
HOUSE BILL 2621

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2016 Regular Session

By Representatives Kagi, Walsh, Senn, Stokesbary, Lytton, Magendanz, Muri, and Goodman; by request of Department of Early Learning

Read first time 01/18/16. Referred to Committee on Early Learning & Human Services.

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 13.50.010, 26.44.031, 43.43.832, and
6 43.215.215; and creating a 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 13.50.010 and 2015 c 265 s 2 and 2015 c 262 s 1 are
11 each reenacted and amended to read as follows:

12 RECORDS BY JUVENILE JUSTICE OR CARE AGENCIES. (1) For purposes of
13 this chapter:

14 (a) "Good faith effort to pay" means a juvenile offender has
15 either (i) paid the principal amount in full; (ii) made at least
16 eighty percent of the value of full monthly payments within the
17 period from disposition or deferred disposition until the time the
18 amount of restitution owed is under review; or (iii) can show good
19 cause why he or she paid an amount less than eighty percent of the
20 value of full monthly payments;

21 (b) "Juvenile justice or care agency" means any of the following:
22 Police, diversion units, court, prosecuting attorney, defense
23 attorney, detention center, attorney general, the legislative
24 children's oversight committee, the office of the family and
25 children's ombuds, the department of social and health services and
26 its contracting agencies, the department of early learning, schools;
27 persons or public or private agencies having children committed to
28 their custody; and any placement oversight committee created under
29 RCW 72.05.415;

30 (c) "Official juvenile court file" means the legal file of the
31 juvenile court containing the petition or information, motions,
32 memorandums, briefs, findings of the court, and court orders;

33 (d) "Records" means the official juvenile court file, the social
34 file, and records of any other juvenile justice or care agency in the
35 case;

36 (e) "Social file" means the juvenile court file containing the
37 records and reports of the probation counselor.

38 (2) Each petition or information filed with the court may include
39 only one juvenile and each petition or information shall be filed

1 under a separate docket number. The social file shall be filed
2 separately from the official juvenile court file.

3 (3) It is the duty of any juvenile justice or care agency to
4 maintain accurate records. To this end:

5 (a) The agency may never knowingly record inaccurate information.
6 Any information in records maintained by the department of social and
7 health services relating to a petition filed pursuant to chapter
8 13.34 RCW that is found by the court to be false or inaccurate shall
9 be corrected or expunged from such records by the agency;

10 (b) An agency shall take reasonable steps to assure the security
11 of its records and prevent tampering with them; and

12 (c) An agency shall make reasonable efforts to (~~insure~~) ensure
13 the completeness of its records, including action taken by other
14 agencies with respect to matters in its files.

15 (4) Each juvenile justice or care agency shall implement
16 procedures consistent with the provisions of this chapter to
17 facilitate inquiries concerning records.

18 (5) Any person who has reasonable cause to believe information
19 concerning that person is included in the records of a juvenile
20 justice or care agency and who has been denied access to those
21 records by the agency may make a motion to the court for an order
22 authorizing that person to inspect the juvenile justice or care
23 agency record concerning that person. The court shall grant the
24 motion to examine records unless it finds that in the interests of
25 justice or in the best interests of the juvenile the records or parts
26 of them should remain confidential.

27 (6) A juvenile, or his or her parents, or any person who has
28 reasonable cause to believe information concerning that person is
29 included in the records of a juvenile justice or care agency may make
30 a motion to the court challenging the accuracy of any information
31 concerning the moving party in the record or challenging the
32 continued possession of the record by the agency. If the court grants
33 the motion, it shall order the record or information to be corrected
34 or destroyed.

35 (7) The person making a motion under subsection (5) or (6) of
36 this section shall give reasonable notice of the motion to all
37 parties to the original action and to any agency whose records will
38 be affected by the motion.

39 (8) The court may permit inspection of records by, or release of
40 information to, any clinic, hospital, or agency which has the subject

1 person under care or treatment. The court may also permit inspection
2 by or release to individuals or agencies, including juvenile justice
3 advisory committees of county law and justice councils, engaged in
4 legitimate research for educational, scientific, or public purposes.
5 Each person granted permission to inspect juvenile justice or care
6 agency records for research purposes shall present a notarized
7 statement to the court stating that the names of juveniles and
8 parents will remain confidential.

9 (9) The court shall release to the caseload forecast council the
10 records needed for its research and data-gathering functions. Access
11 to caseload forecast data may be permitted by the council for
12 research purposes only if the anonymity of all persons mentioned in
13 the records or information will be preserved.

14 (10) Juvenile detention facilities shall release records to the
15 caseload forecast council upon request. The commission shall not
16 disclose the names of any juveniles or parents mentioned in the
17 records without the named individual's written permission.

18 (11) Requirements in this chapter relating to the court's
19 authority to compel disclosure shall not apply to the legislative
20 children's oversight committee or the office of the family and
21 children's ombuds.

22 (12) For the purpose of research only, the administrative office
23 of the courts shall maintain an electronic research copy of all
24 records in the judicial information system related to juveniles.
25 Access to the research copy is restricted to the Washington state
26 center for court research. The Washington state center for court
27 research shall maintain the confidentiality of all confidential
28 records and shall preserve the anonymity of all persons identified in
29 the research copy. The research copy may not be subject to any
30 records retention schedule and must include records destroyed or
31 removed from the judicial information system pursuant to RCW
32 13.50.270 and 13.50.100(3).

33 (13) The court shall release to the Washington state office of
34 public defense records needed to implement the agency's oversight,
35 technical assistance, and other functions as required by RCW
36 2.70.020. Access to the records used as a basis for oversight,
37 technical assistance, or other agency functions is restricted to the
38 Washington state office of public defense. The Washington state
39 office of public defense shall maintain the confidentiality of all
40 confidential information included in the records.

1 (14) The court shall release to the Washington state office of
2 civil legal aid records needed to implement the agency's oversight,
3 technical assistance, and other functions as required by RCW
4 2.53.045. Access to the records used as a basis for oversight,
5 technical assistance, or other agency functions is restricted to the
6 Washington state office of civil legal aid. The Washington state
7 office of civil legal aid shall maintain the confidentiality of all
8 confidential information included in the records, and shall, as soon
9 as possible, destroy any retained notes or records obtained under
10 this section that are not necessary for its functions related to RCW
11 2.53.045.

12 **Sec. 3.** RCW 13.50.100 and 2014 c 175 s 8 are each amended to
13 read as follows:

14 RECORDS BY JUVENILE JUSTICE OR CARE AGENCIES. (1) This section
15 governs records not covered by RCW 13.50.050, 13.50.260, and
16 13.50.270.

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

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

37 (4) Subject to (a) of this subsection, the department of social
38 and health services may release information retained in the course of
39 conducting child protective services investigations to a family or

1 juvenile court hearing a petition for custody under chapter 26.10
2 RCW.

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

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

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

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

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

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

1 appropriate, the court may specify terms and conditions for the
2 release of the information; or

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

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

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

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

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

35 (11) No unfounded allegation of child abuse or neglect as defined
36 in RCW 26.44.020(1) may be disclosed to a child-placing agency,
37 private adoption agency, or any other licensed provider. This
38 subsection does not apply to the department of early learning for
39 purposes of conducting investigations and background checks for
40 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;
6 (iii) Allegations of abuse or neglect for which there is not a
7 finding; and
8 (iv) Ongoing investigations of abuse or neglect.

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

14 (c) As used in this subsection (12), "abuse or neglect,"
15 "founded," and "unfounded" have the definitions in RCW 26.44.020.

16 **Sec. 4.** RCW 26.44.031 and 2012 c 259 s 4 are each amended to
17 read as follows:

18 RECORDS OF CHILD ABUSE OR NEGLECT. (1) To protect the privacy in
19 reporting and the maintenance of reports of nonaccidental injury,
20 neglect, death, sexual abuse, and cruelty to children by their
21 parents, and to safeguard against arbitrary, malicious, or erroneous
22 information or actions, the department shall not disclose or maintain
23 information related to reports of child abuse or neglect except as
24 provided in this section or as otherwise required by state and
25 federal law.

26 ~~(2) ((The department shall destroy all of its records concerning:~~
27 ~~(a) A screened-out report, within three years from the receipt of~~
28 ~~the report; and~~

29 ~~(b) An unfounded or inconclusive report, within six years of~~
30 ~~completion of the investigation, unless a prior or subsequent founded~~
31 ~~report has been received regarding the child who is the subject of~~
32 ~~the report, a sibling or half sibling of the child, or a parent,~~
33 ~~guardian, or legal custodian of the child, before the records are~~
34 ~~destroyed.~~

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

37 ~~(4))~~) No unfounded, screened-out, or inconclusive report or
38 information about a family's participation or nonparticipation in the
39 family assessment response may be disclosed to a child-placing

1 agency, private adoption agency, or any other provider licensed under
2 chapter 74.15 RCW (~~without the consent of the individual who is the~~
3 ~~subject of the report or family assessment, unless:~~

4 ~~(a) The individual seeks to become a licensed foster parent or~~
5 ~~adoptive parent; or~~

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

8 ~~(5)(a) If the department fails to comply with this section, an~~
9 ~~individual who is the subject of a report may institute proceedings~~
10 ~~for injunctive or other appropriate relief for enforcement of the~~
11 ~~requirement to purge information. These proceedings may be instituted~~
12 ~~in the superior court for the county in which the person resides or,~~
13 ~~if the person is not then a resident of this state, in the superior~~
14 ~~court for Thurston county.~~

15 ~~(b))~~. This subsection does not apply to the department of early
16 learning for purposes of conducting investigations and background
17 checks for individuals who may have unsupervised access to children
18 in care.

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

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

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

31 **Sec. 5.** RCW 26.44.100 and 2005 c 512 s 1 are each amended to
32 read as follows:

33 NOTIFICATION. (1) The legislature finds parents and children
34 often are not aware of their due process rights when agencies are
35 investigating allegations of child abuse and neglect. The legislature
36 reaffirms that all citizens, including parents, shall be afforded due
37 process, that protection of children remains the priority of the
38 legislature, and that this protection includes protecting the family
39 unit from unnecessary disruption. To facilitate this goal, the

1 legislature wishes to ensure that parents and children be advised in
2 writing and orally, if feasible, of their basic rights and other
3 specific information as set forth in this chapter, provided that
4 nothing contained in this chapter shall cause any delay in protective
5 custody action.

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

14 Whenever the department completes an investigation of a child
15 abuse or neglect report under this chapter (~~(26.44—RCW)~~), the
16 department shall notify the subject of the report of the department's
17 investigative findings. The notice shall also advise the subject of
18 the report that:

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

22 (b) Information in the department's record may be considered in
23 subsequent investigations or proceedings related to child protection
24 or child custody;

25 (c) Founded reports of child abuse and neglect may be considered
26 in determining whether the person is disqualified from being licensed
27 to provide child care, employed by a licensed child care agency, or
28 authorized by the department or the department of early learning to
29 care for children; and

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

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

36 (4) The duty of notification created by this section is subject
37 to the ability of the department to ascertain the location of the
38 person to be notified. The department shall exercise reasonable,
39 good-faith efforts to ascertain the location of persons entitled to
40 notification under this section.

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

7 **Sec. 6.** RCW 43.43.832 and 2012 c 44 s 2 and 2012 c 10 s 41 are
8 each reenacted and amended to read as follows:

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

12 (a) An applicant's conviction record, upon the request of a
13 business or organization as defined in RCW 43.43.830, a
14 developmentally disabled person, or a vulnerable adult as defined in
15 RCW 43.43.830 or his or her guardian;

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

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

24 (d) A prospective client's or resident's conviction record, upon
25 the request of a business or organization that qualifies for
26 exemption under section 501(c)(3) of the internal revenue code of
27 1986 (26 U.S.C. Sec. 501(c)(3)) and that provides emergency shelter
28 or transitional housing for children, persons with developmental
29 disabilities, or vulnerable adults.

30 (2) The secretary of the department of social and health services
31 must establish rules and set standards to require specific action
32 when considering the information received pursuant to subsection (1)
33 of this section, and when considering additional information
34 including but not limited to civil adjudication proceedings as
35 defined in RCW 43.43.830 and any out-of-state equivalent, in the
36 following circumstances:

37 (a) When considering persons for state employment in positions
38 directly responsible for the supervision, care, or treatment of

1 children, vulnerable adults, or individuals with mental illness or
2 developmental disabilities;

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

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

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

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

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

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

1 (i) Conviction records(~~(7)~~);
2 (ii) Pending charges(~~(, and other information including)~~);
3 (iii) Civil adjudication proceeding records(~~(, in the following~~
4 circumstances)); and

5 (iv) Other information including investigative records and files
6 held by the department of social and health services that pertain to
7 founded findings of abuse or neglect, unfounded allegations of abuse
8 or neglect, allegations of abuse or neglect for which there is not a
9 finding, or ongoing investigations of abuse or neglect.

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

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

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

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

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

31 (d) When establishing the eligibility criteria for individual
32 providers to receive state paid subsidies to provide child day care
33 or early learning services that will or may involve unsupervised
34 access to children.

35 ~~((+5))~~ (6) Whenever a state conviction record check is required
36 by state law, persons may be employed or engaged as volunteers or
37 independent contractors on a conditional basis pending completion of
38 the state background investigation. Whenever a national criminal
39 record check through the federal bureau of investigation is required
40 by state law, a person may be employed or engaged as a volunteer or

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

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

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

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

26 (d) Any health care facility that knows or has reason to believe
27 that an applicant has or may have a disqualifying conviction or
28 finding as described in RCW 43.43.842, subsequent to the completion
29 date of their most recent criminal background inquiry, shall be
30 prohibited from relying on the applicant's previous employer's
31 criminal background inquiry information. A new criminal background
32 inquiry shall be requested pursuant to RCW 43.43.830 through
33 43.43.842.

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

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

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

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

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

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

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

24 (3) In consultation and with the advice and assistance of parents
25 or guardians, and persons representative of the various type agencies
26 to be licensed, to adopt and publish minimum requirements for
27 licensing applicable to each of the various categories of agencies to
28 be licensed under this chapter;

29 (4) In consultation with law enforcement personnel, the director
30 shall investigate the conviction record or pending charges of each
31 agency and its staff seeking licensure or relicensure, and other
32 persons having unsupervised access to children in care;

33 (5) To satisfy the shared background check requirements provided
34 for in RCW 43.215.215 and 43.20A.710, the department of early
35 learning and the department of social and health services shall share
36 federal fingerprint-based background check results as permitted under
37 the law. The purpose of this provision is to allow both departments
38 to fulfill their joint background check responsibility of checking
39 any individual who may have unsupervised access to vulnerable adults,

1 children, or juveniles. Neither department may share the federal
2 background check results with any other state agency or person;

3 (6)(a) To satisfy the department's background check requirements,
4 the department shall obtain from the department of social and health
5 services records of each agency and its staff seeking licensure or
6 relicensure, and other persons having unsupervised access to children
7 in care. The records shall include civil adjudication proceeding
8 records, and investigative records and files held by the department
9 of social and health services that pertain to founded findings of
10 abuse or neglect, unfounded allegations of abuse or neglect,
11 allegations of abuse or neglect for which there is not a finding, and
12 ongoing investigations of abuse or neglect;

13 (b) The information described in this section may be shared only
14 with other state agencies or persons pursuant to chapters 13.50 and
15 26.44 RCW;

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

20 ~~((+7))~~ (8) To prescribe the procedures and the form and contents
21 of reports necessary for the administration of this chapter and to
22 require regular reports from each licensee;

23 ~~((+8))~~ (9) To inspect agencies periodically to determine whether
24 or not there is compliance with this chapter and the requirements
25 adopted under this chapter;

26 ~~((+9))~~ (10) To review requirements adopted under this chapter at
27 least every two years and to adopt appropriate changes after
28 consultation with affected groups for child day care requirements;
29 ~~((and~~

30 ~~+10))~~ (11) To consult with public and private agencies in order
31 to help them improve their methods and facilities for the care and
32 early learning of children; and

33 (12) As used in this section, "civil adjudication proceeding" has
34 the definition in RCW 43.43.830 and "abuse or neglect," "founded,"
35 and "unfounded" have the definitions in RCW 26.44.020.

36 **Sec. 8.** RCW 43.215.215 and 2011 c 295 s 2 and 2011 c 253 s 4 are
37 each reenacted and amended to read as follows:

38 BACKGROUND CHECKS FOR CHILD CARE WORKERS. (1) In determining
39 whether an individual is of appropriate character, suitability, and

1 competence to provide child care and early learning services to
2 children, the department may consider the history of past involvement
3 of child protective services or law enforcement agencies with the
4 individual for the purpose of establishing a pattern of conduct,
5 behavior, or inaction with regard to the health, safety, or welfare
6 of a child. (~~No report of child abuse or neglect that has been
7 destroyed or expunged under RCW 26.44.031 may be used for such
8 purposes.~~) No unfounded or inconclusive allegation of child abuse or
9 neglect as defined in RCW 26.44.020 may be disclosed to a provider
10 licensed under this chapter.

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

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

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

23 (ii) Persons required to be fingerprinted and obtain a criminal
24 (~~history~~) history record check pursuant to this section must pay
25 for the cost of this check as follows: The fee established by the
26 Washington state patrol for the criminal background history check,
27 including the cost of obtaining the fingerprints; and a fee paid to
28 the department for the cost of administering the individual-based/
29 portable background check clearance registry. The fee paid to the
30 department must be deposited into the individual-based/portable
31 background check clearance account established in RCW 43.215.218. The
32 licensee may, but need not, pay these costs on behalf of a
33 prospective employee or reimburse the prospective employee for these
34 costs. The licensee and the prospective employee may share these
35 costs.

36 (c) The director shall use the fingerprint criminal history
37 record check information solely for the purpose of determining
38 eligibility for a license and for determining the character,
39 suitability, and competence of those persons or agencies, excluding

1 parents, not required to be licensed who are authorized to care for
2 children.

3 (d) Criminal justice agencies shall provide the director such
4 information as they may have and that the director may require for
5 such purpose.

6 (e) No later than July 1, 2013, all agency licensees holding
7 licenses prior to July 1, 2012, persons who were employees before
8 July 1, 2012, and persons who have been qualified by the department
9 before July 1, 2012, to have unsupervised access to children in care,
10 must submit a new background application to the department. The
11 department must require persons submitting a new background
12 application pursuant to this subsection (2)(e) to pay a fee to the
13 department for the cost of administering the individual-based/
14 portable background check clearance registry. This fee must be paid
15 into the individual-based/portable background check clearance account
16 established in RCW 43.215.218. The licensee may, but need not, pay
17 these costs on behalf of a prospective employee or reimburse the
18 prospective employee for these costs. The licensee and the
19 prospective employee may share these costs.

20 (f) The department shall issue a background check clearance card
21 or certificate to the applicant if after the completion of a
22 background check the department concludes the applicant is qualified
23 for unsupervised access to children in care. The background check
24 clearance card or certificate is valid for three years from the date
25 of issuance. A valid card or certificate must be accepted by a
26 potential employer as proof that the applicant has successfully
27 completed a background check as required under this chapter.

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

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

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

1 (j) The department shall investigate and conduct a
2 redetermination of an applicant's or licensee's background clearance
3 if the department receives a complaint or information from
4 individuals, a law enforcement agency, or other federal, state, or
5 local government agency. Subject to the requirements contained in RCW
6 43.215.300 and 43.215.305 and based on a determination that an
7 individual lacks the appropriate character, suitability, or
8 competence to provide child care or early learning services to
9 children, the department may: (i) Invalidate the background card or
10 certificate; or (ii) suspend, modify, or revoke any license
11 authorized by this chapter.

12 (3) To satisfy the shared background check requirements of the
13 department of early learning and the department of social and health
14 services, each department shall share federal fingerprint-based
15 background check results as permitted under the law. The purpose of
16 this provision is to allow both departments to fulfill their joint
17 background check responsibility of checking any individual who may
18 have unsupervised access to vulnerable adults, children, or
19 juveniles. Neither department may share the federal background check
20 results with any other state agency or person.

21 (4)(a) To satisfy the department's background check requirements,
22 the department shall obtain from the department of social and health
23 services records of each agency and its staff seeking licensure or
24 relicensure, and other persons having unsupervised access to children
25 in care. The records shall include civil adjudication proceeding
26 records, and investigative records and files held by the department
27 of social and health services that pertain to founded findings of
28 abuse or neglect, unfounded allegations of abuse or neglect,
29 allegations of abuse or neglect for which there is not a finding, and
30 ongoing investigations of abuse or neglect.

31 (b) The information described in this section may be shared only
32 with other state agencies or persons pursuant to chapters 13.50 and
33 26.44 RCW.

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

37 **Sec. 9.** RCW 74.04.060 and 2011 1st sp.s. c 15 s 66 are each
38 amended to read as follows:

1 PUBLIC ASSISTANCE RECORDS. (1)(a) For the protection of
2 applicants and recipients, the department, the authority, and the
3 county offices and their respective officers and employees are
4 prohibited, except as hereinafter provided, from disclosing the
5 contents of any records, files, papers and communications, except for
6 purposes directly connected with the administration of the programs
7 of this title or the purposes described in RCW 43.215.005,
8 43.215.200, and 43.215.215. In any judicial proceeding, except such
9 proceeding as is directly concerned with the administration of these
10 programs, such records, files, papers and communications, and their
11 contents, shall be deemed privileged communications and except for
12 the right of any individual to inquire of the office whether a named
13 individual is a recipient of welfare assistance and such person shall
14 be entitled to an affirmative or negative answer.

15 (b) Upon written request of a parent who has been awarded
16 visitation rights in an action for divorce or separation or any
17 parent with legal custody of the child, the department shall disclose
18 to him or her the last known address and location of his or her
19 natural or adopted children. The secretary shall adopt rules which
20 establish procedures for disclosing the address of the children and
21 providing, when appropriate, for prior notice to the custodian of the
22 children. The notice shall state that a request for disclosure has
23 been received and will be complied with by the department unless the
24 department receives a copy of a court order which enjoins the
25 disclosure of the information or restricts or limits the requesting
26 party's right to contact or visit the other party or the child.
27 Information supplied to a parent by the department shall be used only
28 for purposes directly related to the enforcement of the visitation
29 and custody provisions of the court order of separation or decree of
30 divorce. No parent shall disclose such information to any other
31 person except for the purpose of enforcing visitation provisions of
32 the said order or decree.

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

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

1 (3) The provisions of this section shall not apply to duly
2 designated representatives of approved private welfare agencies,
3 public officials, members of legislative interim committees and
4 advisory committees when performing duties directly connected with
5 the administration of this title, such as regulation and
6 investigation directly connected therewith: PROVIDED, HOWEVER, That
7 any information so obtained by such persons or groups shall be
8 treated with such degree of confidentiality as is required by the
9 federal social security law.

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

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