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**SENATE BILL 5318**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senators Kauffman, Nobles, Orwall, and C. Wilson; by request of Department of Social and Health Services

AN ACT Relating to fingerprint-based background checks; and reenacting and amending RCW 43.43.837.

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

**Sec.**  RCW 43.43.837 and 2023 c 437 s 1 and 2023 c 223 s 3 are each reenacted and amended to read as follows:

(1) In order to determine ((~~the~~)) an applicant's character, competence, and suitability ((~~of any applicant or service provider to have unsupervised access to vulnerable adults, children, or juveniles, the secretary of the department of social and health services shall require the~~)) for working unsupervised as a department of social and health services or department of children, youth, and families long-term care service provider, direct care worker, child placement provider, individuals over 16 years old living in home of child placement provider, individuals over 16 years old living in home of companion home provider, high-risk provider, residential habilitation center worker, transitional care facility worker, or a contracted home and community-based service provider, the applicant shall be fingerprinted.

(2) The department of social and health services may require an applicant ((~~or service provider~~)) to submit fingerprints for the purpose of investigating conviction records through ((~~both~~)) the Washington state patrol ((~~and the federal bureau of investigation when the applicant or service provider~~)) at any time they apply for the listed positions or new information regarding a pending charge, criminal conviction, and/or negative action. The applicant or service provider must submit fingerprints for the purpose of investigating conviction records through both the Washington state patrol and the federal bureau of investigation when the applicant or service provider has resided in the state less than three consecutive years before application and:

(a) ((~~Has resided in the state less than three consecutive years before application and:~~

~~(i)~~)) Is a contractor providing services funded by ((~~other~~)) home and community long‑term care programs, established pursuant to chapters 71A.12, 74.09, 74.39, and 74.39A RCW, administered by the department of social and health services;

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

~~(iii)~~)) (b) Is applying for employment or is already employed by an area agency on aging or federally recognized Indian tribe, or is an employee of a contractor of an area agency on aging or federally recognized Indian tribe, that will, or may, have unsupervised access to vulnerable adults, children, or juveniles when engaging in the activities described in RCW 74.09.520(5);

(c) Is an individual 16 years of age or older and resides in a certified community residential companion home authorized by the developmental disabilities administration to provide services to individuals with developmental disabilities under chapter 71A.12 RCW;

((~~(b)~~)) (d) Is applying for employment or is already employed at any secure facility operated by the department of social and health services under chapter 71.09 RCW;

((~~(c)~~)) (e) Is applying to be an adult family home licensee, entity representative, or resident manager under chapter 70.128 RCW;

((~~(d)~~)) (f) Is applying to be an assisted living facility licensee or administrator under chapter 18.20 RCW. For the purposes of this subsection (2)(f), "administrator" means an assisted living facility administrator who must be in active administrative charge of the assisted living facility as required in this chapter. Unless exempt under RCW 18.88B.041, the administrator must complete long-term care worker training and home care aide certification;

((~~(e)~~)) (g) Is applying to be an enhanced services facility licensee or administrator under chapter 70.97 RCW. For the purposes of this subsection (2)(g), "administrator" means an enhanced services facility administrator who must be in active administrative charge of the enhanced services facility as required in this chapter. Unless exempt under RCW 18.88B.041, the administrator must complete long-term care worker training and home care aide certification;

((~~(f)~~)) (h) Is applying to be a certified community residential ((~~services and supports provider~~)) service provider or administrator under chapter 71A.12 RCW. For the purposes of this subsection (2)(h), "administrator" means an individual who is responsible for or has control over daily operations of a certified community residential service provider, who may or will have unsupervised access to vulnerable adults in a certified community residential service setting, whether or not they provide direct care to vulnerable adults. An individual who is responsible for or has control over daily operations of a certified community residential service provider includes any person who:

(i) Oversees aspects of staffing, such as recruitment, staff training, or performance reviews;

(ii) Develops and maintains policies and procedures that give staff direction to provide appropriate services and supports under chapter 71A.12 RCW; or

(iii) Maintains and securely stores client, personnel, or financial records;

((~~(g)~~)) (i) Has been categorized as a high-risk provider as defined in subsection ((~~(8)~~)) (9)(f) of this section; ((~~or~~

~~(h)~~)) (j) Is applying for employment ((~~or is already employed at any~~)) by a residential habilitation center ((~~or other state-operated program for individuals with developmental disabilities under chapter 71A.20 RCW~~)) under chapter 71A.20 RCW or is applying for a job class series change at a residential habilitation center; or

(k) Is applying for employment by a transitional care facility.

((~~(2)~~)) (3) Long-term care workers, as defined in RCW 74.39A.009, who are hired after January 7, 2012, are subject to fingerprint-based background checks under RCW 74.39A.056.

((~~(3)~~)) (4) In order to determine the character, competence, and suitability of an applicant or service provider to have unsupervised access to children or juveniles, the secretary of the department of children, youth, and families shall require the applicant or service provider to submit fingerprints for the purpose of investigating conviction records through both the Washington state patrol and the federal bureau of investigation when the applicant or service provider:

(a) Is applying for a license under RCW 74.15.030 or is an adult living in a home where a child is placed;

(b) Is applying for employment or already employed at a group care facility, regardless of whether the applicant is working directly with children;

(c) Is newly applying for an agency license, is newly licensed, is an employee of an agency that is newly licensed, or will newly have unsupervised access to children in child care, pursuant to RCW 43.216.270; or

(d) Has resided in the state less than three consecutive years before application; and:

(i) Is applying for employment, promotion, reallocation, or transfer to a position the department of children, youth, and families has identified as one that will, or may, require the applicant to have unsupervised access to children or juveniles because of the nature of the work;

(ii) Is a business or individual contracted to provide services to children or people with developmental disabilities under RCW 74.15.030; or

(iii) Is an individual 16 years of age or older who: (A) Is not under the placement and care authority of the department of children, youth, and families; and (B) resides in an applicant or service provider's home, facility, entity, agency, or business or who is authorized by the department of children, youth, and families to provide services to children under RCW 74.15.030.

((~~(4)~~)) (5) The secretary of the department of children, youth, and families shall require a fingerprint‑based background check through the Washington state patrol identification and criminal history section and the federal bureau of investigation when the department seeks to approve an applicant or service provider for a foster or adoptive placement of children in accordance with federal and state law. Fees charged by the Washington state patrol and the federal bureau of investigation for fingerprint-based background checks shall be paid by the department of children, youth, and families for foster care and childcare applicants and service providers.

((~~(5)~~)) (6) Applicants and service providers of the department of social and health services, except for long-term care workers subject to RCW 74.39A.056, who are required to complete a fingerprint-based background check may be hired for a ((~~one hundred twenty-day~~)) 120-day provisional period as allowed under law or program rules when:

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

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

((~~(6)~~)) (7) Fees charged by the Washington state patrol and the federal bureau of investigation for fingerprint-based background checks shall be paid by the applicable department for applicants or service providers providing:

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

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

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

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

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

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

((~~(7)~~)) (8) The department of social and health services and the department of children, youth, and families shall develop rules identifying the financial responsibility of service providers, applicants, and the respective department for paying the fees charged by law enforcement to roll, print, or scan fingerprints‑based for the purpose of a Washington state patrol or federal bureau of investigation fingerprint‑based background check.

((~~(8)~~)) (9) For purposes of this section, unless the context plainly indicates otherwise:

(a) "Applicant" means a current or prospective department of social and health services, department of children, youth, and families, or service provider employee, volunteer, student, intern, researcher, contractor, or any ((~~other~~)) individual specified in subsection ((~~(1)~~)) (2)(a) through ((~~(g)~~)) (i) or ((~~(3)~~)) (4)(a) through (d) of this section who will or may have unsupervised access to vulnerable adults, children, or juveniles because of the nature of the work or services he or she provides. "Applicant" includes any individual who will or may have unsupervised access to vulnerable adults, children, or juveniles and is:

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

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

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

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

(b) "Area agency on aging" means an agency that is designated by the state to address the needs and concerns of older persons at the regional and local levels and is responsible for a particular geographic area that is a tribal reservation, a single county, or a multicounty planning area. Area agencies on aging have governance based on the corresponding county, city, tribal government, or council of governments.

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

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

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

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

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

(d) "Community residential services and supports provider" means a person or entity certified by the department of social and health services to deliver one or more of the services described in RCW 71A.12.040 to a person with a developmental disability, as defined in RCW 71A.10.020, who is eligible to receive services from the department of social and health services.

(e) "Entity representative" means the individual designated by an entity provider or entity applicant ((~~who:~~

~~(i) Is the representative of the entity for the purposes of fulfilling the training and qualification requirements of the state that only an individual can fulfill and an entity cannot;~~

~~(ii) Is responsible for overseeing the operation of the home; and~~

~~(iii) Does not hold the license on behalf of the entity~~)) as its representative for the purposes of fulfilling the training and qualification requirements under this chapter that only an individual can fulfill where an entity cannot. The entity representative is responsible for overseeing the operation of the home. The entity representative does not hold the license on behalf of the entity.

(f) "High-risk provider" means a service provider that has been designated by the state medicaid agency as posing an increased financial risk of fraud, waste, or abuse to the medicaid program. A "high-risk provider" additionally includes any person who has a five percent or more direct or indirect ownership interest in such a provider.

(g) "Long-term care workers" include all persons who provide paid, hands-on personal care services for the elderly or persons with disabilities, including but not limited to individual providers of home care services; direct care workers employed by home care agencies or a consumer directed employer; providers of home care services to persons with developmental disabilities under Title 71A RCW; all direct care workers in state-licensed assisted living facilities, enhanced services facilities, and adult family homes; respite care providers; direct care workers employed by community residential service businesses; and any other direct care worker providing home or community-based services to the elderly or persons with functional disabilities or developmental disabilities.

(h) "Service provider" means entities, facilities, agencies, businesses, or individuals who are licensed, certified, authorized, or regulated by, receive payment from, or have contracts or agreements with the department of social and health services or the department of children, youth, and families to provide services to vulnerable adults, juveniles, or children. "Service provider" includes individuals whom a department of social and health services or department of children, youth, and families client or guardian of a department of social and health services or department of children, youth, and families client may choose to hire or engage to provide services to himself or herself or another vulnerable adult, juvenile, or child and who might be eligible to receive payment from the department of social and health services or the department of children, youth, and families for services rendered.

(i) "Transitional care facility" means the staff secure and voluntary facility offering specialized treatment and habilitative interventions for eligible youth. A transitional care facility is a state-operated residential treatment facility for children with developmental disabilities.

(j) "Unsupervised" means not in the presence of:

(i) Another employee or volunteer from the same business or organization as the applicant; or

(ii) Any relative or guardian of any of the children or persons with developmental disabilities or vulnerable adults to which the applicant has access while they are employed or involved with the business or organization.

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