue, revoke, or deny licenses to agencies pursuant to
7 chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the
8 category of care which an agency is authorized to render and the ages,
9 sex and number of persons to be served;

10 (6) To prescribe the procedures and the form and contents of
11 reports necessary for the administration of chapter 74.15 RCW and RCW
12 74.13.031 and to require regular reports from each licensee;

13 (7) To inspect agencies periodically to determine whether or not
14 there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the
15 requirements adopted hereunder;

16 (8) To review requirements adopted hereunder at least every two
17 years and to adopt appropriate changes after consultation with the
18 child care coordinating committee and other affected groups for child
19 day-care requirements and with the children's services advisory
20 committee for requirements for other agencies; and

21 (9) To consult with public and private agencies in order to help
22 them improve their methods and facilities for the care of children,
23 expectant mothers, and ~~((developmentally disabled persons))~~ individuals
24 with developmental disabilities.

25 NEW SECTION. **Sec. 10.** The Washington personnel resources board
26 and the department of social and health services must adopt emergency
27 rules to implement this act to protect the health and safety of the
28 vulnerable clients of the department of social and health services.

29 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of the
31 state government and its existing public institutions, and takes effect
32 immediately.

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