

SSB 5774 - S AMD 272

By Senators Kohl-Welles, Hargrove, Stevens

ADOPTED 03/13/2007

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 43.43 RCW  
4 to read as follows:

5 (1) In order to determine the character, competence, and  
6 suitability of any applicant or service provider to have unsupervised  
7 access, the secretary may require a fingerprint-based background check  
8 through the Washington state patrol and the federal bureau of  
9 investigation at anytime, but shall require a fingerprint-based  
10 background check when the applicant or service provider has resided in  
11 the state less than three consecutive years before application, and:

12 (a) Is an applicant or service provider providing services to  
13 children or people with developmental disabilities under RCW 74.15.030;

14 (b) Is an individual residing in an applicant or service provider's  
15 home, facility, entity, agency, or business or who is authorized by the  
16 department to provide services to children or people with developmental  
17 disabilities under RCW 74.15.030; or

18 (c) Is an applicant or service provider providing in-home services  
19 funded by:

20 (i) Medicaid personal care under RCW 74.09.520;

21 (ii) Community options program entry system waiver services under  
22 RCW 74.39A.030;

23 (iii) Chore services under RCW 74.39A.110; or

24 (iv) Other home and community long-term care programs, established  
25 pursuant to chapters 74.39 and 74.39A RCW, administered by the  
26 department.

27 (2) The secretary shall require a fingerprint-based background  
28 check through the Washington state patrol identification and criminal  
29 history section and the federal bureau of investigation when the

1 department seeks to approve an applicant or service provider for a  
2 foster or adoptive placement of children in accordance with federal and  
3 state law.

4 (3) Any secure facility operated by the department under chapter  
5 71.09 RCW shall require applicants and service providers to undergo a  
6 fingerprint-based background check through the Washington state patrol  
7 identification and criminal history section and the federal bureau of  
8 investigation.

9 (4) Service providers and service provider applicants who are  
10 required to complete a fingerprint-based background check may be hired  
11 for a one hundred twenty-day provisional period as allowed under law or  
12 program rules when:

13 (a) A fingerprint-based background check is pending; and

14 (b) The applicant or service provider is not disqualified based on  
15 the immediate result of the background check.

16 (5) Fees charged by the Washington state patrol and the federal  
17 bureau of investigation for fingerprint-based background checks shall  
18 be paid by the department for applicants or service providers  
19 providing:

20 (a) Services to people with a developmental disability under RCW  
21 74.15.030;

22 (b) In-home services funded by medicaid personal care under RCW  
23 74.09.520;

24 (c) Community options program entry system waiver services under  
25 RCW 74.39A.030;

26 (d) Chore services under RCW 74.39A.110;

27 (e) Services under other home and community long-term care  
28 programs, established pursuant to chapters 74.39 and 74.39A RCW,  
29 administered by the department;

30 (f) Services in, or to residents of, a secure facility under RCW  
31 71.09.115; and

32 (g) Foster care when fees create a hardship as required under RCW  
33 74.15.030.

34 (6) Service providers licensed under RCW 74.15.030 must pay fees  
35 charged by the Washington state patrol and the federal bureau of  
36 investigation for conducting fingerprint-based background checks.

37 (7) Children's administration service providers licensed under RCW

1 74.15.030 may not pass on the cost of the background check fees to  
2 their applicants unless the individual is determined to be disqualified  
3 due to the background information.

4 (8) The department shall develop rules identifying the financial  
5 responsibility of service providers, applicants, and the department for  
6 paying the fees charged by law enforcement to roll, print, or scan  
7 fingerprints-based for the purpose of a Washington state patrol or  
8 federal bureau of investigation fingerprint-based background check.

9 (9) The department shall confirm that an applicant or service  
10 provider is a United States citizen or an eligible noncitizen.  
11 Citizenship or eligibility status may be confirmed through verification  
12 of the applicant's or service provider's social security number.

13 (10) For purposes of this section, unless the context plainly  
14 indicates otherwise:

15 (a) "Applicant" means a current or prospective department or  
16 service provider employee, volunteer, student, intern, researcher,  
17 contractor, or any other individual who will or may have unsupervised  
18 access because of the nature of the work or services he or she  
19 provides. "Applicant" includes but is not limited to any individual  
20 who will or may have unsupervised access and is:

21 (i) Applying for a license or certification from the department;

22 (ii) Seeking a contract with the department or a service provider;

23 (iii) Applying for employment, promotion, reallocation, or  
24 transfer;

25 (iv) An individual that a department client or guardian of a  
26 department client chooses to hire or engage to provide services to  
27 himself or herself or another vulnerable adult, juvenile, or child and  
28 who might be eligible to receive payment from the department for  
29 services rendered; or

30 (v) A department applicant who will or may work in a department-  
31 covered position.

32 (b) "Authorized" means the department grants an applicant, home, or  
33 facility permission to:

34 (i) Conduct licensing, certification, or contracting activities;

35 (ii) Have unsupervised access to vulnerable adults, juveniles, and  
36 children;

37 (iii) Receive payments from a department program; or

38 (iv) Work or serve in a department-covered position.

1 (c) "Department" means the department of social and health  
2 services.

3 (d) "Secretary" means the secretary of the department of social and  
4 health services.

5 (e) "Secure facility" has the meaning provided in RCW 71.09.020.

6 (f) "Service provider" means entities, facilities, agencies,  
7 businesses, or individuals who are licensed, certified, authorized, or  
8 regulated by, receive payment from, or have contracts or agreements  
9 with the department to provide services to vulnerable adults,  
10 juveniles, or children. "Service provider" includes individuals whom  
11 a department client or guardian of a department client may choose to  
12 hire or engage to provide services to himself or herself or another  
13 vulnerable adult, juvenile, or child and who might be eligible to  
14 receive payment from the department for services rendered. "Service  
15 provider" does not include those certified under chapter 70.96A RCW.

16 **Sec. 2.** RCW 26.33.190 and 1991 c 136 s 3 are each amended to read  
17 as follows:

18 (1) Any person may at any time request an agency, the department,  
19 an individual approved by the court, or a qualified salaried court  
20 employee to prepare a preplacement report. A certificate signed under  
21 penalty of perjury by the person preparing the report specifying his or  
22 her qualifications as required in this chapter shall be attached to or  
23 filed with each preplacement report and shall include a statement of  
24 training or experience that qualifies the person preparing the report  
25 to discuss relevant adoption issues. A person may have more than one  
26 preplacement report prepared. All preplacement reports shall be filed  
27 with the court in which the petition for adoption is filed.

28 (2) The preplacement report shall be a written document setting  
29 forth all relevant information relating to the fitness of the person  
30 requesting the report as an adoptive parent. The report shall be based  
31 on a study which shall include an investigation of the home  
32 environment, family life, health, facilities, and resources of the  
33 person requesting the report. The report shall include a list of the  
34 sources of information on which the report is based. The report shall  
35 include a recommendation as to the fitness of the person requesting the  
36 report to be an adoptive parent. The report shall also verify that the  
37 following issues were discussed with the prospective adoptive parents:

1 (a) The concept of adoption as a lifelong developmental process and  
2 commitment;

3 (b) The potential for the child to have feelings of identity  
4 confusion and loss regarding separation from the birth parents;

5 (c) Disclosure of the fact of adoption to the child;

6 (d) The child's possible questions about birth parents and  
7 relatives; and

8 (e) The relevance of the child's racial, ethnic, and cultural  
9 heritage.

10 (3) All preplacement reports shall include (~~(an investigation)~~) a  
11 background check of the conviction records, pending charges, or  
12 disciplinary board final decisions of prospective adoptive parents.  
13 The (~~(investigation)~~) background check shall include an examination of  
14 state and national criminal identification data provided by the  
15 Washington state patrol criminal identification system (~~(as described~~  
16 ~~in chapter 43.43 RCW)~~) including, but not limited to, a fingerprint-  
17 based background check of national crime information databases for any  
18 person being investigated. It shall also include a review of any child  
19 abuse and neglect history of any adult living in the prospective  
20 adoptive parents' home. The background check of the child abuse and  
21 neglect history shall include a review of the child abuse and neglect  
22 registries of all states in which the prospective adoptive parents or  
23 any other adult living in the home have lived during the five years  
24 preceding the date of the preplacement report.

25 (4) An agency, the department, or a court approved individual may  
26 charge a reasonable fee based on the time spent in conducting the study  
27 and preparing the preplacement report. The court may set a reasonable  
28 fee for conducting the study and preparing the report when a court  
29 employee has prepared the report. An agency, the department, a court  
30 approved individual, or the court may reduce or waive the fee if the  
31 financial condition of the person requesting the report so warrants.  
32 An agency's, the department's, or court approved individual's, fee is  
33 subject to review by the court upon request of the person requesting  
34 the report.

35 (5) The person requesting the report shall designate to the agency,  
36 the department, the court approved individual, or the court in writing  
37 the county in which the preplacement report is to be filed. If the  
38 person requesting the report has not filed a petition for adoption, the

1 report shall be indexed in the name of the person requesting the report  
2 and a cause number shall be assigned. A fee shall not be charged for  
3 filing the report. The applicable filing fee may be charged at the  
4 time a petition governed by this chapter is filed. Any subsequent  
5 preplacement reports shall be filed together with the original report.

6 (6) A copy of the completed preplacement report shall be delivered  
7 to the person requesting the report.

8 (7) A person may request that a report not be completed. A  
9 reasonable fee may be charged for the value of work done.

10 **Sec. 3.** RCW 26.44.030 and 2005 c 417 s 1 are each amended to read  
11 as follows:

12 (1)(a) When any practitioner, county coroner or medical examiner,  
13 law enforcement officer, professional school personnel, registered or  
14 licensed nurse, social service counselor, psychologist, pharmacist,  
15 licensed or certified child care providers or their employees, employee  
16 of the department, juvenile probation officer, placement and liaison  
17 specialist, responsible living skills program staff, HOPE center staff,  
18 or state family and children's ombudsman or any volunteer in the  
19 ombudsman's office has reasonable cause to believe that a child has  
20 suffered abuse or neglect, he or she shall report such incident, or  
21 cause a report to be made, to the proper law enforcement agency or to  
22 the department as provided in RCW 26.44.040.

23 (b) When any person, in his or her official supervisory capacity  
24 with a nonprofit or for-profit organization, has reasonable cause to  
25 believe that a child has suffered abuse or neglect caused by a person  
26 over whom he or she regularly exercises supervisory authority, he or  
27 she shall report such incident, or cause a report to be made, to the  
28 proper law enforcement agency, provided that the person alleged to have  
29 caused the abuse or neglect is employed by, contracted by, or  
30 volunteers with the organization and coaches, trains, educates, or  
31 counsels a child or children or regularly has unsupervised access to a  
32 child or children as part of the employment, contract, or voluntary  
33 service. No one shall be required to report under this section when he  
34 or she obtains the information solely as a result of a privileged  
35 communication as provided in RCW 5.60.060.

36 Nothing in this subsection (1)(b) shall limit a person's duty to  
37 report under (a) of this subsection.

1 For the purposes of this subsection, the following definitions  
2 apply:

3 (i) "Official supervisory capacity" means a position, status, or  
4 role created, recognized, or designated by any nonprofit or for-profit  
5 organization, either for financial gain or without financial gain,  
6 whose scope includes, but is not limited to, overseeing, directing, or  
7 managing another person who is employed by, contracted by, or  
8 volunteers with the nonprofit or for-profit organization.

9 (ii) "Regularly exercises supervisory authority" means to act in  
10 his or her official supervisory capacity on an ongoing or continuing  
11 basis with regards to a particular person.

12 (c) The reporting requirement also applies to department of  
13 corrections personnel who, in the course of their employment, observe  
14 offenders or the children with whom the offenders are in contact. If,  
15 as a result of observations or information received in the course of  
16 his or her employment, any department of corrections personnel has  
17 reasonable cause to believe that a child has suffered abuse or neglect,  
18 he or she shall report the incident, or cause a report to be made, to  
19 the proper law enforcement agency or to the department as provided in  
20 RCW 26.44.040.

21 (d) The reporting requirement shall also apply to any adult who has  
22 reasonable cause to believe that a child who resides with them, has  
23 suffered severe abuse, and is able or capable of making a report. For  
24 the purposes of this subsection, "severe abuse" means any of the  
25 following: Any single act of abuse that causes physical trauma of  
26 sufficient severity that, if left untreated, could cause death; any  
27 single act of sexual abuse that causes significant bleeding, deep  
28 bruising, or significant external or internal swelling; or more than  
29 one act of physical abuse, each of which causes bleeding, deep  
30 bruising, significant external or internal swelling, bone fracture, or  
31 unconsciousness.

32 (e) The report must be made at the first opportunity, but in no  
33 case longer than forty-eight hours after there is reasonable cause to  
34 believe that the child has suffered abuse or neglect. The report must  
35 include the identity of the accused if known.

36 (2) The reporting requirement of subsection (1) of this section  
37 does not apply to the discovery of abuse or neglect that occurred  
38 during childhood if it is discovered after the child has become an

1 adult. However, if there is reasonable cause to believe other children  
2 are or may be at risk of abuse or neglect by the accused, the reporting  
3 requirement of subsection (1) of this section does apply.

4 (3) Any other person who has reasonable cause to believe that a  
5 child has suffered abuse or neglect may report such incident to the  
6 proper law enforcement agency or to the department of social and health  
7 services as provided in RCW 26.44.040.

8 (4) The department, upon receiving a report of an incident of  
9 alleged abuse or neglect pursuant to this chapter, involving a child  
10 who has died or has had physical injury or injuries inflicted upon him  
11 or her other than by accidental means or who has been subjected to  
12 alleged sexual abuse, shall report such incident to the proper law  
13 enforcement agency. In emergency cases, where the child's welfare is  
14 endangered, the department shall notify the proper law enforcement  
15 agency within twenty-four hours after a report is received by the  
16 department. In all other cases, the department shall notify the law  
17 enforcement agency within seventy-two hours after a report is received  
18 by the department. If the department makes an oral report, a written  
19 report must also be made to the proper law enforcement agency within  
20 five days thereafter.

21 (5) Any law enforcement agency receiving a report of an incident of  
22 alleged abuse or neglect pursuant to this chapter, involving a child  
23 who has died or has had physical injury or injuries inflicted upon him  
24 or her other than by accidental means, or who has been subjected to  
25 alleged sexual abuse, shall report such incident in writing as provided  
26 in RCW 26.44.040 to the proper county prosecutor or city attorney for  
27 appropriate action whenever the law enforcement agency's investigation  
28 reveals that a crime may have been committed. The law enforcement  
29 agency shall also notify the department of all reports received and the  
30 law enforcement agency's disposition of them. In emergency cases,  
31 where the child's welfare is endangered, the law enforcement agency  
32 shall notify the department within twenty-four hours. In all other  
33 cases, the law enforcement agency shall notify the department within  
34 seventy-two hours after a report is received by the law enforcement  
35 agency.

36 (6) Any county prosecutor or city attorney receiving a report under  
37 subsection (5) of this section shall notify the victim, any persons the



1 victim requests, and the local office of the department, of the  
2 decision to charge or decline to charge a crime, within five days of  
3 making the decision.

4 (7) The department may conduct ongoing case planning and  
5 consultation with those persons or agencies required to report under  
6 this section, with consultants designated by the department, and with  
7 designated representatives of Washington Indian tribes if the client  
8 information exchanged is pertinent to cases currently receiving child  
9 protective services. Upon request, the department shall conduct such  
10 planning and consultation with those persons required to report under  
11 this section if the department determines it is in the best interests  
12 of the child. Information considered privileged by statute and not  
13 directly related to reports required by this section must not be  
14 divulged without a valid written waiver of the privilege.

15 (8) Any case referred to the department by a physician licensed  
16 under chapter 18.57 or 18.71 RCW on the basis of an expert medical  
17 opinion that child abuse, neglect, or sexual assault has occurred and  
18 that the child's safety will be seriously endangered if returned home,  
19 the department shall file a dependency petition unless a second  
20 licensed physician of the parents' choice believes that such expert  
21 medical opinion is incorrect. If the parents fail to designate a  
22 second physician, the department may make the selection. If a  
23 physician finds that a child has suffered abuse or neglect but that  
24 such abuse or neglect does not constitute imminent danger to the  
25 child's health or safety, and the department agrees with the  
26 physician's assessment, the child may be left in the parents' home  
27 while the department proceeds with reasonable efforts to remedy  
28 parenting deficiencies.

29 (9) Persons or agencies exchanging information under subsection (7)  
30 of this section shall not further disseminate or release the  
31 information except as authorized by state or federal statute.  
32 Violation of this subsection is a misdemeanor.

33 (10) Upon receiving reports of alleged abuse or neglect, the  
34 department or law enforcement agency may interview children. The  
35 interviews may be conducted on school premises, at day-care facilities,  
36 at the child's home, or at other suitable locations outside of the  
37 presence of parents. Parental notification of the interview must occur  
38 at the earliest possible point in the investigation that will not

1 jeopardize the safety or protection of the child or the course of the  
2 investigation. Prior to commencing the interview the department or law  
3 enforcement agency shall determine whether the child wishes a third  
4 party to be present for the interview and, if so, shall make reasonable  
5 efforts to accommodate the child's wishes. Unless the child objects,  
6 the department or law enforcement agency shall make reasonable efforts  
7 to include a third party in any interview so long as the presence of  
8 the third party will not jeopardize the course of the investigation.

9 (11) Upon receiving a report of alleged child abuse and neglect,  
10 the department or investigating law enforcement agency shall have  
11 access to all relevant records of the child in the possession of  
12 mandated reporters and their employees.

13 (12) In investigating and responding to allegations of child abuse  
14 and neglect, the department may conduct background checks as authorized  
15 by state and federal law.

16 (13) The department shall maintain investigation records and  
17 conduct timely and periodic reviews of all cases constituting abuse and  
18 neglect. The department shall maintain a log of screened-out  
19 nonabusive cases.

20 ~~((13))~~ (14) The department shall use a risk assessment process  
21 when investigating alleged child abuse and neglect referrals. The  
22 department shall present the risk factors at all hearings in which the  
23 placement of a dependent child is an issue. Substance abuse must be a  
24 risk factor. The department shall, within funds appropriated for this  
25 purpose, offer enhanced community-based services to persons who are  
26 determined not to require further state intervention.

27 ~~((14))~~ (15) Upon receipt of a report of alleged abuse or neglect  
28 the law enforcement agency may arrange to interview the person making  
29 the report and any collateral sources to determine if any malice is  
30 involved in the reporting.

31 ~~((15))~~ (16) The department shall make reasonable efforts to learn  
32 the name, address, and telephone number of each person making a report  
33 of abuse or neglect under this section. The department shall provide  
34 assurances of appropriate confidentiality of the identification of  
35 persons reporting under this section. If the department is unable to  
36 learn the information required under this subsection, the department  
37 shall only investigate cases in which: (a) The department believes  
38 there is a serious threat of substantial harm to the child; (b) the

1 report indicates conduct involving a criminal offense that has, or is  
2 about to occur, in which the child is the victim; or (c) the department  
3 has, after investigation, a report of abuse or neglect that has been  
4 founded with regard to a member of the household within three years of  
5 receipt of the referral.

6 **Sec. 4.** RCW 43.43.842 and 1998 c 10 s 4 are each amended to read  
7 as follows:

8 (1)(a) The secretary of social and health services and the  
9 secretary of health shall adopt additional requirements for the  
10 licensure or relicensure of agencies, facilities, and licensed  
11 individuals who provide care and treatment to vulnerable adults,  
12 including nursing pools registered under chapter 18.52C RCW. These  
13 additional requirements shall ensure that any person associated with a  
14 licensed agency or facility having unsupervised access with a  
15 vulnerable adult shall not be the respondent in an active protective  
16 order under RCW 74.34.130, nor have been: (i) Convicted of a crime  
17 against persons as defined in RCW 43.43.830, except as provided in this  
18 section; (ii) convicted of crimes relating to financial exploitation as  
19 defined in RCW 43.43.830, except as provided in this section; or (iii)  
20 found in any disciplinary board final decision to have abused a  
21 vulnerable adult under RCW 43.43.830(~~(; or (iv) the subject in a~~  
22 ~~protective proceeding under chapter 74.34 RCW)~~).

23 (b) A person associated with a licensed agency or facility who has  
24 unsupervised access with a vulnerable adult shall make the disclosures  
25 specified in RCW 43.43.834(2). The person shall make the disclosures  
26 in writing, sign, and swear to the contents under penalty of perjury.  
27 The person shall, in the disclosures, specify all crimes against  
28 children or other persons, all crimes relating to financial  
29 exploitation, and all crimes relating to drugs as defined in RCW  
30 43.43.830, committed by the person.

31 (2) The rules adopted under this section shall permit the licensee  
32 to consider the criminal history of an applicant for employment in a  
33 licensed facility when the applicant has one or more convictions for a  
34 past offense and:

35 (a) The offense was simple assault, assault in the fourth degree,  
36 or the same offense as it may be renamed, and three or more years have

1 passed between the most recent conviction and the date of application  
2 for employment;

3 (b) The offense was prostitution, or the same offense as it may be  
4 renamed, and three or more years have passed between the most recent  
5 conviction and the date of application for employment;

6 (c) The offense was theft in the third degree, or the same offense  
7 as it may be renamed, and three or more years have passed between the  
8 most recent conviction and the date of application for employment;

9 (d) The offense was theft in the second degree, or the same offense  
10 as it may be renamed, and five or more years have passed between the  
11 most recent conviction and the date of application for employment;

12 (e) The offense was forgery, or the same offense as it may be  
13 renamed, and five or more years have passed between the most recent  
14 conviction and the date of application for employment.

15 The offenses set forth in (a) through (e) of this subsection do not  
16 automatically disqualify an applicant from employment by a licensee.  
17 Nothing in this section may be construed to require the employment of  
18 any person against a licensee's judgment.

19 (3) In consultation with law enforcement personnel, the secretary  
20 of social and health services and the secretary of health shall  
21 investigate, or cause to be investigated, the conviction record and the  
22 protection proceeding record information under this chapter of the  
23 staff of each agency or facility under their respective jurisdictions  
24 seeking licensure or relicensure. An individual responding to a  
25 criminal background inquiry request from his or her employer or  
26 potential employer shall disclose the information about his or her  
27 criminal history under penalty of perjury. The secretaries shall use  
28 the information solely for the purpose of determining eligibility for  
29 licensure or relicensure. Criminal justice agencies shall provide the  
30 secretaries such information as they may have and that the secretaries  
31 may require for such purpose.

32 **Sec. 5.** RCW 74.15.030 and 2006 c 265 s 402 and 2006 c 54 s 8 are  
33 each reenacted and amended to read as follows:

34 The secretary shall have the power and it shall be the secretary's  
35 duty:

36 (1) In consultation with the children's services advisory  
37 committee, and with the advice and assistance of persons representative

1 of the various type agencies to be licensed, to designate categories of  
2 facilities for which separate or different requirements shall be  
3 developed as may be appropriate whether because of variations in the  
4 ages, sex and other characteristics of persons served, variations in  
5 the purposes and services offered or size or structure of the agencies  
6 to be licensed hereunder, or because of any other factor relevant  
7 thereto;

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

13 The minimum requirements shall be limited to:

14 (a) The size and suitability of a facility and the plan of  
15 operation for carrying out the purpose for which an applicant seeks a  
16 license;

17 (b) ~~((The character, suitability and competence of an agency and  
18 other persons associated with an agency directly responsible for the  
19 care and treatment of children, expectant mothers or developmentally  
20 disabled persons.~~

21 ~~In consultation with law enforcement personnel, the secretary shall  
22 investigate the conviction record or pending charges and dependency  
23 record information under chapter 43.43 RCW of each agency and its staff  
24 seeking licensure or relicensure.~~

25 ~~No unfounded allegation of child abuse or neglect as defined in RCW  
26 26.44.020 may be disclosed to a child placing agency, private adoption  
27 agency, or any other provider licensed under this chapter. In order to  
28 determine the suitability of applicants for an agency license,  
29 licensees, their employees, and other persons who have unsupervised  
30 access to children in care, and who have not resided in the state of  
31 Washington during the three year period before being authorized to care  
32 for children shall be fingerprinted. The fingerprints shall be  
33 forwarded to the Washington state patrol and federal bureau of  
34 investigation for a criminal history records check. The fingerprint  
35 criminal history records checks will be at the expense of the licensee  
36 except that in the case of a foster family home, if this expense would  
37 work a hardship on the licensee, the department shall pay the expense.~~

1       ~~The licensee may not pass this cost on to the employee or~~  
2 ~~prospective employee, unless the employee is determined to be~~  
3 ~~unsuitable due to his or her criminal history record. The secretary~~  
4 ~~shall use the information solely for the purpose of determining~~  
5 ~~eligibility for a license and for determining the character,~~  
6 ~~suitability, and competence of those persons or agencies, excluding~~  
7 ~~parents, not required to be licensed who are authorized to care for~~  
8 ~~children, expectant mothers, and developmentally disabled persons.~~  
9 ~~Criminal justice agencies shall provide the secretary such information~~  
10 ~~as they may have and that the secretary may require for such purpose:~~

11       ~~(e)) Obtaining background information and any out-of-state~~  
12 ~~equivalent, to determine whether the applicant or service provider is~~  
13 ~~disqualified and to determine the character, competence, and~~  
14 ~~suitability of an agency, the agency's employees, volunteers, and other~~  
15 ~~persons associated with an agency;~~

16       ~~(c) Conducting background checks for those who will or may have~~  
17 ~~unsupervised access to children, expectant mothers, or individuals with~~  
18 ~~a developmental disability;~~

19       ~~(d) Obtaining child protective services information or records~~  
20 ~~maintained in the department case management information system. No~~  
21 ~~unfounded allegation of child abuse or neglect as defined in RCW~~  
22 ~~26.44.020 may be disclosed to a child-placing agency, private adoption~~  
23 ~~agency, or any other provider licensed under this chapter;~~

24       ~~(e) Submitting a fingerprint-based background check through the~~  
25 ~~Washington state patrol under chapter 10.97 RCW and through the federal~~  
26 ~~bureau of investigation for:~~

27       ~~(i) Agencies and their staff, volunteers, students, and interns~~  
28 ~~when the agency is seeking license or relicense;~~

29       ~~(ii) Foster care and adoption placements; and~~

30       ~~(iii) Any adult living in a home where a child may be placed;~~

31       ~~(f) If any adult living in the home has not resided in the state of~~  
32 ~~Washington for the preceding five years, the department shall review~~  
33 ~~any child abuse and neglect registries maintained by any state where~~  
34 ~~the adult has resided over the preceding five years;~~

35       ~~(g) The cost of fingerprint background check fees will be paid as~~  
36 ~~required in section 1 of this act;~~

37       ~~(h) National and state background information must be used solely~~  
38 ~~for the purpose of determining eligibility for a license and for~~

1 determining the character, suitability, and competence of those persons  
2 or agencies, excluding parents, not required to be licensed who are  
3 authorized to care for children or expectant mothers;

4 (i) The number of qualified persons required to render the type of  
5 care and treatment for which an agency seeks a license;

6 ~~((d))~~ (j) The safety, cleanliness, and general adequacy of the  
7 premises to provide for the comfort, care and well-being of children,  
8 expectant mothers or developmentally disabled persons;

9 ~~((e))~~ (k) The provision of necessary care, including food,  
10 clothing, supervision and discipline; physical, mental and social well-  
11 being; and educational, recreational and spiritual opportunities for  
12 those served;

13 ~~((f))~~ (l) The financial ability of an agency to comply with  
14 minimum requirements established pursuant to chapter 74.15 RCW and RCW  
15 74.13.031; and

16 ~~((g))~~ (m) The maintenance of records pertaining to the admission,  
17 progress, health and discharge of persons served;

18 (3) To investigate any person, including relatives by blood or  
19 marriage except for parents, for character, suitability, and competence  
20 in the care and treatment of children, expectant mothers, and  
21 developmentally disabled persons prior to authorizing that person to  
22 care for children, expectant mothers, and developmentally disabled  
23 persons. However, if a child is placed with a relative under RCW  
24 13.34.065 or 13.34.130, and if such relative appears otherwise suitable  
25 and competent to provide care and treatment the criminal history  
26 background check required by this section need not be completed before  
27 placement, but shall be completed as soon as possible after placement;

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

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

37 (6) To prescribe the procedures and the form and contents of

1 reports necessary for the administration of chapter 74.15 RCW and RCW  
2 74.13.031 and to require regular reports from each licensee;

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

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

10 (9) To engage in negotiated rule making pursuant to RCW  
11 34.05.310(2)(a) with the exclusive representative of the family child  
12 care licensees selected in accordance with RCW 74.15.--- (section 6,  
13 chapter 54, Laws of 2006) and with other affected interests before  
14 adopting requirements that affect family child care licensees; and

15 (10) To consult with public and private agencies in order to help  
16 them improve their methods and facilities for the care of children,  
17 expectant mothers and developmentally disabled persons.

18 NEW SECTION. Sec. 6. Federal and state law require the balancing  
19 of the privacy interests of individuals with the government's interest  
20 in the protection of children and vulnerable adults. The legislature  
21 finds that the balancing of these interests may be skewed in favor of  
22 the privacy rights of individuals. Therefore, a work group is created  
23 to research the current laws regarding background checks for  
24 prospective employees of public and private entities which work with  
25 vulnerable adults or children. The legislature finds that a  
26 comprehensive background check which includes both civil and criminal  
27 information is a valuable tool in safeguarding vulnerable adults and  
28 children from preventable risk.

29 NEW SECTION. Sec. 7. (1) The department of social and health  
30 services shall convene a work group to review the current federal and  
31 state laws and administrative rules and practices with respect to  
32 sharing confidential information.

33 (2)(a) The work group shall include but not be limited to the  
34 following members, chosen by the chief executive officer of each  
35 entity:



1 (i) A representative of the department of social and health  
2 services;

3 (ii) A representative of the department of early learning;

4 (iii) A representative of the department of health;

5 (iv) A representative of the office of the superintendent of public  
6 instruction;

7 (v) A representative of the department of licensing;

8 (vi) A representative of the Washington state patrol;

9 (vii) A representative from the Washington state bar association;

10 (viii) A representative of the Washington association of sheriffs  
11 and police chiefs;

12 (ix) A representative of the Washington association of criminal  
13 defense attorneys;

14 (x) A representative from the administrative office of the courts;  
15 and

16 (xi) A representative from the department of information services.

17 (b) The work group shall also include as nonvoting ex officio  
18 members:

19 (i) One member from each of the two largest caucuses of the senate,  
20 appointed by the president of the senate; and

21 (ii) One member from each of the two largest caucuses of the house  
22 of representatives, appointed by the speaker of the house of  
23 representatives.

24 (c) Additional voting members may be invited to participate as  
25 determined by the work group.

26 (3) Appointments to the work group shall be completed within thirty  
27 days of the effective date of this section.

28 (4) The work group may form an executive committee, create  
29 subcommittees, designate alternative representatives, and define other  
30 procedures, as needed, for operation of the work group.

31 (5) Legislative members of the work group shall be reimbursed for  
32 travel expenses under RCW 44.04.120. Nonlegislative members, except  
33 those representing an employee or organization, are entitled to be  
34 reimbursed for travel expenses in accordance with RCW 43.03.050 and  
35 43.03.060.

36 (6) The secretary of the department of social and health services  
37 or the secretary's designee shall serve as chair of the work group.

1 (7) The department of social and health services shall provide  
2 staff support to the work group.

3 (8) The work group shall:

4 (a) Provide an interim report to the legislature and the governor  
5 by December 1, 2007; and

6 (b) Make recommendations to the legislature and the governor by  
7 July 1, 2008, regarding improving current processes for sharing  
8 information, including but not limited to the feasibility of creating  
9 a clearinghouse of information.

10 (9) This section expires November 30, 2008.

11 NEW SECTION. **Sec. 8.** If specific funding for the purposes of  
12 sections 6 and 7 of this act, referencing sections 6 and 7 of this act  
13 by bill or chapter number and section number, is not provided by June  
14 30, 2007, in the omnibus appropriations act, sections 6 and 7 of this  
15 act are null and void."

**SSB 5774** - S AMD

By Senators Kohl-Welles, Hargrove, Stevens

**ADOPTED 03/13/2007**

16 On page 1, line 1 of the title, after "Relating to" strike the  
17 remainder of the title and insert "revising background check processes;  
18 amending RCW 26.33.190, 26.44.030, and 43.43.842; reenacting and  
19 amending RCW 74.15.030; adding a new section to chapter 43.43 RCW;  
20 creating new sections; and providing an expiration date."

--- END ---