
SENATE BILL 5246

State of Washington

65th Legislature

2017 Regular Session

By Senators Zeiger, Billig, Fain, Mullet, Chase, and Kuderer; by request of Department of Early Learning

Read first time 01/18/17. Referred to Committee on Early Learning & K-12 Education.

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 and individuals who
4 have unsupervised access to children in child care settings; amending
5 RCW 13.50.100, 26.44.100, 43.215.200, and 74.04.060; and reenacting
6 and amending RCW 43.43.832 and 43.215.215.

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

8 **Sec. 1.** RCW 13.50.100 and 2014 c 175 s 8 are each amended to
9 read as follows:

10 (1) This section governs records not covered by RCW 13.50.050,
11 13.50.260, and 13.50.270.

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

14 (3) Records retained or produced by any juvenile justice or care
15 agency may be released to other participants in the juvenile justice
16 or care system only when an investigation or case involving the
17 juvenile in question is being pursued by the other participant or
18 when that other participant is assigned the responsibility of
19 supervising the juvenile. Records covered under this section and
20 maintained by the juvenile courts which relate to the official
21 actions of the agency may be entered in the statewide judicial

1 information system. However, truancy records associated with a
2 juvenile who has no other case history, and records of a juvenile's
3 parents who have no other case history, shall be removed from the
4 judicial information system when the juvenile is no longer subject to
5 the compulsory attendance laws in chapter 28A.225 RCW. A county clerk
6 is not liable for unauthorized release of this data by persons or
7 agencies not in his or her employ or otherwise subject to his or her
8 control, nor is the county clerk liable for inaccurate or incomplete
9 information collected from litigants or other persons required to
10 provide identifying data pursuant to this section. Nothing in this
11 subsection prohibits the release of records to the department of
12 early learning as provided in subsections (11) and (12) of this
13 section.

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

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

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

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

39 (6) A contracting agency or service provider of the department of
40 social and health services that provides counseling, psychological,

1 psychiatric, or medical services may release to the office of the
2 family and children's ombuds information or records relating to
3 services provided to a juvenile who is dependent under chapter 13.34
4 RCW without the consent of the parent or guardian of the juvenile, or
5 of the juvenile if the juvenile is under the age of thirteen years,
6 unless such release is otherwise specifically prohibited by law.

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

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

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

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

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

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

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

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

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

- 27 (i) Abuse or neglect allegations;
28 (ii) Abuse or neglect investigations; and
29 (iii) The results of investigations of abuse or neglect.

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

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

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

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

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

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

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

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

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

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

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

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

22 (i) 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 contracted
26 providers;

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

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

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

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

6 (f) The information described in (a) of this subsection may come
7 from confidential child welfare records maintained by the department
8 of social and health services and it may be shared only with other
9 state agencies or persons as allowed under this chapter and chapters
10 26.44 and 43.215 RCW.

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

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

15 **Sec. 2.** RCW 26.44.100 and 2005 c 512 s 1 are each amended to
16 read as follows:

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

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

37 Whenever the department completes an investigation of a child
38 abuse or neglect report under this chapter (~~(26.44—RCW)~~), the
39 department shall notify the subject of the report of the department's

1 investigative findings. The notice shall also advise the subject of
2 the report that:

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

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

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

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

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

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

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

31 **Sec. 3.** RCW 43.43.832 and 2012 c 44 s 2 and 2012 c 10 s 41 are
32 each reenacted and amended to read as follows:

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

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

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

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

9 (d) A prospective client's or resident's conviction record, upon
10 the request of a business or organization that qualifies for
11 exemption under section 501(c)(3) of the internal revenue code of
12 1986 (26 U.S.C. Sec. 501(c)(3)) and that provides emergency shelter
13 or transitional housing for children, persons with developmental
14 disabilities, or vulnerable adults.

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

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

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

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

37 (d) When contracting with individuals or businesses or
38 organizations for the care, supervision, case management, or
39 treatment, including peer counseling, of children, developmentally
40 disabled persons, or vulnerable adults, including but not limited to

1 services contracted for under chapter 18.20, 70.127, 70.128, 72.36,
2 or 74.39A RCW or Title 71A RCW;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 ~~((+5))~~ (6) Background checks of the persons identified in
34 subsections (4) and (5) of this section must include the
35 investigation of the following and may come from confidential child
36 welfare records maintained by the department of social and health
37 services, and the information may be shared only with other state
38 agencies or persons as allowed under chapters 13.50, 26.44, and
39 43.215 RCW:

40 (a) Conviction records;

1 (b) Pending charges;
2 (c) Civil adjudication proceeding records; and
3 (d) Other information including investigative records and files
4 held by the department of social and health services that pertain to:
5 (i) Abuse or neglect allegations;
6 (ii) Abuse or neglect investigations; and
7 (iii) The results of investigations of abuse or neglect.
8 (7) As used in subsection (6) of this section, "abuse or neglect"
9 has the definition in RCW 26.44.020.

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

20 ~~((+6+))~~ (9)(a) For purposes of facilitating timely access to
21 criminal background information and to reasonably minimize the number
22 of requests made under this section, recognizing that certain health
23 care providers change employment frequently, health care facilities
24 may, upon request from another health care facility, share copies of
25 completed criminal background inquiry information.

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

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

1 (d) Any health care facility that knows or has reason to believe
2 that an applicant has or may have a disqualifying conviction or
3 finding as described in RCW 43.43.842, subsequent to the completion
4 date of their most recent criminal background inquiry, shall be
5 prohibited from relying on the applicant's previous employer's
6 criminal background inquiry information. A new criminal background
7 inquiry shall be requested pursuant to RCW 43.43.830 through
8 43.43.842.

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

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

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

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

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

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

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

38 (3) In consultation and with the advice and assistance of parents
39 or guardians, and persons representative of the various type agencies

1 to be licensed, to adopt and publish minimum requirements for
2 licensing applicable to each of the various categories of agencies to
3 be licensed under this chapter;

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

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

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

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

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

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

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

34 **Sec. 5.** RCW 43.215.215 and 2011 c 295 s 2 and 2011 c 253 s 4 are
35 each reenacted and amended to read as follows:

36 (1) In determining whether an individual is of appropriate
37 character, suitability, and competence to provide child care and
38 early learning services to children, the department may consider the
39 history of past involvement of child protective services or law

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

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

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

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

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

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

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

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

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

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

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

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

38 (j) The department shall investigate and conduct a
39 redetermination of an applicant's or licensee's background clearance
40 if the department receives a complaint or information from

1 individuals, a law enforcement agency, or other federal, state, or
2 local government agency. Subject to the requirements contained in RCW
3 43.215.300 and 43.215.305 and based on a determination that an
4 individual lacks the appropriate character, suitability, or
5 competence to provide child care or early learning services to
6 children, the department may: (i) Invalidate the background card or
7 certificate; or (ii) suspend, modify, or revoke any license
8 authorized by this chapter.

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

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

- 22 (i) The applicant for a license issued by the department;
- 23 (ii) A licensee who is licensed by the department;
- 24 (iii) A person seeking to be employed by a person or entity
25 licensed by the department;
- 26 (iv) A current agency staff person seeking to renew his or her
27 background clearance card or certificate;
- 28 (v) An intern or person seeking to volunteer for a person or
29 entity licensed by the department;
- 30 (vi) A current agency intern or volunteer seeking to renew his or
31 her background clearance card or certificate;
- 32 (vii) A person who resides in or is moving into a licensed in-
33 home child care agency who is sixteen years of age or older;
- 34 (viii) A person who is exempt from licensing under this chapter
35 who receives subsidy payments for the care of a child from the child
36 care development fund, the working connections child care program, or
37 the seasonal child care program; and
- 38 (ix) A person who is exempt from licensing under this chapter who
39 is seeking subsidy payments for the care of a child from the child

1 care development fund, the working connections child care program, or
2 the seasonal child care program.

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

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

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

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

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

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

25 (i) Conviction records;

26 (ii) Pending charges;

27 (iii) Civil adjudication proceeding records; and

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

30 (A) Abuse or neglect allegations;

31 (B) Abuse or neglect investigations; and

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

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

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

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

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

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

7 **Sec. 6.** RCW 74.04.060 and 2011 1st sp.s. c 15 s 66 are each
8 amended to read as follows:

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

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

1 person except for the purpose of enforcing visitation provisions of
2 the said order or decree.

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

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

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

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

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