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**HOUSE BILL 1735**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Representatives Lovick, Senn, Kagi, Frame, Stokesbary, Jinkins, Goodman, and Slatter; by request of Department of Early Learning

AN ACT Relating to the department of early learning's access to records and personal information for purposes of determining character and suitability of child care workers and individuals who have unsupervised access to children in child care settings; amending RCW 13.50.100, 26.44.100, 43.215.200, and 74.04.060; and reenacting and amending RCW 43.43.832 and 43.215.215.

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

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

(1) This section governs records not covered by RCW 13.50.050, 13.50.260, and 13.50.270.

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

(3) Records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility of supervising the juvenile. Records covered under this section and maintained by the juvenile courts which relate to the official actions of the agency may be entered in the statewide judicial information system. However, truancy records associated with a juvenile who has no other case history, and records of a juvenile's parents who have no other case history, shall be removed from the judicial information system when the juvenile is no longer subject to the compulsory attendance laws in chapter 28A.225 RCW. A county clerk is not liable for unauthorized release of this data by persons or agencies not in his or her employ or otherwise subject to his or her control, nor is the county clerk liable for inaccurate or incomplete information collected from litigants or other persons required to provide identifying data pursuant to this section. Nothing in this subsection prohibits the release of records to the department of early learning as provided in subsections (11) and (12) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

(11) No unfounded allegation of child abuse or neglect as defined in RCW 26.44.020(1) may be disclosed to a child-placing agency, private adoption agency, or any other licensed provider. This subsection does not apply to the department of early learning for purposes of conducting investigations and background checks for individuals who may have unsupervised access to children in care or unsupervised access to children participating in an early learning program. The department of early learning must expunge unsubstantiated or false allegations received by the department of early learning sixty days after the individual or provider has waived or exhausted all the individual's or provider's appeal rights involving an agency decision for which the investigation of the allegations were obtained.

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

(i) Abuse or neglect allegations;

(ii) Abuse or neglect investigations; and

(iii) The results of investigations of abuse or neglect.

(b) The records accessed in (a) of this subsection shall only be records that involve or are about the persons described in (c) and (d) of this subsection.

(c) The records accessed in (a) of this subsection shall be records that involve or are about:

(i) The applicant for a license issued by the department of early learning;

(ii) A licensee who is licensed by the department of early learning;

(iii) A person seeking to be employed by a person or entity licensed by the department of early learning;

(iv) An employee, of a person or entity licensed by the department of early learning, who is seeking to renew his or her background clearance card or certificate pursuant to RCW 43.215.215;

(v) An intern or person seeking to volunteer for a person or entity licensed by the department of early learning;

(vi) An intern or volunteer, of a person or entity licensed by the department of early learning, who is seeking to renew his or her background clearance card or certificate pursuant to RCW 43.215.215;

(vii) A person sixteen years of age or older who resides in or is moving into an in-home child care facility that is licensed by the department of early learning;

(viii) A person who is exempt from licensing under chapter 43.215 RCW who receives subsidy payments for the care of a child from the child care development fund, the working connections child care program, or the seasonal child care program; and

(ix) A person who is exempt from licensing under chapter 43.215 RCW who is seeking subsidy payments for the care of a child from the child care development fund, the working connections child care program, or the seasonal child care program.

(d) In addition to the circumstances described in (c) of this subsection, background checks must be conducted when:

(i) Licensing or certifying agencies with individuals in positions that will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood education services, including but not limited to contracted providers;

(ii) Authorizing individuals who will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services in licensed or certified agencies, including but not limited to contracted providers;

(iii) Contracting with any business or organization for activities that will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services; and

(iv) Establishing the eligibility criteria for individual providers to receive state paid subsidies to provide child day care or early learning services that will or may involve unsupervised access to children.

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

(f) The information described in (a) of this subsection may come from confidential child welfare records maintained by the department of social and health services and it may be shared only with other state agencies or persons as allowed under this chapter and chapters 26.44 and 43.215 RCW.

(g) No findings dated on or before October 1, 1998, may be disclosed to the department of early learning.

(h) As used in this subsection (12), "abuse or neglect" has the definition in RCW 26.44.020.

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

(1) The legislature finds parents and children often are not aware of their due process rights when agencies are investigating allegations of child abuse and neglect. The legislature reaffirms that all citizens, including parents, shall be afforded due process, that protection of children remains the priority of the legislature, and that this protection includes protecting the family unit from unnecessary disruption. To facilitate this goal, the legislature wishes to ensure that parents and children be advised in writing and orally, if feasible, of their basic rights and other specific information as set forth in this chapter, provided that nothing contained in this chapter shall cause any delay in protective custody action.

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

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

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

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

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

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

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

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

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

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

(1) The Washington state patrol identification and criminal history section shall disclose conviction records as follows:

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

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

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

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

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

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

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

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

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

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

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

(4) The director of the department of early learning shall adopt rules and ((~~investigate conviction records, pending charges, and other information including civil adjudication proceeding records, in the following circumstances~~)) conduct background checks of the following persons:

(a) An applicant for a license issued by the department of early learning;

(b) A licensee who is licensed by the department of early learning;

(c) A person seeking to be employed by a person or entity licensed by the department of early learning;

(d) A current agency staff person seeking to renew his or her background clearance card or certificate;

(e) An intern or person seeking to volunteer for a person or entity licensed by the department of early learning;

(f) A current agency intern or volunteer seeking to renew his or her background clearance card or certificate;

(g) A person who resides in or is moving into a licensed in-home child care agency that is sixteen years of age or older;

(h) A person who is exempt from licensing under chapter 43.215 RCW who receives subsidy payments for the care of a child from the child care development fund, the working connections child care program, or the seasonal child care program; and

(i) A person who is exempt from licensing under chapter 43.215 RCW who is seeking subsidy payments for the care of a child from the child care development fund, the working connections child care program, or the seasonal child care program.

(5) In addition to the circumstances described in subsection (4) of this section, background checks must be conducted:

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

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

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

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

((~~(5)~~)) (6) Background checks of the persons identified in subsections (4) and (5) of this section must include the investigation of the following and may come from confidential child welfare records maintained by the department of social and health services, and the information may be shared only with other state agencies or persons as allowed under chapters 13.50, 26.44, and 43.215 RCW:

(a) Conviction records;

(b) Pending charges;

(c) Civil adjudication proceeding records; and

(d) Other information including investigative records and files held by the department of social and health services that pertain to:

(i) Abuse or neglect allegations;

(ii) Abuse or neglect investigations; and

(iii) The results of investigations of abuse or neglect.

(7) As used in subsection (6) of this section, "abuse or neglect" has the definition in RCW 26.44.020.

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

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

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

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

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

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

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

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

It shall be the director's duty with regard to licensing:

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

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

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

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

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

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

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

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

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

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

(10) To consult with public and private agencies in order to help them improve their methods and facilities for the care and early learning of children.

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

(1) In determining whether an individual is of appropriate character, suitability, and competence to provide child care and early learning services to children, the department may consider the history of past involvement of child protective services or law enforcement agencies with the individual for the purpose of establishing a pattern of conduct, behavior, or inaction with regard to the health, safety, or welfare of a child. No report of child abuse or neglect that has been destroyed or expunged under RCW 26.44.031 may be used for such purposes. No unfounded or inconclusive allegation of child abuse or neglect as defined in RCW 26.44.020 may be disclosed to a provider licensed under this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

(4)(a) To satisfy the department's background check requirements, the department shall conduct background checks of the following persons:

(i) The applicant for a license issued by the department;

(ii) A licensee who is licensed by the department;

(iii) A person seeking to be employed by a person or entity licensed by the department;

(iv) A current agency staff person seeking to renew his or her background clearance card or certificate;

(v) An intern or person seeking to volunteer for a person or entity licensed by the department;

(vi) A current agency intern or volunteer seeking to renew his or her background clearance card or certificate;

(vii) A person who resides in or is moving into a licensed in-home child care agency who is sixteen years of age or older;

(viii) A person who is exempt from licensing under this chapter who receives subsidy payments for the care of a child from the child care development fund, the working connections child care program, or the seasonal child care program; and

(ix) A person who is exempt from licensing under this chapter who is seeking subsidy payments for the care of a child from the child care development fund, the working connections child care program, or the seasonal child care program.

(b) In addition to the circumstances in (a)(i) through (ix) of this subsection, background checks must be conducted when:

(i) Licensing or certifying agencies with individuals in positions who will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood education services, including but not limited to, contracted providers;

(ii) Authorizing individuals who will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services in licensed or certified agencies, including but not limited to, contracted providers;

(iii) Contracting with any business or organization for activities that will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services;

(iv) Establishing the eligibility criteria for individual providers to receive state paid subsidies to provide child day care or early learning services who will or may involve unsupervised access to children.

(c) Background checks of the persons identified in this subsection (4) must include the investigation of:

(i) Conviction records;

(ii) Pending charges;

(iii) Civil adjudication proceeding records; and

(iv) Other information including investigative records and files held by the department of social and health services that pertain to:

(A) Abuse or neglect allegations;

(B) Abuse or neglect investigations; and

(C) The results of investigations of abuse or neglect.

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

(e) The definitions in this subsection apply throughout this section.

(i) "Abuse or neglect" has the definition in RCW 26.44.020.

(ii) "Civil adjudication proceeding records" has the definition in RCW 43.43.830.

(f) The department may only have access to the records held by the department of social and health services that pertain solely to the individuals who have or may have unsupervised access to children in child care facilities.

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

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

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

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

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

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

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

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