
HOUSE BILL 1385

State of Washington

69th Legislature

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By Representatives Taylor, Burnett, Leavitt, Ley, Davis, Reeves, Obras, Salahuddin, and Wylie; by request of Washington State Patrol

Read first time 01/20/25. Referred to Committee on Community Safety.

1 AN ACT Relating to the fingerprint background check on national
2 child protection act and volunteers for children's act program;
3 amending RCW 43.43.830; and adding a new section to chapter 43.43
4 RCW.

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

6 **Sec. 1.** RCW 43.43.830 and 2019 c 271 s 10 are each amended to
7 read as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout ((RCW 43.43.830)) this section and RCW
10 43.43.832 through 43.43.845.

11 (1) "Agency" means any person, firm, partnership, association,
12 corporation, or facility which receives, provides services to, houses
13 or otherwise cares for vulnerable adults, juveniles, or children, or
14 which provides child day care, early learning, or early childhood
15 education services.

16 (2) "Applicant" means:

17 (a) Any prospective employee, volunteer, or contractor who will
18 or may have supervised or unsupervised access to children ((~~under~~
19 ~~sixteen years of age or developmentally disabled persons or~~
20 ~~vulnerable adults during the course of his or her employment or~~
21 ~~involvement with~~)), the elderly, or individuals with disabilities

1 during the course of his or her employment or involvement with the
2 business or organization;

3 (b) Any prospective volunteer who will have regularly scheduled
4 unsupervised access to children under sixteen years of age,
5 developmentally disabled persons, or vulnerable adults during the
6 course of his or her employment or involvement with the business or
7 organization under circumstances where such access will or may
8 involve groups of (i) five or fewer children under twelve years of
9 age, (ii) three or fewer children between twelve and sixteen years of
10 age, (iii) developmentally disabled persons, or (iv) vulnerable
11 adults;

12 (c) Any prospective adoptive parent, as defined in RCW 26.33.020;
13 or

14 (d) Any prospective custodian in a nonparental custody proceeding
15 under chapter 26.10 RCW.

16 (3) "Business or organization" means a person, business, or
17 organization licensed in this state, any agency of the state, or
18 other governmental entity, that educates, trains, treats, supervises,
19 houses, or provides recreation to developmentally disabled persons,
20 vulnerable adults, or children under sixteen years of age, or that
21 provides child day care, early learning, or early learning childhood
22 education services, including but not limited to public housing
23 authorities, school districts, and educational service districts.

24 (4) "Care" means the provision of care, treatment, education,
25 training, instruction, supervision, or recreation to children,
26 elderly, or individuals with disabilities.

27 (5) "Civil adjudication proceeding" is a judicial or
28 administrative adjudicative proceeding that results in a finding of,
29 or upholds an agency finding of, domestic violence, abuse, sexual
30 abuse, neglect, abandonment, violation of a professional licensing
31 standard regarding a child or vulnerable adult, or exploitation or
32 financial exploitation of a child or vulnerable adult under any
33 provision of law, including but not limited to chapter 13.34, 26.44,
34 or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW.
35 "Civil adjudication proceeding" also includes judicial or
36 administrative findings that become final due to the failure of the
37 alleged perpetrator to timely exercise a legal right to
38 administratively challenge such findings.

1 ~~((5))~~ (6) "Client" or "resident" means a child, person with
2 developmental disabilities, or vulnerable adult applying for housing
3 assistance from a business or organization.

4 ~~((6))~~ (7) "Conviction record" means "conviction record"
5 information as defined in RCW 10.97.030 and 10.97.050 relating to a
6 crime committed by either an adult or a juvenile. It does not include
7 a conviction for an offense that has been the subject of an
8 expungement, pardon, annulment, certificate of rehabilitation, or
9 other equivalent procedure based on a finding of the rehabilitation
10 of the person convicted, or a conviction that has been the subject of
11 a pardon, annulment, or other equivalent procedure based on a finding
12 of innocence. It does include convictions for offenses for which the
13 defendant received a deferred or suspended sentence, unless the
14 record has been expunged according to law.

15 ~~((7))~~ (8) "Covered individual" is an individual who has, seeks
16 to have, or may have access to children, the elderly, or individuals
17 with disabilities, served by a qualified entity; and who is employed
18 by or volunteers with, or seeks to volunteer with a qualified entity;
19 or owns or operates or seeks to own or operate, a qualified entity.

20 (9) "Crime against children or other persons" means a conviction
21 of any of the following offenses: Aggravated murder; first or second
22 degree murder; first or second degree kidnapping; first, second, or
23 third degree assault; fourth degree assault (if a violation of RCW
24 9A.36.041(3)); first, second, or third degree assault of a child;
25 first, second, or third degree rape; first, second, or third degree
26 rape of a child; first or second degree robbery; first degree arson;
27 first degree burglary; first or second degree manslaughter; first or
28 second degree extortion; indecent liberties; incest; vehicular
29 homicide; first degree promoting prostitution; communication with a
30 minor; unlawful imprisonment; simple assault; sexual exploitation of
31 minors; first or second degree criminal mistreatment; endangerment
32 with a controlled substance; child abuse or neglect as defined in RCW
33 26.44.020; first or second degree custodial interference; first or
34 second degree custodial sexual misconduct; hate crime; first, second,
35 or third degree child molestation; first or second degree sexual
36 misconduct with a minor; commercial sexual abuse of a minor; child
37 abandonment; promoting pornography; selling or distributing erotic
38 material to a minor; custodial assault; violation of child abuse
39 restraining order; child buying or selling; prostitution; felony

1 indecent exposure; criminal abandonment; or any of these crimes as
2 they may be renamed in the future.

3 ~~((8))~~ (10) "Crimes relating to drugs" means a conviction of a
4 crime to manufacture, delivery, or possession with intent to
5 manufacture or deliver a controlled substance.

6 ~~((9))~~ (11) "Crimes relating to financial exploitation" means a
7 conviction for first, second, or third degree extortion; first,
8 second, or third degree theft; first or second degree robbery;
9 forgery; or any of these crimes as they may be renamed in the future.

10 ~~((10))~~ (12) "Financial exploitation" means "financial
11 exploitation" as defined in RCW 74.34.020.

12 ~~((11))~~ (13) "Health care facility" means a nursing home
13 licensed under chapter 18.51 RCW, an assisted living facility
14 licensed under chapter 18.20 RCW, or an adult family home licensed
15 under chapter 70.128 RCW.

16 ~~((12))~~ (14) "Peer counselor" means a nonprofessional person who
17 has equal standing with another person, providing advice on a topic
18 about which the nonprofessional person is more experienced or
19 knowledgeable, and who is a counselor for a peer counseling program
20 that contracts with or is otherwise approved by the department,
21 another state or local agency, or the court.

22 ~~((13))~~ (15) "Qualified entity" means a business or
23 organization, whether public, private, for profit, not for profit, or
24 voluntary, that provides care or care placement services, including a
25 business or organization that licenses or certifies others to provide
26 care or care placement services.

27 (16) "Unsupervised" means not in the presence of:

28 (a) Another employee or volunteer from the same business or
29 organization as the applicant; or

30 (b) Any relative or guardian of any of the children ~~((or~~
31 ~~developmentally disabled persons or vulnerable adults))~~, the elderly,
32 or individuals with disabilities to which the applicant has access
33 during the course of his or her employment or involvement with the
34 qualified entity, business, or organization.

35 With regard to peer counselors, "unsupervised" does not include
36 incidental contact with children under age sixteen at the location at
37 which the peer counseling is taking place. "Incidental contact" means
38 minor or casual contact with a child in an area accessible to and
39 within visual or auditory range of others. It could include passing a

1 child while walking down a hallway but would not include being alone
2 with a child for any period of time in a closed room or office.

3 ~~((14))~~ (17) "Vulnerable adult" means "vulnerable adult" as
4 defined in chapter 74.34 RCW, except that for the purposes of
5 requesting and receiving background checks pursuant to RCW 43.43.832,
6 it shall also include adults of any age who lack the functional,
7 mental, or physical ability to care for themselves.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.43
9 RCW to read as follows:

10 (1) In order to facilitate the authorized interstate exchange of
11 criminal history information for noncriminal justice purposes
12 including, but not limited to, background checks for the licensing
13 and screening of employees and volunteers under the national child
14 protection act of 1993, as amended, and to implement the national
15 crime prevention and privacy compact, 34 U.S.C. Sec. 40102, the
16 Washington state patrol shall execute the compact on behalf of the
17 state.

18 (2) The Washington state patrol is the repository of criminal
19 history records for purposes of the compact and shall do all things
20 necessary or incidental to carrying out the compact.

21 (3) The chief, or the chief's designee, is the state's compact
22 officer and shall administer the compact within the state. The
23 Washington state patrol may establish procedures for the cooperative
24 exchange of criminal history records between the state and federal
25 government for use in noncriminal justice cases.

26 (4) The state's ratification of the compact remains in effect
27 until legislation is enacted which specifically renounces the
28 compact.

29 (5) Authorized qualified entities and federally recognized tribes
30 are authorized to conduct a state and national fingerprint-based
31 criminal history record check on applicants for noncriminal justice
32 purposes for any employment, licensing, or volunteering purpose which
33 provide care, treatment, education, training, instruction,
34 supervision, or recreation to children, the elderly, or individuals
35 with disabilities.

36 (6) The Washington state patrol may charge a nonrefundable fee
37 for submission of fingerprints which will cover as nearly as
38 practicable the direct and indirect costs to the Washington state
39 patrol of processing such submission.

1 (7) Fingerprints must be searched by the Washington state patrol
2 prior to being forwarded to the federal bureau of investigation for a
3 national search.

4 (8) In order to participate in this program qualified entities
5 and federally recognized tribes must:

6 (a) Notify the covered individual that:

7 (i) They have the right to obtain a copy of their own state and
8 federal criminal history record from the agency that conducted the
9 fingerprint check within a specified amount of time determined by the
10 qualified entity;

11 (ii) They have the right to appeal the results of the criminal
12 history record to challenge the accuracy or completion of information
13 in the criminal history record.

14 (b) Qualified entities and federally recognized tribes are
15 obligated to:

16 (i) Seek approval from the Washington state patrol before
17 submitting a request for screening under this section;

18 (ii) Submit fingerprints on each applicant when requesting
19 criminal history record information under this section;

20 (iii) Maintain a signed waiver for each applicant allowing the
21 release of the state and national criminal history record information
22 to the qualified entity or federally recognized tribe;

23 (iv) Ensure the covered individual is provided notification the
24 results of the state and federal criminal history records check are
25 handled in a manner that protects the covered individual's privacy;

26 (v) Provide covered individuals the opportunity to challenge the
27 accuracy of the information in the state and federal bureau of
28 investigation's criminal history record, if one exists, if using the
29 record to make a determination of the covered individual's
30 suitability for employment, licensing, or volunteering purposes;

31 (vi) Advise the covered individual the procedures for obtaining a
32 change, correction, or updating the federal criminal history record
33 are set forth under 28 C.F.R. Sec. 16.34; and

34 (vii) Use the state and federal criminal history record
35 information only for the purpose of screening employees, contractor,
36 and volunteers or persons applying to be an employee, contractor, or
37 volunteer with a qualified entity or federally recognized tribe.

38 Qualified entities or federally recognized tribes should not deny
39 employment, licenses, or volunteer positions based on information in
40 the criminal history record until the covered individual has been

1 afforded a reasonable time to correct or complete the record or has
2 declined to do so.

3 (c) The Washington state patrol shall by rule establish fees for
4 disseminating records under this section to qualified entities or
5 federally recognized tribes. The revenue from the fees shall cover,
6 as nearly as practicable, the direct and indirect costs to the
7 Washington state patrol of disseminating the records. The cost of
8 record checks must also include the fee the federal bureau of
9 investigation charges for the criminal history background checks.

10 (d) A qualified entity is not liable for damages solely for
11 failing to obtain the information authorized under this section with
12 respect to an employee, contractor, or volunteer. The state, any
13 political subdivision of the state, or any agency, officer, or
14 employee of the state or a political subdivision is not liable for
15 damages for providing information requested under this section.

16 (e) The Washington state patrol has authority to adopt rules to
17 implement this chapter.

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