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**SUBSTITUTE HOUSE BILL 1645**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** House Human Services & Early Learning (originally sponsored by Representatives Ortiz-Self, Frame, Gregerson, Valdez, Jinkins, Davis, Santos, and Morgan)

READ FIRST TIME 02/20/19.

1 AN ACT Relating to certificates of parental improvement; amending  
2 RCW 74.13.700 and 74.39A.056; reenacting and amending RCW  
3 28A.400.303, 74.13.020, 43.43.832, and 43.216.270; adding new  
4 sections to chapter 74.13 RCW; adding a new section to chapter 18.20  
5 RCW; and adding a new section to chapter 18.51 RCW.

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

7 **Sec. 1.** RCW 28A.400.303 and 2017 3rd sp.s. c 33 s 1 and 2017 3rd  
8 sp.s. c 6 s 220 are each reenacted and amended to read as follows:

9 (1) School districts, educational service districts, the  
10 Washington state center for childhood deafness and hearing loss, the  
11 state school for the blind, and their contractors hiring employees  
12 who will have regularly scheduled unsupervised access to children or  
13 developmentally disabled persons shall require a record check through  
14 the Washington state patrol criminal identification system under RCW  
15 43.43.830 through 43.43.834, 10.97.030, and 10.97.050 and through the  
16 federal bureau of investigation before hiring an employee. The record  
17 check shall include a fingerprint check using a complete Washington  
18 state criminal identification fingerprint card. The requesting entity  
19 may provide a copy of the record report to the applicant at the  
20 applicant's request. When necessary, applicants may be employed on a  
21 conditional basis pending completion of the investigation. If the

1 applicant has had a record check within the previous two years, the  
2 district, the Washington state center for childhood deafness and  
3 hearing loss, the state school for the blind, or contractor may waive  
4 the requirement. Except as provided in subsection (2) of this  
5 section, the district, pursuant to chapter 41.59 or 41.56 RCW, the  
6 Washington state center for childhood deafness and hearing loss, the  
7 state school for the blind, or contractor hiring the employee shall  
8 determine who shall pay costs associated with the record check.

9 (2) Federal bureau of Indian affairs-funded schools may use the  
10 process in subsection (1) of this section to perform record checks  
11 for their employees and applicants for employment.

12 (3)(a) School districts, educational service districts, the  
13 Washington state center for childhood deafness and hearing loss, the  
14 state school for the blind, federal bureau of Indian affairs-funded  
15 schools, charter schools established under chapter 28A.710 RCW,  
16 schools that are the subject of a state-tribal education compact  
17 under chapter 28A.715 RCW, and their contractors may use the process  
18 in subsection (1) of this section to perform record checks for any  
19 prospective volunteer who will have regularly scheduled unsupervised  
20 access to children under eighteen years of age or developmentally  
21 disabled persons, during the course of his or her involvement with  
22 the school or organization under circumstances where access will or  
23 may involve the following:

24 (i) Groups of five or fewer children under twelve years of age;

25 (ii) Groups of three or fewer children between twelve and  
26 eighteen years of age; or

27 (iii) Developmentally disabled persons.

28 (b) For purposes of (a) of this subsection, "unsupervised" means  
29 not in the presence of:

30 (i) Another employee or volunteer from the same school or  
31 organization; or

32 (ii) Any relative or guardian of any of the children or  
33 developmentally disabled persons to which the prospective employee or  
34 volunteer has access during the course of his or her involvement with  
35 the school or organization.

36 (4) School districts, educational service districts, the  
37 Washington state center for childhood deafness and hearing loss, the  
38 state school for the blind, federal bureau of Indian affairs-funded  
39 schools, charter schools established under chapter 28A.710 RCW,  
40 schools that are the subject of a state-tribal education compact

1 under chapter 28A.715 RCW, and their contractors may not deny a  
2 prospective volunteer solely because of a founded finding of abuse or  
3 neglect involving the individual revealed in the record check or a  
4 court finding that the individual's child was dependent pursuant to  
5 chapter 13.34 RCW when that founded finding or court finding is  
6 accompanied by a certificate of parental improvement as defined in  
7 chapter 74.13 RCW related to the same incident.

8 (5) Individuals who hold a valid portable background check  
9 clearance card issued by the department of children, youth, and  
10 families consistent with RCW 43.216.270 can meet the requirements in  
11 subsection (1) of this section by providing a true and accurate copy  
12 of their Washington state patrol and federal bureau of investigation  
13 background report results to the office of the superintendent of  
14 public instruction.

15 ~~((5))~~ (6) The cost of record checks must include: The fees  
16 established by the Washington state patrol and the federal bureau of  
17 investigation for the criminal history background checks; a fee paid  
18 to the superintendent of public instruction for the cost of  
19 administering this section and RCW 28A.195.080 and 28A.410.010; and  
20 other applicable fees for obtaining the fingerprints.

21 NEW SECTION. Sec. 2. A new section is added to chapter 74.13  
22 RCW to read as follows:

23 (1) The department shall develop and implement a process by which  
24 an individual with a founded finding of child abuse or neglect as  
25 defined in RCW 26.44.020 or an individual whose child was found by a  
26 court to be dependent pursuant to chapter 13.34 RCW may request the  
27 secretary issue a certificate of parental improvement.

28 (2) The secretary shall respond to a certificate of parental  
29 improvement request and notify the requestor of the secretary's  
30 determination to issue or deny that request within sixty days.

31 (3) The secretary shall issue a certificate of parental  
32 improvement if, on a more probable than not basis, the requestor has  
33 the character, suitability, and competence to care for children and  
34 meets the other requirements of this section.

35 (4) The secretary may not issue a certificate of parental  
36 improvement to any individual if:

37 (a) Fewer than five years have passed since the requestor's last  
38 founded finding of child abuse or neglect as defined in RCW  
39 26.44.020;

1 (b) Fewer than two years have passed since the secretary's denial  
2 of an individual's request for a certificate of parental improvement;  
3 or  
4 (c) The requestor has any conviction or pending criminal action  
5 for:  
6 (i) Any felony offense involving the physical neglect of a child  
7 under chapter 9A.42 RCW;  
8 (ii) Any felony offense under chapter 9A.32 or 9A.36 RCW  
9 involving a physical injury or death of a child;  
10 (iii) Any felony domestic violence offense committed against a  
11 family or household member as defined in chapter 10.99 RCW;  
12 (iv) A felony offense against a child under chapter 9.68A RCW;  
13 (v) Any of the following felony offenses:  
14 (A) Any felony defined under any law as a class A felony or an  
15 attempt to commit a class A felony;  
16 (B) Criminal solicitation of or criminal conspiracy to commit a  
17 class A felony;  
18 (C) Manslaughter in the first or second degree;  
19 (D) Indecent liberties if committed by forcible compulsion;  
20 (E) Kidnapping in the second degree;  
21 (F) Arson in the second degree;  
22 (G) Extortion in the first degree;  
23 (H) Robbery in the second degree;  
24 (I) Drive-by shooting; and  
25 (J) Vehicular homicide; or  
26 (vi) Any out-of-state, federal, or state conviction for a felony  
27 offense that is comparable to an offense listed in this subsection  
28 (3)(b).  
29 (5) The secretary shall consider the following when determining  
30 whether to issue a certificate of parental improvement:  
31 (a) Documentation of any founded finding of child abuse or  
32 neglect and the underlying documentation the department relied upon  
33 to make that finding;  
34 (b) Findings from any civil adjudication proceeding as defined in  
35 RCW 43.43.830;  
36 (c) Referral history alleging child abuse or neglect against the  
37 requestor;  
38 (d) The length of time that has elapsed since the founded finding  
39 of child abuse or neglect;

1 (e) Whether a court made a finding that the requestor's child was  
2 dependent pursuant to chapter 13.34 RCW, the length of time elapsed  
3 since that dependency court process was dismissed, and the outcome of  
4 the dependency court process including whether the child was returned  
5 to the requestor's care;

6 (f) Any documentation that the requestor successfully addressed  
7 the circumstances that led to an administrative finding of child  
8 abuse or neglect, including but not limited to: A declaration by the  
9 requestor; recent assessments or evaluations; completion or progress  
10 toward completion of recommended court ordered treatment, services,  
11 or programs;

12 (g) Any pending criminal or civil actions against the requestor;

13 (h) Results of a Washington state patrol criminal history and  
14 federal background check;

15 (i) Personal and professional references from employers,  
16 professionals, and agencies familiar with the requestor who can  
17 address the requestor's current character; and

18 (j) Any education, volunteer work, employment history, or  
19 community involvement of the requestor.

20 (6) Governmental entities, and their officers, agents, employees,  
21 and volunteers are not liable in tort for any of their acts or  
22 omissions in issuing certificates of parental improvement including,  
23 but not limited to, any determination to issue the certificate, or  
24 any later act of an individual who received a certificate.

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.13  
26 RCW to read as follows:

27 (1) A person who applies for a certificate of parental  
28 improvement pursuant to section 2 of this act has the right to seek  
29 review of the secretary's denial of this certificate request as  
30 provided in this section.

31 (2) Within thirty calendar days after the department has notified  
32 the requestor that the secretary is denying the request for a  
33 certificate of parental improvement pursuant to section 2 of this  
34 act, the requestor may request that the secretary review this  
35 determination. The request for review must be made in writing. The  
36 written notice provided by the department denying a request for a  
37 certificate of parental improvement must be sent by mail to the  
38 requestor's last known address and include at least the following  
39 information in plain language:

1 (a) The reason or reasons for the secretary's denial of a  
2 certificate of parental improvement request following a child abuse  
3 or neglect finding; and

4 (b) That the requestor has a right to challenge the secretary's  
5 decision not to issue a certificate of parental improvement,  
6 including a description of the process for requesting a review of the  
7 secretary's decision to deny a request for a certificate of parental  
8 improvement.

9 (3) If a requestor does not request review according to the  
10 process provided in this subsection, the requestor may not further  
11 challenge the secretary's decision not to issue a certificate of  
12 parental improvement following a child abuse or neglect finding.

13 (4) Upon receipt of a written request for review, the secretary  
14 shall review and, if appropriate, may change the decision and issue a  
15 certificate of parental improvement. The secretary may designate the  
16 appropriate staff to conduct this review. The review must be  
17 completed within thirty days after receiving the written request for  
18 review. Upon completion of this review, the department shall notify  
19 the requestor in writing of the secretary's determination.

20 (5) If the secretary does not alter the decision not to issue a  
21 certificate of parental improvement following a child abuse or  
22 neglect finding, the requestor may request an adjudicative hearing to  
23 contest this decision. The adjudicative proceeding is governed by the  
24 administrative procedure act, chapter 34.05 RCW, and this section.  
25 The request for an adjudicative proceeding must be filed within  
26 thirty calendar days after receiving notice of the agency review  
27 determination. If a request for an adjudicative proceeding is not  
28 made as provided in this section, the requestor may not further  
29 challenge the secretary's decision and has no right to review by the  
30 secretary, an adjudicative hearing, or judicial review of the  
31 determination not to issue a certificate of parental improvement.

32 (6) Reviews and hearings conducted under this section are  
33 confidential and are not open to the public. Information about  
34 reports, reviews, and hearings may be disclosed only in accordance  
35 with federal and state laws pertaining to child welfare records and  
36 child protective services reports.

37 (7) The secretary shall establish by administrative rule  
38 procedures for reviewing requests for certificates of parental  
39 improvement. The secretary may adopt additional rules to implement  
40 this section.

1       **Sec. 4.** RCW 74.13.700 and 2014 c 88 s 4 are each amended to read  
2 as follows:

3       (1) In determining the character, suitability, and competence of  
4 an individual, the department may not:

5       (a) Deny or delay a license or approval of unsupervised access to  
6 children to an individual solely because of a crime or civil  
7 infraction involving the individual or entity revealed in the  
8 background check process that does not fall within the categories of  
9 disqualifying crimes described in the adoption and safe families act  
10 of 1997 or does not relate directly to child safety, permanence, or  
11 well-being; (~~or~~)

12       (b) Deny or delay a license or approval of unsupervised access to  
13 children to an individual solely because of a founded finding of  
14 abuse or neglect involving the individual revealed in the background  
15 check process or solely because the individual's child was found by a  
16 court to be dependent pursuant to chapter 13.34 RCW when that founded  
17 finding or court finding is accompanied by a certificate of parental  
18 improvement as defined in this chapter related to the same incident;  
19 or

20       (c) Delay the issuance of a license or approval of unsupervised  
21 access to children by requiring the individual to obtain records  
22 relating to a crime or civil infraction revealed in the background  
23 check process that does not fall within the categories of  
24 disqualifying crimes described in the adoption and safe families act  
25 of 1997 or does not relate directly to child safety, permanence, or  
26 well-being.

27       (2) If the department determines that an individual does not  
28 possess the character, suitability, or competence to provide care or  
29 have unsupervised access to a child, it must provide the reasons for  
30 its decision in writing with copies of the records or documents  
31 related to its decision to the individual within ten days of making  
32 the decision.

33       (3) For purposes of this section, "individual" means a relative  
34 as defined in RCW 74.15.020(2)(a), an "other suitable person" under  
35 chapter 13.34 RCW, a person pursuing licensing as a foster parent, or  
36 a person employed or seeking employment by a business or organization  
37 licensed by the department or with whom the department has a contract  
38 to provide care, supervision, case management, or treatment of  
39 children in the care of the department. "Individual" does not include

1 long-term care workers defined in RCW 74.39A.009(~~(17)(a)~~) whose  
2 background checks are conducted as provided in RCW 74.39A.056.

3 (4) The department or its officers, agents, or employees may not  
4 be held civilly liable based upon its decision to grant or deny  
5 unsupervised access to children if the background information it  
6 relied upon at the time the decision was made did not indicate that  
7 child safety, permanence, or well-being would be a concern.

8 **Sec. 5.** RCW 74.13.020 and 2018 c 284 s 36, 2018 c 58 s 51, and  
9 2018 c 34 s 3 are each reenacted and amended to read as follows:

10 The definitions in this section apply throughout this chapter  
11 unless the context clearly requires otherwise.

12 (1) "Case management" means convening family meetings,  
13 developing, revising, and monitoring implementation of any case plan  
14 or individual service and safety plan, coordinating and monitoring  
15 services needed by the child and family, caseworker-child visits,  
16 family visits, and the assumption of court-related duties, excluding  
17 legal representation, including preparing court reports, attending  
18 judicial hearings and permanency hearings, and ensuring that the  
19 child is progressing toward permanency within state and federal  
20 mandates, including the Indian child welfare act.

21 (2) "Child" means:

22 (a) A person less than eighteen years of age; or

23 (b) A person age eighteen to twenty-one years who is eligible to  
24 receive the extended foster care services authorized under RCW  
25 74.13.031.

26 (3) "Child protective services" has the same meaning as in RCW  
27 26.44.020.

28 (4) "Child welfare services" means social services including  
29 voluntary and in-home services, out-of-home care, case management,  
30 and adoption services which strengthen, supplement, or substitute  
31 for, parental care and supervision for the purpose of:

32 (a) Preventing or remedying, or assisting in the solution of  
33 problems which may result in families in conflict, or the neglect,  
34 abuse, exploitation, or criminal behavior of children;

35 (b) Protecting and caring for dependent, abused, or neglected  
36 children;

37 (c) Assisting children who are in conflict with their parents,  
38 and assisting parents who are in conflict with their children, with  
39 services designed to resolve such conflicts;



1 (d) Protecting and promoting the welfare of children, including  
2 the strengthening of their own homes where possible, or, where  
3 needed;

4 (e) Providing adequate care of children away from their homes in  
5 foster family homes or day care or other child care agencies or  
6 facilities.

7 "Child welfare services" does not include child protection  
8 services.

9 (5) "Department" means the department of children, youth, and  
10 families.

11 (6) "Extended foster care services" means residential and other  
12 support services the department is authorized to provide to dependent  
13 children. These services include, but are not limited to, placement  
14 in licensed, relative, or otherwise approved care, or supervised  
15 independent living settings; assistance in meeting basic needs;  
16 independent living services; medical assistance; and counseling or  
17 treatment.

18 (7) "Family assessment" means a comprehensive assessment of child  
19 safety, risk of subsequent child abuse or neglect, and family  
20 strengths and needs that is applied to a child abuse or neglect  
21 report. Family assessment does not include a determination as to  
22 whether child abuse or neglect occurred, but does determine the need  
23 for services to address the safety of the child and the risk of  
24 subsequent maltreatment.

25 (8) "Medical condition" means, for the purposes of qualifying for  
26 extended foster care services, a physical or mental health condition  
27 as documented by any licensed health care provider regulated by a  
28 disciplining authority under RCW 18.130.040.

29 (9) "Nonminor dependent" means any individual age eighteen to  
30 twenty-one years who is participating in extended foster care  
31 services authorized under RCW 74.13.031.

32 (10) "Out-of-home care services" means services provided after  
33 the shelter care hearing to or for children in out-of-home care, as  
34 that term is defined in RCW 13.34.030, and their families, including  
35 the recruitment, training, and management of foster parents, the  
36 recruitment of adoptive families, and the facilitation of the  
37 adoption process, family reunification, independent living, emergency  
38 shelter, residential group care, and foster care, including relative  
39 placement.

1 (11) "Performance-based contracting" means the structuring of all  
2 aspects of the procurement of services around the purpose of the work  
3 to be performed and the desired results with the contract  
4 requirements set forth in clear, specific, and objective terms with  
5 measurable outcomes. Contracts shall also include provisions that  
6 link the performance of the contractor to the level and timing of  
7 reimbursement.

8 (12) "Permanency services" means long-term services provided to  
9 secure a child's safety, permanency, and well-being, including foster  
10 care services, family reunification services, adoption services, and  
11 preparation for independent living services.

12 (13) "Primary prevention services" means services which are  
13 designed and delivered for the primary purpose of enhancing child and  
14 family well-being and are shown, by analysis of outcomes, to reduce  
15 the risk to the likelihood of the initial need for child welfare  
16 services.

17 (14) "Secretary" means the secretary of the department.

18 (15) "Supervised independent living" includes, but is not limited  
19 to, apartment living, room and board arrangements, college or  
20 university dormitories, and shared roommate settings. Supervised  
21 independent living settings must be approved by the department or the  
22 court.

23 (16) "Unsupervised" has the same meaning as in RCW 43.43.830.

24 (17) "Voluntary placement agreement" means, for the purposes of  
25 extended foster care services, a written voluntary agreement between  
26 a nonminor dependent who agrees to submit to the care and authority  
27 of the department for the purposes of participating in the extended  
28 foster care program.

29 (18) "Certificate of parental improvement" means a certificate  
30 issued under section 2 of this act to an individual with a founded  
31 finding of child abuse or neglect or a court finding that the  
32 individual's child was dependent pursuant to chapter 13.34 RCW.

33 NEW SECTION. Sec. 6. A new section is added to chapter 18.20  
34 RCW to read as follows:

35 Assisted living facilities, as defined in this chapter, may not  
36 automatically deny a prospective volunteer solely because of a  
37 founded finding of abuse or neglect involving the individual revealed  
38 in the record check or a court finding that the individual's child  
39 was dependent pursuant to chapter 13.34 RCW when that founded finding

1 or court finding is accompanied by a certificate of parental  
2 improvement as defined in chapter 74.13 RCW related to the same  
3 incident without conducting a review to determine the individual's  
4 character, suitability, and competency to volunteer with vulnerable  
5 adults.

6 NEW SECTION. **Sec. 7.** A new section is added to chapter 18.51  
7 RCW to read as follows:

8 Nursing homes, as defined in this chapter, may not automatically  
9 deny a prospective volunteer solely because of a founded finding of  
10 abuse or neglect involving the individual revealed in the record  
11 check or a court finding that the individual's child was dependent  
12 pursuant to chapter 13.34 RCW when that founded finding or court  
13 finding is accompanied by a certificate of parental improvement as  
14 defined in chapter 74.13 RCW related to the same incident without  
15 conducting a review to determine the individual's character,  
16 suitability, and competency to volunteer with vulnerable adults.

17 **Sec. 8.** RCW 43.43.832 and 2017 3rd sp.s. c 20 s 5 and 2017 3rd  
18 sp.s. c 6 s 224 are each reenacted and amended to read as follows:

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

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

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

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

33 (d) A prospective client's or resident's conviction record, upon  
34 the request of a business or organization that qualifies for  
35 exemption under section 501(c)(3) of the internal revenue code of  
36 1986 (26 U.S.C. Sec. 501(c)(3)) and that provides emergency shelter  
37 or transitional housing for children, persons with developmental  
38 disabilities, or vulnerable adults.

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

8 (a) When considering persons for state employment in positions  
9 directly responsible for the supervision, care, or treatment of  
10 children, vulnerable adults, or individuals with mental illness or  
11 developmental disabilities provided that: For persons residing in a  
12 home that will be utilized to provide foster care for dependent  
13 youth, a criminal background check will be required for all persons  
14 aged sixteen and older and the department of social and health  
15 services may require a criminal background check for persons who are  
16 younger than sixteen in situations where it may be warranted to  
17 ensure the safety of youth in foster care;

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

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

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

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

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

13           (4) The secretary of the department of children, youth, and  
14 families shall adopt rules and investigate conviction records,  
15 pending charges, and other information including civil adjudication  
16 proceeding records, in the following circumstances:

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

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

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

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

38           (e) When responding to a request from an individual for a  
39 certificate of parental improvement under chapter 74.13 RCW.

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

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

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

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

32 (d) Any health care facility that knows or has reason to believe  
33 that an applicant has or may have a disqualifying conviction or  
34 finding as described in RCW 43.43.842, subsequent to the completion  
35 date of their most recent criminal background inquiry, shall be  
36 prohibited from relying on the applicant's previous employer's  
37 criminal background inquiry information. A new criminal background  
38 inquiry shall be requested pursuant to RCW 43.43.830 through  
39 43.43.842.

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

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

8 **Sec. 9.** RCW 74.39A.056 and 2018 c 278 s 8 are each amended to  
9 read as follows:

10 (1)(a) All long-term care workers shall be screened through state  
11 and federal background checks in a uniform and timely manner to  
12 verify that they do not have a history that would disqualify them  
13 from working with vulnerable persons. The department must process  
14 background checks for long-term care workers and make the information  
15 available to employers, prospective employers, and others as  
16 authorized by law.

17 (b)(i) Except as provided in (b)(ii) of this subsection, for  
18 long-term care workers hired on or after January 7, 2012, the  
19 background checks required under this section shall include checking  
20 against the federal bureau of investigation fingerprint  
21 identification records system and against the national sex offenders  
22 registry or their successor programs. The department shall require  
23 these long-term care workers to submit fingerprints for the purpose  
24 of investigating conviction records through both the Washington state  
25 patrol and the federal bureau of investigation. The department shall  
26 not pass on the cost of these criminal background checks to the  
27 workers or their employers.

28 (ii) This subsection does not apply to long-term care workers  
29 employed by community residential service businesses until January 1,  
30 2016.

31 (c) The department shall share state and federal background check  
32 results with the department of health in accordance with RCW  
33 18.88B.080.

34 (d) Background check screening required under this section and  
35 department rules is not required for an employee of a consumer  
36 directed employer if all of the following circumstances apply:

37 (i) The individual has an individual provider contract with the  
38 department;

1 (ii) The last background check on the contracted individual  
2 provider is still valid under department rules and did not disqualify  
3 the individual from providing personal care services;

4 (iii) Employment by the consumer directed employer is the only  
5 reason a new background check would be required; and

6 (iv) The department's background check results have been shared  
7 with the consumer directed employer.

8 (2)(a) No provider, or its staff, or long-term care worker, or  
9 prospective provider or long-term care worker, with a stipulated  
10 finding of fact, conclusion of law, an agreed order, or finding of  
11 fact, conclusion of law, or final order issued by a disciplining  
12 authority or a court of law or entered into a state registry with a  
13 final substantiated finding of abuse, neglect, exploitation, or  
14 abandonment of a minor or a vulnerable adult as defined in chapter  
15 74.34 RCW shall be employed in the care of and have unsupervised  
16 access to vulnerable adults.

17 (b) A provider may not automatically deny a request from a  
18 prospective volunteer for unsupervised access to vulnerable adults  
19 under this chapter solely because of a founded finding of child abuse  
20 or neglect involving the individual revealed in the background check  
21 process or solely because the individual's child was found by a court  
22 to be dependent pursuant to chapter 13.34 RCW when that founded  
23 finding or court finding is accompanied by a certificate of parental  
24 improvement as defined in chapter 74.13 RCW related to the same  
25 incident without conducting a review to determine the individual's  
26 character, suitability, and competency to volunteer with vulnerable  
27 adults.

28 (3) The department shall establish, by rule, a state registry  
29 which contains identifying information about long-term care workers  
30 identified under this chapter who have final substantiated findings  
31 of abuse, neglect, financial exploitation, or abandonment of a  
32 vulnerable adult as defined in RCW 74.34.020. The rule must include  
33 disclosure, disposition of findings, notification, findings of fact,  
34 appeal rights, and fair hearing requirements. The department shall  
35 disclose, upon request, final substantiated findings of abuse,  
36 neglect, financial exploitation, or abandonment to any person so  
37 requesting this information. This information must also be shared  
38 with the department of health to advance the purposes of chapter  
39 18.88B RCW.

40 (4) The department shall adopt rules to implement this section.



1       **Sec. 10.** RCW 43.216.270 and 2018 c 59 s 1 and 2018 c 58 s 69 are  
2 each reenacted and amended to read as follows:

3       (1)(a) In determining whether an individual is of appropriate  
4 character, suitability, and competence to provide child care and  
5 early learning services to children, the department may consider the  
6 history of past involvement of child protective services or law  
7 enforcement agencies with the individual for the purpose of  
8 establishing a pattern of conduct, behavior, or inaction with regard  
9 to the health, safety, or welfare of a child. No report of child  
10 abuse or neglect that has been destroyed or expunged under RCW  
11 26.44.031 may be used for such purposes. No unfounded or inconclusive  
12 allegation of child abuse or neglect as defined in RCW 26.44.020 may  
13 be disclosed to a provider licensed under this chapter.

14       (b) The department may not deny or delay a license to provide  
15 child care and early learning services under this chapter to an  
16 individual solely because of a founded finding of abuse or neglect  
17 involving the individual revealed in the background check process or  
18 solely because the individual's child was found by a court to be  
19 dependent pursuant to chapter 13.34 RCW when that founded finding or  
20 court finding is accompanied by a certificate of parental improvement  
21 as defined in chapter 74.13 RCW related to the same incident.

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

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

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

34       (ii) Persons required to be fingerprinted and obtain a criminal  
35 history record check pursuant to this section must pay for the cost  
36 of this check as follows: The fee established by the Washington state  
37 patrol for the criminal background history check, including the cost  
38 of obtaining the fingerprints; and a fee paid to the department for  
39 the cost of administering the individual-based/portable background  
40 check clearance registry. The fee paid to the department must be

1 deposited into the individual-based/portable background check  
2 clearance account established in RCW 43.216.273. The licensee may,  
3 but need not, pay these costs on behalf of a prospective employee or  
4 reimburse the prospective employee for these costs. The licensee and  
5 the prospective employee may share these costs.

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

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

15 (e) No later than July 1, 2013, all agency licensees holding  
16 licenses prior to July 1, 2012, persons who were employees before  
17 July 1, 2012, and persons who have been qualified by the department  
18 before July 1, 2012, to have unsupervised access to children in child  
19 care, must submit a new background application to the department. The  
20 department must require persons submitting a new background  
21 application pursuant to this subsection (2)(e) to pay a fee to the  
22 department for the cost of administering the individual-based/  
23 portable background check clearance registry. This fee must be paid  
24 into the individual-based/portable background check clearance account  
25 established in RCW 43.216.273. The licensee may, but need not, pay  
26 these costs on behalf of a prospective employee or reimburse the  
27 prospective employee for these costs. The licensee and the  
28 prospective employee may share these costs.

29 (f) The department shall issue a background check clearance card  
30 or certificate to the applicant if after the completion of a  
31 background check the department concludes the applicant is qualified  
32 for unsupervised access to children in child care. The background  
33 check clearance card or certificate is valid for three years from the  
34 date of issuance. A valid card or certificate must be accepted by a  
35 potential employer as proof that the applicant has successfully  
36 completed a background check as required under this chapter. For  
37 purposes of renewal of the background clearance card or certificate,  
38 all agency licensees holding a license, persons who are employees,  
39 and persons who have been previously qualified by the department,  
40 must submit a new background application to the department on a date

1 to be determined by the department. The fee requirements applicable  
2 to this section also apply to background clearance renewal  
3 applications.

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

9 (h) The payment requirements applicable to (a) through (g) of  
10 this subsection do not apply to persons who:

11 (i) Provide regularly scheduled care for a child or children in  
12 the home of the provider or in the home of the child or children for  
13 periods of less than twenty-four hours or, if necessary due to the  
14 nature of the parent's work, for periods equal to or greater than  
15 twenty-four hours;

16 (ii) Receive child care subsidies; and

17 (iii) Are exempt from licensing under this chapter.

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

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

25 (k) The department shall investigate and conduct a  
26 redetermination of an applicant's or licensee's background clearance  
27 if the department receives a complaint or information from  
28 individuals, a law enforcement agency, or other federal, state, or  
29 local government agency. Subject to the requirements contained in RCW  
30 43.216.325 and 43.216.327 and based on a determination that an  
31 individual lacks the appropriate character, suitability, or  
32 competence to provide child care or early learning services to  
33 children, the department may: (i) Invalidate the background card or  
34 certificate; or (ii) suspend, modify, or revoke any license  
35 authorized by this chapter.

36 (3) To satisfy the shared background check requirements of the  
37 department of children, youth, and families, the office of the  
38 superintendent of public instruction, and the department of social  
39 and health services, each department shall share federal fingerprint-  
40 based background check results as permitted under the law. The

1 purpose of this provision is to allow these departments to fulfill  
2 their joint background check responsibility of checking any  
3 individual who may have unsupervised access to vulnerable adults,  
4 children, or juveniles. These departments may not share the federal  
5 background check results with any other state agency or person.

6 (4) Individuals who have completed a fingerprint background check  
7 as required by the office of the superintendent of public  
8 instruction, consistent with RCW 28A.400.303, and have been  
9 continuously employed by the same school district or educational  
10 service district, can meet the requirements in subsection (2) of this  
11 section by providing a true and accurate copy of their Washington  
12 state patrol and federal bureau of investigation background check  
13 report results to the department or if the school district or the  
14 educational service district provides an affidavit to the department  
15 that the individual has been authorized to work by the school  
16 district or educational service district after completing a record  
17 check consistent with RCW 28A.400.303. The department may require  
18 that additional background checks be completed that do not require  
19 additional fingerprinting and may charge a fee for these additional  
20 background checks.

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