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ENGROSSED SUBSTITUTE HOUSE BILL 2621

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State of Washington

64th Legislature

2016 Regular Session

By House Early Learning & Human Services (originally sponsored by Representatives Kagi, Walsh, Senn, Stokesbary, Lytton, Magendanz, Muri, and Goodman; by request of Department of Early Learning)

READ FIRST TIME 02/05/16.

1 AN ACT Relating to the department of early learning's access to  
2 records and personal information for purposes of determining  
3 character and suitability of child care workers; amending RCW  
4 13.50.100, 26.44.031, 26.44.100, 43.215.200, and 74.04.060;  
5 reenacting and amending RCW 43.43.832 and 43.215.215; and creating a  
6 new section.

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

8 NEW SECTION. **Sec. 1.** INTENT. (1) The legislature finds that  
9 health and safety are the foundation for high quality early learning  
10 programs. The legislature acknowledges that thorough background  
11 checks are necessary to protect the safety of Washington's youngest  
12 learners. The legislature understands that parental choice and  
13 provider diversity are guiding principles in early learning. The  
14 legislature further understands that the department of early learning  
15 has been tasked with conducting background checks on any individual  
16 who may have unsupervised access to children in child care and that  
17 this is necessary in order to provide a safe learning environment.  
18 The legislature also finds that it is a federal requirement to  
19 conduct a comprehensive background check on all child care providers  
20 and staff, which must include a review of child abuse and neglect  
21 reports.

1 (2) The legislature intends to allow the department of early  
2 learning access to the records, reports, and personal information  
3 necessary to fulfill its background check responsibility. The  
4 legislature further intends for the department of social and health  
5 services to maintain and share records of child abuse and neglect,  
6 including personal information, current investigations, and founded  
7 and unfounded reports with the department of early learning for  
8 purposes of determining character and suitability of child care  
9 workers.

10 **Sec. 2.** RCW 13.50.100 and 2014 c 175 s 8 are each amended to  
11 read as follows:

12 RECORDS BY JUVENILE JUSTICE OR CARE AGENCIES. (1) This section  
13 governs records not covered by RCW 13.50.050, 13.50.260, and  
14 13.50.270.

15 (2) Records covered by this section shall be confidential and  
16 shall be released only pursuant to this section and RCW 13.50.010.

17 (3) Records retained or produced by any juvenile justice or care  
18 agency may be released to other participants in the juvenile justice  
19 or care system only when an investigation or case involving the  
20 juvenile in question is being pursued by the other participant or  
21 when that other participant is assigned the responsibility of  
22 supervising the juvenile. Records covered under this section and  
23 maintained by the juvenile courts which relate to the official  
24 actions of the agency may be entered in the statewide judicial  
25 information system. However, truancy records associated with a  
26 juvenile who has no other case history, and records of a juvenile's  
27 parents who have no other case history, shall be removed from the  
28 judicial information system when the juvenile is no longer subject to  
29 the compulsory attendance laws in chapter 28A.225 RCW. A county clerk  
30 is not liable for unauthorized release of this data by persons or  
31 agencies not in his or her employ or otherwise subject to his or her  
32 control, nor is the county clerk liable for inaccurate or incomplete  
33 information collected from litigants or other persons required to  
34 provide identifying data pursuant to this section.

35 (4) Subject to (a) of this subsection, the department of social  
36 and health services may release information retained in the course of  
37 conducting child protective services investigations to a family or  
38 juvenile court hearing a petition for custody under chapter 26.10  
39 RCW.

1 (a) Information that may be released shall be limited to  
2 information regarding investigations in which: (i) The juvenile was  
3 an alleged victim of abandonment or abuse or neglect; or (ii) the  
4 petitioner for custody of the juvenile, or any individual aged  
5 sixteen or older residing in the petitioner's household, is the  
6 subject of a founded or currently pending child protective services  
7 investigation made by the department subsequent to October 1, 1998.

8 (b) Additional information may only be released with the written  
9 consent of the subject of the investigation and the juvenile alleged  
10 to be the victim of abandonment or abuse and neglect, or the parent,  
11 custodian, guardian, or personal representative of the juvenile, or  
12 by court order obtained with notice to all interested parties.

13 (5) Any disclosure of records or information by the department of  
14 social and health services pursuant to this section shall not be  
15 deemed a waiver of any confidentiality or privilege attached to the  
16 records or information by operation of any state or federal statute  
17 or regulation, and any recipient of such records or information shall  
18 maintain it in such a manner as to comply with such state and federal  
19 statutes and regulations and to protect against unauthorized  
20 disclosure.

21 (6) A contracting agency or service provider of the department of  
22 social and health services that provides counseling, psychological,  
23 psychiatric, or medical services may release to the office of the  
24 family and children's ombuds information or records relating to  
25 services provided to a juvenile who is dependent under chapter 13.34  
26 RCW without the consent of the parent or guardian of the juvenile, or  
27 of the juvenile if the juvenile is under the age of thirteen years,  
28 unless such release is otherwise specifically prohibited by law.

29 (7) A juvenile, his or her parents, the juvenile's attorney, and  
30 the juvenile's parent's attorney, shall, upon request, be given  
31 access to all records and information collected or retained by a  
32 juvenile justice or care agency which pertain to the juvenile except:

33 (a) If it is determined by the agency that release of this  
34 information is likely to cause severe psychological or physical harm  
35 to the juvenile or his or her parents the agency may withhold the  
36 information subject to other order of the court: PROVIDED, That if  
37 the court determines that limited release of the information is  
38 appropriate, the court may specify terms and conditions for the  
39 release of the information; or

1 (b) If the information or record has been obtained by a juvenile  
2 justice or care agency in connection with the provision of  
3 counseling, psychological, psychiatric, or medical services to the  
4 juvenile, when the services have been sought voluntarily by the  
5 juvenile, and the juvenile has a legal right to receive those  
6 services without the consent of any person or agency, then the  
7 information or record may not be disclosed to the juvenile's parents  
8 without the informed consent of the juvenile unless otherwise  
9 authorized by law; or

10 (c) That the department of social and health services may delete  
11 the name and identifying information regarding persons or  
12 organizations who have reported alleged child abuse or neglect.

13 (8) A juvenile or his or her parent denied access to any records  
14 following an agency determination under subsection (7) of this  
15 section may file a motion in juvenile court requesting access to the  
16 records. The court shall grant the motion unless it finds access may  
17 not be permitted according to the standards found in subsection  
18 (7)(a) and (b) of this section.

19 (9) The person making a motion under subsection (8) of this  
20 section shall give reasonable notice of the motion to all parties to  
21 the original action and to any agency whose records will be affected  
22 by the motion.

23 (10) Subject to the rules of discovery in civil cases, any party  
24 to a proceeding seeking a declaration of dependency or a termination  
25 of the parent-child relationship and any party's counsel and the  
26 guardian ad litem of any party, shall have access to the records of  
27 any natural or adoptive child of the parent, subject to the  
28 limitations in subsection (7) of this section. A party denied access  
29 to records may request judicial review of the denial. If the party  
30 prevails, he or she shall be awarded attorneys' fees, costs, and an  
31 amount not less than five dollars and not more than one hundred  
32 dollars for each day the records were wrongfully denied.

33 (11) No unfounded allegation of child abuse or neglect as defined  
34 in RCW 26.44.020(1) may be disclosed to a child-placing agency,  
35 private adoption agency, or any other licensed provider. This  
36 subsection does not apply to the department of early learning for  
37 purposes of conducting investigations and background checks for  
38 individuals who may have unsupervised access to children in care.

1       (12)(a) The department of early learning shall, upon request, be  
2 given access to records and information collected and retained by a  
3 juvenile justice or care agency that pertain to:

4       (i) Founded findings of abuse or neglect;

5       (ii) Unfounded allegations of abuse or neglect; and

6       (iii) Ongoing investigations of abuse or neglect.

7       (b) The records accessed in (a) of this subsection shall only be  
8 those of the applicant for a license or a licensee, including  
9 household members, issued by the department of early learning or a  
10 person seeking to volunteer with or be employed by a person or entity  
11 licensed by the department of early learning.

12       (c) A person's physical or mental health medical reports and drug  
13 and alcohol evaluations shall not be disclosed to the department of  
14 early learning without consent of the person who is the subject of  
15 the report or evaluation. The department of early learning shall not  
16 be given access to a person's adoption records.

17       (d) The information described in (a) of this subsection may come  
18 from confidential child welfare records maintained by the department  
19 of social and health services and it may be shared only with other  
20 state agencies or persons as allowed under this chapter and chapter  
21 26.44 RCW.

22       (e) As used in this subsection (12), "abuse or neglect,"  
23 "founded," and "unfounded" have the definitions in RCW 26.44.020.

24       **Sec. 3.** RCW 26.44.031 and 2012 c 259 s 4 are each amended to  
25 read as follows:

26       RECORDS OF CHILD ABUSE OR NEGLECT. (1) To protect the privacy in  
27 reporting and the maintenance of reports of nonaccidental injury,  
28 neglect, death, sexual abuse, and cruelty to children by their  
29 parents, and to safeguard against arbitrary, malicious, or erroneous  
30 information or actions, the department shall not disclose or maintain  
31 information related to reports of child abuse or neglect except as  
32 provided in this section or as otherwise required by state and  
33 federal law.

34       ~~(2) ((The department shall destroy all of its records concerning:~~

35       ~~(a) A screened-out report, within three years from the receipt of~~  
36 ~~the report; and~~

37       ~~(b) An unfounded or inconclusive report, within six years of~~  
38 ~~completion of the investigation, unless a prior or subsequent founded~~  
39 ~~report has been received regarding the child who is the subject of~~

1 the report, a sibling or half sibling of the child, or a parent,  
2 guardian, or legal custodian of the child, before the records are  
3 destroyed.

4 ~~(3) The department may keep records concerning founded reports of~~  
5 ~~child abuse or neglect as the department determines by rule.~~

6 ~~(4)) No unfounded, screened-out, or inconclusive report or~~  
7 ~~information about a family's participation or nonparticipation in the~~  
8 ~~family assessment response may be disclosed to a child-placing~~  
9 ~~agency, private adoption agency, or any other provider licensed under~~  
10 ~~chapter 74.15 RCW ((without the consent of the individual who is the~~  
11 ~~subject of the report or family assessment, unless:~~

12 ~~(a) The individual seeks to become a licensed foster parent or~~  
13 ~~adoptive parent; or~~

14 ~~(b) The individual is the parent or legal custodian of a child~~  
15 ~~being served by one of the agencies referenced in this subsection.~~

16 ~~(5)(a) If the department fails to comply with this section, an~~  
17 ~~individual who is the subject of a report may institute proceedings~~  
18 ~~for injunctive or other appropriate relief for enforcement of the~~  
19 ~~requirement to purge information. These proceedings may be instituted~~  
20 ~~in the superior court for the county in which the person resides or,~~  
21 ~~if the person is not then a resident of this state, in the superior~~  
22 ~~court for Thurston county.~~

23 ~~(b))~~.

24 (3)(a) If the department fails to comply with subsection ~~((4))~~  
25 (2) of this section and an individual who is the subject of the  
26 report or family assessment response information is harmed by the  
27 disclosure of information, ~~((in addition to the relief provided in~~  
28 ~~(a) of this subsection,))~~ the court may award a penalty of up to one  
29 thousand dollars and reasonable attorneys' fees and court costs to  
30 the petitioner.

31 ~~((e))~~ (b) A proceeding under this subsection does not preclude  
32 other methods of enforcement provided for by law.

33 ~~((6) Nothing in this section shall prevent the department from~~  
34 ~~retaining general, nonidentifying information which is required for~~  
35 ~~state and federal reporting and management purposes.))~~

36 **Sec. 4.** RCW 26.44.100 and 2005 c 512 s 1 are each amended to  
37 read as follows:

38 NOTIFICATION. (1) The legislature finds parents and children  
39 often are not aware of their due process rights when agencies are

1 investigating allegations of child abuse and neglect. The legislature  
2 reaffirms that all citizens, including parents, shall be afforded due  
3 process, that protection of children remains the priority of the  
4 legislature, and that this protection includes protecting the family  
5 unit from unnecessary disruption. To facilitate this goal, the  
6 legislature wishes to ensure that parents and children be advised in  
7 writing and orally, if feasible, of their basic rights and other  
8 specific information as set forth in this chapter, provided that  
9 nothing contained in this chapter shall cause any delay in protective  
10 custody action.

11 (2) The department shall notify the parent, guardian, or legal  
12 custodian of a child of any allegations of child abuse or neglect  
13 made against such person at the initial point of contact with such  
14 person, in a manner consistent with the laws maintaining the  
15 confidentiality of the persons making the complaints or allegations.  
16 Investigations of child abuse and neglect should be conducted in a  
17 manner that will not jeopardize the safety or protection of the child  
18 or the integrity of the investigation process.

19 Whenever the department completes an investigation of a child  
20 abuse or neglect report under this chapter (~~(26.44—RCW)~~), the  
21 department shall notify the subject of the report of the department's  
22 investigative findings. The notice shall also advise the subject of  
23 the report that:

24 (a) A written response to the report may be provided to the  
25 department and that such response will be filed in the record  
26 following receipt by the department;

27 (b) Information in the department's record may be considered in  
28 subsequent investigations or proceedings related to child protection  
29 or child custody;

30 (c) Founded reports of child abuse and neglect may be considered  
31 in determining whether the person is disqualified from being licensed  
32 to provide child care, employed by a licensed child care agency, or  
33 authorized by the department or the department of early learning to  
34 care for children; and

35 (d) A subject named in a founded report of child abuse or neglect  
36 has the right to seek review of the finding as provided in this  
37 chapter.

38 (3) The notification required by this section shall be made by  
39 certified mail, return receipt requested, to the person's last known  
40 address.

1 (4) The duty of notification created by this section is subject  
2 to the ability of the department to ascertain the location of the  
3 person to be notified. The department shall exercise reasonable,  
4 good-faith efforts to ascertain the location of persons entitled to  
5 notification under this section.

6 (5) The department shall provide training to all department  
7 personnel who conduct investigations under this section that shall  
8 include, but is not limited to, training regarding the legal duties  
9 of the department from the initial time of contact during  
10 investigation through treatment in order to protect children and  
11 families.

12 **Sec. 5.** RCW 43.43.832 and 2012 c 44 s 2 and 2012 c 10 s 41 are  
13 each reenacted and amended to read as follows:

14 SHARING OF CRIMINAL BACKGROUND INFORMATION. (1) The Washington  
15 state patrol identification and criminal history section shall  
16 disclose conviction records as follows:

17 (a) An applicant's conviction record, upon the request of a  
18 business or organization as defined in RCW 43.43.830, a  
19 developmentally disabled person, or a vulnerable adult as defined in  
20 RCW 43.43.830 or his or her guardian;

21 (b) The conviction record of an applicant for certification, upon  
22 the request of the Washington professional educator standards board;

23 (c) Any conviction record to aid in the investigation and  
24 prosecution of child, developmentally disabled person, and vulnerable  
25 adult abuse cases and to protect children and adults from further  
26 incidents of abuse, upon the request of a law enforcement agency, the  
27 office of the attorney general, prosecuting authority, or the  
28 department of social and health services; and

29 (d) A prospective client's or resident's conviction record, upon  
30 the request of a business or organization that qualifies for  
31 exemption under section 501(c)(3) of the internal revenue code of  
32 1986 (26 U.S.C. Sec. 501(c)(3)) and that provides emergency shelter  
33 or transitional housing for children, persons with developmental  
34 disabilities, or vulnerable adults.

35 (2) The secretary of the department of social and health services  
36 must establish rules and set standards to require specific action  
37 when considering the information received pursuant to subsection (1)  
38 of this section, and when considering additional information  
39 including but not limited to civil adjudication proceedings as



1 defined in RCW 43.43.830 and any out-of-state equivalent, in the  
2 following circumstances:

3 (a) When considering persons for state employment in positions  
4 directly responsible for the supervision, care, or treatment of  
5 children, vulnerable adults, or individuals with mental illness or  
6 developmental disabilities;

7 (b) When considering persons for state positions involving  
8 unsupervised access to vulnerable adults to conduct comprehensive  
9 assessments, financial eligibility determinations, licensing and  
10 certification activities, investigations, surveys, or case  
11 management; or for state positions otherwise required by federal law  
12 to meet employment standards;

13 (c) When licensing agencies or facilities with individuals in  
14 positions directly responsible for the care, supervision, or  
15 treatment of children, developmentally disabled persons, or  
16 vulnerable adults, including but not limited to agencies or  
17 facilities licensed under chapter 74.15 or 18.51 RCW;

18 (d) When contracting with individuals or businesses or  
19 organizations for the care, supervision, case management, or  
20 treatment, including peer counseling, of children, developmentally  
21 disabled persons, or vulnerable adults, including but not limited to  
22 services contracted for under chapter 18.20, 70.127, 70.128, 72.36,  
23 or 74.39A RCW or Title 71A RCW;

24 (e) When individual providers are paid by the state or providers  
25 are paid by home care agencies to provide in-home services involving  
26 unsupervised access to persons with physical, mental, or  
27 developmental disabilities or mental illness, or to vulnerable adults  
28 as defined in chapter 74.34 RCW, including but not limited to  
29 services provided under chapter 74.39 or 74.39A RCW.

30 (3) The director of the department of early learning shall  
31 investigate the conviction records, pending charges, and other  
32 information including civil adjudication proceeding records of  
33 current employees and of any person actively being considered for any  
34 position with the department who will or may have unsupervised access  
35 to children, or for state positions otherwise required by federal law  
36 to meet employment standards. "Considered for any position" includes  
37 decisions about (a) initial hiring, layoffs, reallocations,  
38 transfers, promotions, or demotions, or (b) other decisions that  
39 result in an individual being in a position that will or may have

1 unsupervised access to children as an employee, an intern, or a  
2 volunteer.

3 (4)(a) When conducting activities identified in subsection (5) of  
4 this section, the director of the department of early learning shall  
5 adopt rules and investigate the following:

6 (i) Conviction records(~~(7)~~);

7 (ii) Pending charges(~~, and other information including~~);

8 (iii) Civil adjudication proceeding records(~~, in the following~~  
9 circumstances)); and

10 (iv) Other information including investigative records and files  
11 held by the department of social and health services that pertain to  
12 founded findings of abuse or neglect, unfounded allegations of abuse  
13 or neglect, or ongoing investigations of abuse or neglect. The  
14 information described in this subsection (4) may come from  
15 confidential child welfare records maintained by the department of  
16 social and health services and it may be shared only with other state  
17 agencies or persons as allowed under chapters 13.50 and 26.44 RCW.

18 (b) As used in this subsection (4), "abuse or neglect,"  
19 "founded," and "unfounded" have the definitions in RCW 26.44.020.

20 (5) The duties assigned to the director in subsection (4) of this  
21 section only apply when the following activities are being conducted:

22 (a) When licensing or certifying agencies with individuals in  
23 positions that will or may have unsupervised access to children who  
24 are in child day care, in early learning programs, or receiving early  
25 childhood education services, including but not limited to licensees,  
26 agency staff, interns, volunteers, contracted providers, and persons  
27 living on the premises who are sixteen years of age or older;

28 (b) When authorizing individuals who will or may have  
29 unsupervised access to children who are in child day care, in early  
30 learning programs, or receiving early childhood learning education  
31 services in licensed or certified agencies, including but not limited  
32 to licensees, agency staff, interns, volunteers, contracted  
33 providers, and persons living on the premises who are sixteen years  
34 of age or older;

35 (c) When contracting with any business or organization for  
36 activities that will or may have unsupervised access to children who  
37 are in child day care, in early learning programs, or receiving early  
38 childhood learning education services;

39 (d) When establishing the eligibility criteria for individual  
40 providers to receive state paid subsidies to provide child day care

1 or early learning services that will or may involve unsupervised  
2 access to children.

3 ~~((+5))~~ (6) Whenever a state conviction record check is required  
4 by state law, persons may be employed or engaged as volunteers or  
5 independent contractors on a conditional basis pending completion of  
6 the state background investigation. Whenever a national criminal  
7 record check through the federal bureau of investigation is required  
8 by state law, a person may be employed or engaged as a volunteer or  
9 independent contractor on a conditional basis pending completion of  
10 the national check. The Washington personnel resources board shall  
11 adopt rules to accomplish the purposes of this subsection as it  
12 applies to state employees.

13 ~~((+6))~~ (7)(a) For purposes of facilitating timely access to  
14 criminal background information and to reasonably minimize the number  
15 of requests made under this section, recognizing that certain health  
16 care providers change employment frequently, health care facilities  
17 may, upon request from another health care facility, share copies of  
18 completed criminal background inquiry information.

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

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

34 (d) Any health care facility that knows or has reason to believe  
35 that an applicant has or may have a disqualifying conviction or  
36 finding as described in RCW 43.43.842, subsequent to the completion  
37 date of their most recent criminal background inquiry, shall be  
38 prohibited from relying on the applicant's previous employer's  
39 criminal background inquiry information. A new criminal background

1 inquiry shall be requested pursuant to RCW 43.43.830 through  
2 43.43.842.

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

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

10 **Sec. 6.** RCW 43.215.200 and 2015 3rd sp.s. c 7 s 4 are each  
11 amended to read as follows:

12 DIRECTOR'S LICENSING DUTIES. It shall be the director's duty with  
13 regard to licensing:

14 (1) In consultation and with the advice and assistance of persons  
15 representative of the various type agencies to be licensed, to  
16 designate categories of child care facilities for which separate or  
17 different requirements shall be developed as may be appropriate  
18 whether because of variations in the ages and other characteristics  
19 of the children served, variations in the purposes and services  
20 offered or size or structure of the agencies to be licensed, or  
21 because of any other factor relevant thereto;

22 (2)(a) In consultation with the state fire marshal's office, the  
23 director shall use an interagency process to address health and  
24 safety requirements for child care programs that serve school age  
25 children and are operated in buildings that contain public or private  
26 schools that safely serve children during times in which school is in  
27 session;

28 (b) Any requirements in (a) of this subsection as they relate to  
29 the physical facility, including outdoor playgrounds, do not apply to  
30 before-school and after-school programs that serve only school-age  
31 children and operate in the same facilities used by public or private  
32 schools;

33 (3) In consultation and with the advice and assistance of parents  
34 or guardians, and persons representative of the various type agencies  
35 to be licensed, to adopt and publish minimum requirements for  
36 licensing applicable to each of the various categories of agencies to  
37 be licensed under this chapter;

38 (4) In consultation with law enforcement personnel, the director  
39 shall investigate the conviction record or pending charges of each

1 agency and its staff seeking licensure or relicensure, and other  
2 persons having unsupervised access to children in care;

3 (5) To satisfy the shared background check requirements provided  
4 for in RCW 43.215.215 and 43.20A.710, the department of early  
5 learning and the department of social and health services shall share  
6 federal fingerprint-based background check results as permitted under  
7 the law. The purpose of this provision is to allow both departments  
8 to fulfill their joint background check responsibility of checking  
9 any individual who may have unsupervised access to vulnerable adults,  
10 children, or juveniles. Neither department may share the federal  
11 background check results with any other state agency or person;

12 (6)(a) To satisfy the department's background check requirements,  
13 the department shall obtain from the department of social and health  
14 services records of each agency and its staff seeking licensure or  
15 relicensure, and other persons having unsupervised access to children  
16 in care. The records shall include civil adjudication proceeding  
17 records, and investigative records and files held by the department  
18 of social and health services that pertain to founded findings of  
19 abuse or neglect, unfounded allegations of abuse or neglect, and  
20 ongoing investigations of abuse or neglect. The department may have  
21 access only to the records held by the department of social and  
22 health services that pertain solely to the individuals who have or  
23 may have unsupervised access to children in child care facilities;

24 (b) The information described in this subsection (6) may come  
25 from confidential child welfare records maintained by the department  
26 of social and health services and it may be shared only with other  
27 state agencies or persons as allowed under chapters 13.50 and 26.44  
28 RCW;

29 (c) Nothing in this section affects the appeal rights under  
30 chapter 43.215 RCW;

31 (7) To issue, revoke, or deny licenses to agencies pursuant to  
32 this chapter. Licenses shall specify the category of care that an  
33 agency is authorized to render and the ages and number of children to  
34 be served;

35 ~~((+7))~~ (8) To prescribe the procedures and the form and contents  
36 of reports necessary for the administration of this chapter and to  
37 require regular reports from each licensee;

38 ~~((+8))~~ (9) To inspect agencies periodically to determine whether  
39 or not there is compliance with this chapter and the requirements  
40 adopted under this chapter;

1        ~~((9))~~ (10) To review requirements adopted under this chapter at  
2 least every two years and to adopt appropriate changes after  
3 consultation with affected groups for child day care requirements;  
4 ~~((and~~  
5 ~~(10))~~ (11) To consult with public and private agencies in order  
6 to help them improve their methods and facilities for the care and  
7 early learning of children; and  
8 (12) As used in this section, "civil adjudication proceeding" has  
9 the definition in RCW 43.43.830 and "abuse or neglect," "founded,"  
10 and "unfounded" have the definitions in RCW 26.44.020.

11        **Sec. 7.** RCW 43.215.215 and 2011 c 295 s 2 and 2011 c 253 s 4 are  
12 each reenacted and amended to read as follows:

13        BACKGROUND CHECKS FOR CHILD CARE WORKERS. (1)(a) In determining  
14 whether an individual is of appropriate character, suitability, and  
15 competence to provide child care and early learning services to  
16 children, the department may consider the history of past involvement  
17 of child protective services or law enforcement agencies with the  
18 individual for the purpose of establishing a pattern of conduct,  
19 behavior, or inaction with regard to the health, safety, or welfare  
20 of a child. ~~((No report of child abuse or neglect that has been~~  
21 ~~destroyed or expunged under RCW 26.44.031 may be used for such~~  
22 ~~purposes.))~~ The department may not deny a license to an individual  
23 based solely on an unfounded allegation of child abuse or neglect.

24        (b) No unfounded or inconclusive allegation of child abuse or  
25 neglect as defined in RCW 26.44.020 may be disclosed to a provider  
26 licensed under this chapter.

27        (2) In order to determine the suitability of individuals newly  
28 applying for an agency license, new licensees, their new employees,  
29 and other persons who newly have unsupervised access to children in  
30 care, shall be fingerprinted.

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

34        (b)(i) Effective July 1, 2012, all individuals applying for  
35 first-time agency licenses, all new employees, and other persons who  
36 have not been previously qualified by the department to have  
37 unsupervised access to children in care must be fingerprinted and  
38 obtain a criminal history record check pursuant to this section.

1 (ii) Persons required to be fingerprinted and obtain a criminal  
2 (~~{history}~~) history record check pursuant to this section must pay  
3 for the cost of this check as follows: The fee established by the  
4 Washington state patrol for the criminal background history check,  
5 including the cost of obtaining the fingerprints; and a fee paid to  
6 the department for the cost of administering the individual-based/  
7 portable background check clearance registry. The fee paid to the  
8 department must be deposited into the individual-based/portable  
9 background check clearance account established in RCW 43.215.218. The  
10 licensee may, but need not, pay these costs on behalf of a  
11 prospective employee or reimburse the prospective employee for these  
12 costs. The licensee and the prospective employee may share these  
13 costs.

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

20 (d) Criminal justice agencies shall provide the director such  
21 information as they may have and that the director may require for  
22 such purpose.

23 (e) No later than July 1, 2013, all agency licensees holding  
24 licenses prior to July 1, 2012, persons who were employees before  
25 July 1, 2012, and persons who have been qualified by the department  
26 before July 1, 2012, to have unsupervised access to children in care,  
27 must submit a new background application to the department. The  
28 department must require persons submitting a new background  
29 application pursuant to this subsection (2)(e) to pay a fee to the  
30 department for the cost of administering the individual-based/  
31 portable background check clearance registry. This fee must be paid  
32 into the individual-based/portable background check clearance account  
33 established in RCW 43.215.218. The licensee may, but need not, pay  
34 these costs on behalf of a prospective employee or reimburse the  
35 prospective employee for these costs. The licensee and the  
36 prospective employee may share these costs.

37 (f) The department shall issue a background check clearance card  
38 or certificate to the applicant if after the completion of a  
39 background check the department concludes the applicant is qualified  
40 for unsupervised access to children in care. The background check

1 clearance card or certificate is valid for three years from the date  
2 of issuance. A valid card or certificate must be accepted by a  
3 potential employer as proof that the applicant has successfully  
4 completed a background check as required under this chapter.

5 (g) The original applicant for an agency license, licensees,  
6 their employees, and other persons who have unsupervised access to  
7 children in care shall submit a new background check application to  
8 the department, on a form and by a date as determined by the  
9 department.

10 (h) The applicant and agency shall maintain on-site for  
11 inspection a copy of the background check clearance card or  
12 certificate.

13 (i) Individuals who have been issued a background check clearance  
14 card or certificate shall report nonconviction and conviction  
15 information to the department within twenty-four hours of the event  
16 constituting the nonconviction or conviction information.

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

28 (3) To satisfy the shared background check requirements of the  
29 department of early learning and the department of social and health  
30 services, each department shall share federal fingerprint-based  
31 background check results as permitted under the law. The purpose of  
32 this provision is to allow both departments to fulfill their joint  
33 background check responsibility of checking any individual who may  
34 have unsupervised access to vulnerable adults, children, or  
35 juveniles. Neither department may share the federal background check  
36 results with any other state agency or person.

37 (4)(a) To satisfy the department's background check requirements,  
38 the department shall obtain from the department of social and health  
39 services records of each agency and its staff seeking licensure or  
40 relicensure, and other persons having unsupervised access to children



1 in care. The records shall include civil adjudication proceeding  
2 records, and investigative records and files held by the department  
3 of social and health services that pertain to founded findings of  
4 abuse or neglect, unfounded allegations of abuse or neglect, and  
5 ongoing investigations of abuse or neglect. The department may have  
6 access only to the records held by the department of social and  
7 health services that pertain solely to the individuals who have or  
8 may have unsupervised access to children in child care facilities.

9 (b) The information described in this subsection (4) may come  
10 from confidential child welfare records maintained by the department  
11 of social and health services and it may be shared only with other  
12 state agencies or persons as allowed under chapters 13.50 and 26.44  
13 RCW.

14 (5) As used in this section, "civil adjudication proceeding" has  
15 the definition in RCW 43.43.830 and "abuse or neglect," "founded,"  
16 and "unfounded" have the definitions in RCW 26.44.020.

17 **Sec. 8.** RCW 74.04.060 and 2011 1st sp.s. c 15 s 66 are each  
18 amended to read as follows:

19 PUBLIC ASSISTANCE RECORDS. (1)(a) For the protection of  
20 applicants and recipients, the department, the authority, and the  
21 county offices and their respective officers and employees are  
22 prohibited, except as hereinafter provided, from disclosing the  
23 contents of any records, files, papers and communications, except for  
24 purposes directly connected with the administration of the programs  
25 of this title or the purposes described in RCW 43.215.005,  
26 43.215.200, and 43.215.215. In any judicial proceeding, except such  
27 proceeding as is directly concerned with the administration of these  
28 programs, such records, files, papers and communications, and their  
29 contents, shall be deemed privileged communications and except for  
30 the right of any individual to inquire of the office whether a named  
31 individual is a recipient of welfare assistance and such person shall  
32 be entitled to an affirmative or negative answer.

33 (b) Upon written request of a parent who has been awarded  
34 visitation rights in an action for divorce or separation or any  
35 parent with legal custody of the child, the department shall disclose  
36 to him or her the last known address and location of his or her  
37 natural or adopted children. The secretary shall adopt rules which  
38 establish procedures for disclosing the address of the children and  
39 providing, when appropriate, for prior notice to the custodian of the

1 children. The notice shall state that a request for disclosure has  
2 been received and will be complied with by the department unless the  
3 department receives a copy of a court order which enjoins the  
4 disclosure of the information or restricts or limits the requesting  
5 party's right to contact or visit the other party or the child.  
6 Information supplied to a parent by the department shall be used only  
7 for purposes directly related to the enforcement of the visitation  
8 and custody provisions of the court order of separation or decree of  
9 divorce. No parent shall disclose such information to any other  
10 person except for the purpose of enforcing visitation provisions of  
11 the said order or decree.

12 (c) The department shall review methods to improve the protection  
13 and confidentiality of information for recipients of welfare  
14 assistance who have disclosed to the department that they are past or  
15 current victims of domestic violence or stalking.

16 (2) The county offices shall maintain monthly at their offices a  
17 report showing the names and addresses of all recipients in the  
18 county receiving public assistance under this title, together with  
19 the amount paid to each during the preceding month.

20 (3) The provisions of this section shall not apply to duly  
21 designated representatives of approved private welfare agencies,  
22 public officials, members of legislative interim committees and  
23 advisory committees when performing duties directly connected with  
24 the administration of this title, such as regulation and  
25 investigation directly connected therewith: PROVIDED, HOWEVER, That  
26 any information so obtained by such persons or groups shall be  
27 treated with such degree of confidentiality as is required by the  
28 federal social security law.

29 (4) It shall be unlawful, except as provided in this section, for  
30 any person, body, association, firm, corporation or other agency to  
31 solicit, publish, disclose, receive, make use of, or to authorize,  
32 knowingly permit, participate in or acquiesce in the use of any lists  
33 or names for commercial or political purposes of any nature. The  
34 violation of this section shall be a gross misdemeanor.

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