

E2SSB 5051 - H AMD TO APP COMM AMD (H-1458.2/21) **603**

By Representative Robertson

NOT ADOPTED 04/07/2021

1 On page 4, beginning on line 23 of the striking amendment, after
2 "state" strike all material through "responsibilities" on line 33

3
4 On page 9, line 32 of the striking amendment, after "reserve
5 officer," insert "a specially commissioned Washington peace officer, a
6 limited authority Washington peace officer,"

7
8 On page 10, line 16 of the striking amendment, after "reserve
9 officer," insert "specially commissioned Washington peace officer,
10 limited authority Washington peace officer,"

11
12 On page 39, after line 37 of the striking amendment, insert the
13 following:

14 "**Sec. 31.** RCW 43.43.837 and 2019 c 470 s 12 are each amended to
15 read as follows:

16 (1) Except as provided in subsection (2) of this section, in
17 order to determine the character, competence, and suitability of any
18 applicant or service provider to have unsupervised access, the
19 secretary of the department of social and health services and the
20 secretary of the department of children, youth, and families may
21 require a fingerprint-based background check through both the
22 Washington state patrol and the federal bureau of investigation at
23 any time, but shall require a fingerprint-based background check
24 when the applicant or service provider has resided in the state less
25 than three consecutive years before application, and:

26
27

1 (a) Is an applicant or service provider providing services to
2 children or people with developmental disabilities under RCW
3 74.15.030;

4 (b) Is an individual sixteen years of age or older who: (i) Is
5 not under the placement and care authority of the department of
6 children, youth, and families; and (ii) resides in an applicant or
7 service provider's home, facility, entity, agency, or business or
8 who is authorized by the department of children, youth, and families
9 to provide services to children under RCW 74.15.030;

10 (c) Is an individual who is authorized by the department of
11 social and health services to provide services to people with
12 developmental disabilities under RCW 74.15.030; or

13 (d) Is an applicant or service provider providing in-home
14 services funded by:

15 (i) Medicaid personal care under RCW 74.09.520;

16 (ii) Community options program entry system waiver services
17 under RCW 74.39A.030;

18 (iii) Chore services under RCW 74.39A.110; or

19 (iv) Other home and community long-term care programs,
20 established pursuant to chapters 74.39 and 74.39A RCW, administered
21 by the department of social and health services.

22 (2) Long-term care workers, as defined in RCW 74.39A.009, who
23 are hired after January 7, 2012, are subject to background checks
24 under RCW 74.39A.056.

25 (3) To satisfy the shared background check requirements provided
26 for in RCW 43.216.270 and 43.20A.710, the department of children,
27 youth, and families and the department of social and health services
28 shall share federal fingerprint-based background check results as
29 permitted under the law. The purpose of this provision is to allow
30 both departments to fulfill their joint background check
31 responsibility of checking any individual who may have unsupervised
32 access to vulnerable adults, children, or juveniles. Neither
33 department may share the federal background check results with any
34 other state agency or person.

1 (4) The secretary of the department of children, youth, and
2 families shall require a fingerprint-based background check through
3 the Washington state patrol identification and criminal history
4 section and the federal bureau of investigation when the department
5 seeks to approve an applicant or service provider for a foster or
6 adoptive placement of children in accordance with federal and state
7 law. Fees charged by the Washington state patrol and the federal
8 bureau of investigation for fingerprint-based background checks
9 shall be paid by the department of children, youth, and families for
10 applicant and service providers providing foster care as required in
11 RCW 74.15.030.

12 (5) Any secure facility operated by the department of social and
13 health services or the department of children, youth, and families
14 under chapter 71.09 RCW shall require applicants and service
15 providers to undergo a fingerprint-based background check through
16 the Washington state patrol identification and criminal history
17 section and the federal bureau of investigation.

18 (6) Service providers and service provider applicants who are
19 required to complete a fingerprint-based background check may be
20 hired for a one hundred twenty-day provisional period as allowed
21 under law or program rules when:

22 (a) A fingerprint-based background check is pending; and

23 (b) The applicant or service provider is not disqualified based
24 on the immediate result of the background check.

25 (7) Fees charged by the Washington state patrol and the federal
26 bureau of investigation for fingerprint-based background checks
27 shall be paid by the applicable department for applicants or service
28 providers providing:

29 (a) Services to people with a developmental disability under RCW
30 74.15.030;

31 (b) In-home services funded by medicaid personal care under RCW
32 74.09.520;

33 (c) Community options program entry system waiver services under
34 RCW 74.39A.030;

1 (d) Chore services under RCW 74.39A.110;

2 (e) Services under other home and community long-term care
3 programs, established pursuant to chapters 74.39 and 74.39A RCW,
4 administered by the department of social and health services or the
5 department of children, youth, and families; and

6 (f) Services in, or to residents of, a secure facility under RCW
7 71.09.115.

8 (8) Service providers licensed under RCW 74.15.030 must pay fees
9 charged by the Washington state patrol and the federal bureau of
10 investigation for conducting fingerprint-based background checks.

11 (9) Department of children, youth, and families service
12 providers licensed under RCW 74.15.030 may not pass on the cost of
13 the background check fees to their applicants unless the individual
14 is determined to be disqualified due to the background information.

15 (10) The department of social and health services and the
16 department of children, youth, and families shall develop rules
17 identifying the financial responsibility of service providers,
18 applicants, and the department for paying the fees charged by law
19 enforcement to roll, print, or scan fingerprints-based for the
20 purpose of a Washington state patrol or federal bureau of
21 investigation fingerprint-based background check.

22 (11) As a condition of hiring and continuing employment, any
23 person employed as security by a public institution of higher
24 education as defined in RCW 28B.10.016 and any person employed for
25 the purpose of providing security in the K-12 Washington state
26 public school system as defined in RCW 28A.150.010 must undergo a
27 fingerprint-based background check through both the Washington state
28 patrol and the federal bureau of investigation.

29 (12) For purposes of this section, unless the context plainly
30 indicates otherwise:

31 (a) "Applicant" means a current or prospective department of
32 social and health services, department of children, youth, and
33 families, or service provider employee, volunteer, student, intern,
34 researcher, contractor, or any other individual who will or may have

1 unsupervised access because of the nature of the work or services he
2 or she provides. "Applicant" includes but is not limited to any
3 individual who will or may have unsupervised access and is:

4 (i) Applying for a license or certification from the department
5 of social and health services or the department of children, youth,
6 and families;

7 (ii) Seeking a contract with the department of social and health
8 services, the department of children, youth, and families, or a
9 service provider;

10 (iii) Applying for employment, promotion, reallocation, or
11 transfer;

12 (iv) An individual that a department of social and health
13 services or department of children, youth, and families client or
14 guardian of a department of social and health services or department
15 of children, youth, and families client chooses to hire or engage to
16 provide services to himself or herself or another vulnerable adult,
17 juvenile, or child and who might be eligible to receive payment from
18 the department of social and health services or the department of
19 children, youth, and families for services rendered; or

20 (v) A department of social and health services or department of
21 children, youth, and families applicant who will or may work in a
22 department-covered position.

23 (b) "Authorized" means the department of social and health
24 services or the department of children, youth, and families grants
25 an applicant, home, or facility permission to:

26 (i) Conduct licensing, certification, or contracting activities;

27 (ii) Have unsupervised access to vulnerable adults, juveniles,
28 and children;

29 (iii) Receive payments from a department of social and health
30 services or department of children, youth, and families program; or

31 (iv) Work or serve in a department of social and health services
32 or department of children, youth, and families-covered position.

33 (c) "Secretary" means the secretary of the department of social
34 and health services.

1 (d) "Secure facility" has the meaning provided in RCW 71.09.020.
2 (e) "Service provider" means entities, facilities, agencies,
3 businesses, or individuals who are licensed, certified, authorized,
4 or regulated by, receive payment from, or have contracts or
5 agreements with the department of social and health services or the
6 department of children, youth, and families to provide services to
7 vulnerable adults, juveniles, or children. "Service provider"
8 includes individuals whom a department of social and health services
9 or department of children, youth, and families client or guardian of
10 a department of social and health services or department of
11 children, youth, and families client may choose to hire or engage to
12 provide services to himself or herself or another vulnerable adult,
13 juvenile, or child and who might be eligible to receive payment from
14 the department of social and health services or the department of
15 children, youth, and families for services rendered. "Service
16 provider" does not include those certified under *chapter 70.96A RCW."
17

EFFECT: Removes the specific categories of personnel listed under the definition of "reserve officer," including specially commissioned officers, limited authority officers, persons employed as security by public institutions of higher education, and persons employed as security in K-12 public schools who are authorized to use force. Includes specially commissioned and limited authority peace officers in the list of officers for which the Criminal Justice Training Commission may require a background check. Requires, as a condition of hiring and continuing employment, that persons employed as security by public institutions of higher education and persons employed as security in K-12 public schools undergo a fingerprint-based background check through both the Washington State Patrol and the Federal Bureau of Investigation.

--- END ---