
SUBSTITUTE HOUSE BILL 1903

State of Washington

62nd Legislature

2011 Regular Session

By House Early Learning & Human Services (originally sponsored by Representatives Orwall, Goodman, Roberts, Reykdal, Kagi, Kenney, and Kelley)

READ FIRST TIME 02/17/11.

1 AN ACT Relating to background checks for child care licensees and
2 employees; amending RCW 43.215.215; reenacting and amending RCW
3 43.215.010; and adding a new section to chapter 43.215 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.215 RCW
6 to read as follows:

7 Subject to appropriation, the department of early learning shall
8 establish and maintain an individual-based or portable background check
9 clearance registry by July 1, 2012. Any individual seeking a child
10 care license or employment in any child care facility licensed or
11 regulated under current law shall submit a background application on a
12 form prescribed by the department in rule.

13 **Sec. 2.** RCW 43.215.215 and 2007 c 415 s 5 are each amended to read
14 as follows:

15 (1) In determining whether an individual is of appropriate
16 character, suitability, and competence to provide child care and early
17 learning services to children, the department may consider the history
18 of past involvement of child protective services or law enforcement

1 agencies with the individual for the purpose of establishing a pattern
2 of conduct, behavior, or inaction with regard to the health, safety, or
3 welfare of a child. No report of child abuse or neglect that has been
4 destroyed or expunged under RCW 26.44.031 may be used for such
5 purposes. No unfounded or inconclusive allegation of child abuse or
6 neglect as defined in RCW 26.44.020 may be disclosed to a provider
7 licensed under this chapter.

8 (2) In order to determine the suitability of first-time agency
9 license applicants (~~for an agency license, licensees, their~~
10 ~~employees~~), the applicants and other persons (~~who have~~) having
11 unsupervised access to children in care, (~~and who have not resided in~~
12 ~~the state of Washington during the three year period before being~~
13 ~~authorized to care for children,~~) shall be fingerprinted.

14 (a) The fingerprints shall be forwarded to the Washington state
15 patrol and federal bureau of investigation for a criminal history
16 record check.

17 (b) The applicant shall pay for the costs of obtaining the
18 fingerprint criminal history record check(~~s shall be at the expense of~~
19 ~~the licensee. The licensee may not pass this cost on to the employee~~
20 ~~or prospective employee, unless the employee is determined to be~~
21 ~~unsuitable due to his or her criminal history record~~)).

22 (c) The director shall use the fingerprint criminal history record
23 check information solely for the purpose of determining eligibility for
24 a license and for determining the character, suitability, and
25 competence of those persons or agencies, excluding parents, not
26 required to be licensed who are authorized to care for children.

27 (d) Criminal justice agencies shall provide the director such
28 information as they may have and that the director may require for such
29 purpose.

30 (e) The department shall issue a background check clearance card or
31 certificate to the applicant if after the completion of a background
32 check the department concludes the applicant is qualified for
33 unsupervised access to children in care. The background check
34 clearance card or certificate is valid for three years from the date of
35 issuance. A valid card or certificate must be accepted by a potential
36 employer as proof that the applicant has successfully completed a
37 background check as required under this chapter.

1 (f) The original applicant for an agency license, licensees, their
2 employees, and other persons who have unsupervised access to children
3 in care shall submit a new background check application to the
4 department, on a form determined by the department, one hundred twenty
5 days prior to the expiration date listed on the background check
6 clearance card or certificate.

7 (g) The applicant and agency shall maintain on-site for inspection
8 a copy of the background check clearance card or certificate.

9 (h) Individuals who have been issued a background check clearance
10 card or certificate shall report nonconviction and conviction
11 information to the department within twenty-four hours of the event
12 constituting the nonconviction or conviction information.

13 (i) The department shall investigate and conduct a redetermination
14 of an applicant's or licensee's background clearance if the department
15 receives a complaint or information from individuals, a law enforcement
16 agency, or other federal, state, or local government agency. Subject
17 to the requirements contained in RCW 43.215.300 and 43.215.305 and
18 based on a determination that an individual lacks the appropriate
19 character, suitability, or competence to provide child care or early
20 learning services to children, the department may: (i) Invalidate the
21 background card or certificate; or (ii) suspend, modify, or revoke any
22 license authorized by this chapter.

23 (j) Existing licensees, their employees, and other persons who have
24 been qualified by the department to have unsupervised access to
25 children in care shall submit a new background application within one
26 year following the creation of the portable background check registry
27 established in subsection (1) of this section.

28 **Sec. 3.** RCW 43.215.010 and 2007 c 415 s 2 and 2007 c 394 s 2 are
29 each reenacted and amended to read as follows:

30 The definitions in this section apply throughout this chapter
31 unless the context clearly requires otherwise.

32 (1) "Agency" means any person, firm, partnership, association,
33 corporation, or facility that provides child care and early learning
34 services outside a child's own home and includes the following
35 irrespective of whether there is compensation to the agency:

36 (a) "Child day care center" means an agency that regularly provides

1 child day care and early learning services for a group of children for
2 periods of less than twenty-four hours;

3 (b) "Early learning" includes but is not limited to programs and
4 services for child care; state, federal, private, and nonprofit
5 preschool; child care subsidies; child care resource and referral;
6 parental education and support; and training and professional
7 development for early learning professionals;

8 (c) "Family day care provider" means a child day care provider who
9 regularly provides child day care and early learning services for not
10 more than twelve children in the provider's home in the family living
11 quarters;

12 (d) "Nongovernmental private-public partnership" means an entity
13 registered as a nonprofit corporation in Washington state with a
14 primary focus on early learning, school readiness, and parental
15 support, and an ability to raise a minimum of five million dollars in
16 contributions;

17 (e) "Service provider" means the entity that operates a community
18 facility.

19 (2) "Agency" does not include the following:

20 (a) Persons related to the child in the following ways:

21 (i) Any blood relative, including those of half-blood, and
22 including first cousins, nephews or nieces, and persons of preceding
23 generations as denoted by prefixes of grand, great, or great-great;

24 (ii) Stepfather, stepmother, stepbrother, and stepsister;

25 (iii) A person who legally adopts a child or the child's parent as
26 well as the natural and other legally adopted children of such persons,
27 and other relatives of the adoptive parents in accordance with state
28 law; or

29 (iv) Spouses of any persons named in (i), (ii), or (iii) of this
30 subsection (2)(a), even after the marriage is terminated;

31 (b) Persons who are legal guardians of the child;

32 (c) Persons who care for a neighbor's or friend's child or
33 children, with or without compensation, where the person providing care
34 for periods of less than twenty-four hours does not conduct such
35 activity on an ongoing, regularly scheduled basis for the purpose of
36 engaging in business, which includes, but is not limited to,
37 advertising such care;

1 (d) Parents on a mutually cooperative basis exchange care of one
2 another's children;

3 (e) Nursery schools or kindergartens that are engaged primarily in
4 educational work with preschool children and in which no child is
5 enrolled on a regular basis for more than four hours per day;

6 (f) Schools, including boarding schools, that are engaged primarily
7 in education, operate on a definite school year schedule, follow a
8 stated academic curriculum, accept only school-age children, and do not
9 accept custody of children;

10 (g) Seasonal camps of three months' or less duration engaged
11 primarily in recreational or educational activities;

12 (h) Facilities providing care to children for periods of less than
13 twenty-four hours whose parents remain on the premises to participate
14 in activities other than employment;

15 (i) Any agency having been in operation in this state ten years
16 before June 8, 1967, and not seeking or accepting moneys or assistance
17 from any state or federal agency, and is supported in part by an
18 endowment or trust fund;

19 (j) An agency operated by any unit of local, state, or federal
20 government or an agency, located within the boundaries of a federally
21 recognized Indian reservation, licensed by the Indian tribe;

22 (k) An agency located on a federal military reservation, except
23 where the military authorities request that such agency be subject to
24 the licensing requirements of this chapter;

25 (l) An agency that offers early learning and support services, such
26 as parent education, and does not provide child care services on a
27 regular basis.

28 (3) "Applicant" means a person who requests or seeks employment in
29 an agency.

30 (4) "Department" means the department of early learning.

31 (5) "Director" means the director of the department.

32 (6) "Employer" means a person or business that engages the services
33 of one or more people, especially for wages or salary to work in an
34 agency.

35 (7) "Enforcement action" means denial, suspension, revocation,
36 modification, or nonrenewal of a license pursuant to RCW 43.215.300(1)
37 or assessment of civil monetary penalties pursuant to RCW
38 43.215.300(3).

1 (8) "Probationary license" means a license issued as a disciplinary
2 measure to an agency that has previously been issued a full license but
3 is out of compliance with licensing standards.

4 (9) "Requirement" means any rule, regulation, or standard of care
5 to be maintained by an agency.

6 (10) "Conviction information" means criminal history record
7 information relating to an incident which has led to a conviction or
8 other disposition adverse to the applicant.

9 (11) "Negative action" means a court order, court judgment, or an
10 adverse action taken by an agency, in any state, federal, tribal, or
11 foreign jurisdiction, which results in a finding against the applicant
12 reasonably related to the individual's character, suitability, and
13 competence to care for or have unsupervised access to children in child
14 care. This may include, but is not limited to:

15 (a) A decision issued by an administrative law judge;

16 (b) A final determination, decision, or finding made by an agency
17 following an investigation;

18 (c) An adverse agency action, including termination, revocation, or
19 denial of a license or certification, or if pending adverse agency
20 action, the voluntary surrender of a license, certification, or
21 contract in lieu of the adverse action;

22 (d) A revocation, denial, or restriction placed on any professional
23 license; or

24 (e) A final decision of a disciplinary board.

25 (12) "Nonconviction information" means arrest, founded allegations
26 of child abuse, or neglect pursuant to chapter 26.44 RCW, or other
27 negative action adverse to the applicant.

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