S-0598.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SENATE BILL 5531**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

**By** Senators Chapman, Bateman, Conway, Frame, Krishnadasan, Lovelett, Nobles, Stanford, and Valdez

AN ACT Relating to streamlining the home care worker background check process; and amending RCW 43.20A.715 and 74.39A.056.

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

**Sec.**  RCW 43.20A.715 and 2023 c 470 s 3014 are each amended to read as follows:

(1) Where the department is required to screen a long-term care worker, contracted provider, or licensee through a background check to determine whether the person has a history that would disqualify the person from having unsupervised access to, working with, or providing supervision, care, or treatment to vulnerable adults or children, the department may not automatically disqualify a person on the basis of a criminal record that includes a conviction of any of the following crimes once the specified amount of time has passed for the particular crime:

(a) Selling cannabis to a person under RCW 69.50.401 after three years or more have passed between the most recent conviction and the date the background check is processed;

(b) Theft in the first degree under RCW 9A.56.030 after 10 years or more have passed between the most recent conviction and the date the background check is processed;

(c) Robbery in the second degree under RCW 9A.56.210 after five years or more have passed between the most recent conviction and the date the background check is processed;

(d) Extortion in the second degree under RCW 9A.56.130 after five years or more have passed between the most recent conviction and the date the background check is processed;

(e) Assault in the second degree under RCW 9A.36.021 after five years or more have passed between the most recent conviction and the date the background check is processed; and

(f) Assault in the third degree under RCW 9A.36.031 after five years or more have passed between the most recent conviction and the date the background check is processed.

(2) The provisions of subsection (1) of this section do not apply where the department is performing background checks for the department of children, youth, and families.

(3) The provisions of subsection (1) of this section do not apply to department employees or applicants for department positions except for positions in the state-operated community residential program.

(4) Notwithstanding subsection (1) of this section, a long-term care worker, contracted provider, or licensee may not provide, or be paid to provide, care to children or vulnerable adults under the medicare or medicaid programs if the worker is excluded from participating in those programs by federal law.

(5) The department((~~, a contracted provider, or a licensee~~)) or an authorized entity, when conducting a character, competence, and suitability review for the purpose of hiring, licensing, certifying, contracting with, permitting, or continuing to permit a person to be employed in any position caring for or having unsupervised access to vulnerable adults or children, may, in its sole discretion, determine whether to consider any of the convictions identified in subsection (1) of this section. If the department or a consumer directed employer as defined in RCW 74.39A.009 determines that an individual with any of the convictions identified in subsection (1) of this section is qualified to provide services to a department client as an individual provider as defined in RCW 74.39A.240, the department or the consumer directed employer must provide the client, and their guardian if any, with the results of the state background check for their determination of character, suitability, and competence of the individual before the individual begins providing services. The department((~~, a contracted provider, or a licensee~~)) or an authorized entity, when conducting a character, competence, and suitability review for the purpose of hiring, licensing, certifying, contracting with, permitting, or continuing to permit a person to be employed in any position caring for or having unsupervised access to vulnerable adults or children, has a rebuttable presumption that its exercise of discretion under this section or the refusal to exercise such discretion was appropriate. This subsection does not create a duty for the department to conduct a character, competence, and suitability review.

(6)(a) An employer or an authorized entity shall not conduct a character, competence, and suitability review for individual providers and home care agency providers, based on a name and date of birth or fingerprint background check result, when:

(i) The employer or authorized entity has already conducted a character, competence, and suitability review for the individual provider or home care agency provider for a nonautomatically disqualifying conviction, pending charge, or negative action found during a previous background check, for which the employer or authorized entity has previously conducted a character, competence, and suitability review;

(ii) An individual provider or home care agency provider has obtained a certificate of restoration of opportunity under RCW 9.97.020 for a nonautomatically disqualifying conviction;

(iii) It is known to the employer or authorized entity that more than 10 years have passed since the last nonautomatically disqualifying conviction or negative action against the individual provider or home care agency provider; or

(iv) The results of a name and date of birth background check or fingerprint-based background check conducted on the individual provider or home care agency provider identified a nonautomatically disqualifying:

(A) Negative action, except when involving the harm or exploitation of a minor or vulnerable adult;

(B) Misdemeanor, except when involving the harm or exploitation of a minor, vulnerable adult, or animal; or

(C) Gross misdemeanor under chapter 69.50 RCW or Title 46 RCW.

(b) The department shall develop rules to establish standards for conducting character, competence, and suitability reviews under this subsection (6), including parameters to ensure the safety of vulnerable adults and minors, and an equitable review process for individual providers and home care agency providers.

(7)(a) Individual providers and home care agency providers who are required to complete a character, competence, and suitability review pursuant to a review required result following a name and date of birth background check or fingerprint-based background check may have unsupervised access to minors or vulnerable adults for a period of up to 30 days while the character, competence, and suitability review is being conducted by the department or the authorized entity if the individual is not disqualified by reason of a name and date of birth background check or fingerprint-based background check that identifies a conviction, pending charge, or negative action as described in RCW 43.43.842 and 43.20A.710(5), as well as any related implementing rules adopted by the department of social and health services, unless the character, competence, and suitability review has been completed and concluded that the applicant may not have unsupervised access to minors and vulnerable adults.

(b)(i) Prior to the provision of any care services by an individual provider or home care agency provider during the 30-day temporary practice period established in (a) of this subsection, the parent or guardian of the minor, the vulnerable adult, or the guardian of the vulnerable adult must be:

(A) Notified in writing that the character, competence, and suitability review for the individual provider or home care agency provider has not been completed; and

(B) Provided with an opportunity to decline the receipt of care services from the individual provider or home care agency provider and an explanation of the procedure for declining the receipt of care.

(ii) The notice requirement of (b)(i) of this subsection does not apply to any home care agency provider that has been employed by the same employer since the previous name and date of birth background check or fingerprint-based background check had been conducted.

(8) For the purposes of the section:

(a) "Authorized entity" means a service provider, licensee, contractor, or other public or private agency that:

(i) Is required to conduct background checks; and

(ii) Is authorized to conduct background checks through the department's background check central unit.

(b) "Character, competence, and suitability review" means a review process that the employer or an authorized entity uses to decide whether a person has the character, competence, and suitability to work in a position that may have unsupervised access to minors or vulnerable adults.

(c) "Contracted provider" means a provider, and its employees, contracted with the department or an area agency on aging to provide services to department clients under programs under chapter 74.09, 74.39, 74.39A, or 71A.12 RCW. "Contracted provider" includes area agencies on aging and their subcontractors who provide case management.

((~~(b)~~)) (d) "Fingerprint-based background check" means a search of in-state criminal history records through the Washington state patrol and national criminal history records through the federal bureau of investigation.

(e) "Home care agency provider" means a long-term care worker paid by a home care agency, as described in RCW 43.20A.710(1)(b).

(f) "Individual provider" has the same meaning as in RCW 74.39A.240.

(g) "Licensee" means a nonstate facility or setting that is licensed or certified, or has applied to be licensed or certified, by the department and includes the licensee and its employees.

(h) "Name and date of birth background check" means a search of Washington state criminal history and negative action records using the applicant's name and date of birth conducted by the department's background check central unit.

(i) "Nonautomatically disqualifying" means, when used in reference to a conviction, pending charge, or negative action, that the conviction, pending charge, or negative action is one other than a permanently disqualifying conviction, permanently disqualifying negative action, or a time-limited permanently disqualifying conviction or negative action after the defined amount of time has passed, as described in RCW 43.43.842 and 43.20A.710(5), and related department rules.

(j) "Review required result" means the result of a name and date of birth background check or fingerprint-based background check for an individual provider or a home care agency provider that requires the employer or an authorized entity to determine if a character, competence, and suitability review is necessary, based on subsection (6)(a)(iv) of this section, and related implementing rules adopted by the department.

**Sec.**  RCW 74.39A.056 and 2023 c 223 s 4 are each amended to read as follows:

(1)(a) All long‑term care workers shall be screened through state and federal background checks in a uniform and timely manner to verify that they do not have a history that would disqualify them from working with vulnerable persons. The department must process background checks for long-term care workers and, based on this screening, inform employers, prospective employers, and others as authorized by law, whether screened applicants are ineligible for employment.

(b)(i) For long-term care workers hired on or after January 7, 2012, the background checks required under this section shall include checking against the federal bureau of investigation fingerprint identification records system or its successor program. The department shall require these long-term care workers to submit fingerprints for the purpose of investigating conviction records through both the Washington state patrol and the federal bureau of investigation. The department shall not pass on the cost of these criminal background checks to the workers or their employers.

(ii) A long-term care worker who is not disqualified by the state background check can work and have unsupervised access pending the results of the federal bureau of investigation fingerprint background check as allowed by rules adopted by the department.

(c)(i) Individual providers and home care agency providers must complete a fingerprint-based background check required in this section and RCW 43.43.837 only:

(A) Except as provided in (c)(ii) of this subsection, at the point of initial hire;

(B) As required by federal law; and

(C) If there is a reasonable, good faith belief the employer or authorized entity needs to conduct a fingerprint-based background check, due to potential new findings in a fingerprint-based background check, as documented in writing by the employer.

(ii) Notwithstanding the requirement of (c)(i)(A) of this subsection, individual providers and home care agency providers may not be required to complete a fingerprint-based background check pursuant to (a) of this subsection and RCW 43.43.837 at the point of initial hire if the individual provider or home care agency provider had been previously employed by the same employer and has not lived outside of Washington after the last fingerprint-based background check.

(2) A provider may not be employed in the care of and have unsupervised access to vulnerable adults if:

(a) The provider is on the vulnerable adult abuse registry or on any other registry based upon a finding of abuse, abandonment, neglect, or financial exploitation of a vulnerable adult;

(b) On or after October 1, 1998, the department of children, youth, and families, or its predecessor agency, has made a founded finding of abuse or neglect of a child against the provider. If the provider has received a certificate of parental improvement under chapter 74.13 RCW pertaining to the finding, the provider is not disqualified under this section;

(c) A disciplining authority, including the department of health, has made a finding of abuse, abandonment, neglect, or financial exploitation of a minor or a vulnerable adult against the provider; or

(d) A court has issued an order that includes a finding of fact or conclusion of law that the provider has committed abuse, abandonment, neglect, or financial exploitation of a minor or vulnerable adult. If the provider has received a certificate of parental improvement under chapter 74.13 RCW pertaining to the finding of fact or conclusion of law, the provider is not disqualified under this section.

(3)(a) A client who has elected to receive services from an individual provider must be notified of the results of a background check and of the client's right to request a copy of the background check's results under (b) of this subsection.

(b) When a background check produces a review required result, as defined in RCW 43.20A.715, the authorized entity must provide the client who is the managing employer of the individual provider with a copy of the background check results and the Washington state record of arrests and prosecutions, if requested by the client. The individual provider may choose to provide a copy of the federal bureau of investigation record of arrests and prosecutions to the client.

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

((~~(4)~~)) (5) For the purposes of this section((~~, "provider" means~~)):

(a) "Authorized entity" means a service provider, licensee, contractor, or other public or private agency that:

(i) Is required to conduct background checks; and

(ii) Is authorized to conduct background checks through the department's background check central unit.

(b) "Fingerprint-based background check" means a search of in-state criminal history records through the Washington state patrol and national criminal history records through the federal bureau of investigation.

(c) "Home care agency provider" means a long-term care worker paid by a home care agency, as described in RCW 43.20A.710(1)(b).

(d) "Provider" means:

(i) An individual provider ((~~as defined in RCW 74.39A.240~~));

((~~(b)~~)) (ii) An employee, licensee, or contractor of any of the following: A home care agency licensed under chapter 70.127 RCW; a nursing home under chapter 18.51 RCW; an assisted living facility under chapter 18.20 RCW; an enhanced services facility under chapter 70.97 RCW; a certified resident services and supports agency licensed or certified under chapter 71A.12 RCW; an adult family home under chapter 70.128 RCW; or any long-term care facility certified to provide medicaid or medicare services; and

((~~(c)~~)) (iii) Any contractor of the department who may have unsupervised access to vulnerable adults.

((~~(5)~~)) (6) The department shall adopt rules to implement this section.

**--- END ---**