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SENATE BILL 5318

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State of Washington

69th Legislature

2025 Regular Session

By Senator Kauffman; by request of Department of Social and Health Services

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

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

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

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

19 (2) The department of social and health services may require an  
20 applicant ((or service provider)) to submit fingerprints for the  
21 purpose of investigating conviction records through ((both)) the

1 Washington state patrol (~~and the federal bureau of investigation~~  
2 ~~when the applicant or service provider~~) at any time they apply for  
3 the listed positions or new information regarding a pending charge,  
4 criminal conviction, and/or negative action. The applicant or service  
5 provider must submit fingerprints for the purpose of investigating  
6 conviction records through both the Washington state patrol and the  
7 federal bureau of investigation when the applicant or service  
8 provider has resided in the state less than three consecutive years  
9 before application and:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28       ~~(h))~~ (j) Is applying for employment ~~((or is already employed at~~  
29 ~~any))~~ by a residential habilitation center ((or other state-operated  
30 ~~program for individuals with developmental disabilities under chapter~~  
31 ~~71A.20 RCW))~~ under chapter 71A.20 RCW or is applying for a job class  
32 series change at a residential habilitation center; or

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

34       ~~((2))~~ (3) Long-term care workers, as defined in RCW 74.39A.009,  
35 who are hired after January 7, 2012, are subject to fingerprint-based  
36 background checks under RCW 74.39A.056.

37       ~~((3))~~ (4) In order to determine the character, competence, and  
38 suitability of an applicant or service provider to have unsupervised  
39 access to children or juveniles, the secretary of the department of  
40 children, youth, and families shall require the applicant or service

1 provider to submit fingerprints for the purpose of investigating  
2 conviction records through both the Washington state patrol and the  
3 federal bureau of investigation when the applicant or service  
4 provider:

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

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

10 (c) Is newly applying for an agency license, is newly licensed,  
11 is an employee of an agency that is newly licensed, or will newly  
12 have unsupervised access to children in child care, pursuant to RCW  
13 43.216.270; or

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

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

21 (ii) Is a business or individual contracted to provide services  
22 to children or people with developmental disabilities under RCW  
23 74.15.030; or

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

30 ((4)) (5) The secretary of the department of children, youth,  
31 and families shall require a fingerprint-based background check  
32 through the Washington state patrol identification and criminal  
33 history section and the federal bureau of investigation when the  
34 department seeks to approve an applicant or service provider for a  
35 foster or adoptive placement of children in accordance with federal  
36 and state law. Fees charged by the Washington state patrol and the  
37 federal bureau of investigation for fingerprint-based background  
38 checks shall be paid by the department of children, youth, and  
39 families for foster care and childcare applicants and service  
40 providers.

1        ~~((5))~~ (6) Applicants and service providers of the department of  
2 social and health services, except for long-term care workers subject  
3 to RCW 74.39A.056, who are required to complete a fingerprint-based  
4 background check may be hired for a ~~((one hundred twenty day))~~ 120-  
5 day provisional period as allowed under law or program rules when:

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

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

9        ~~((6))~~ (7) Fees charged by the Washington state patrol and the  
10 federal bureau of investigation for fingerprint-based background  
11 checks shall be paid by the applicable department for applicants or  
12 service providers providing:

13        (a) Services to people with a developmental disability under RCW  
14 74.15.030;

15        (b) In-home services funded by medicaid personal care under RCW  
16 74.09.520;

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

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

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

24        (f) Services in, or to residents of, a secure facility under RCW  
25 71.09.115.

26        ~~((7))~~ (8) The department of social and health services and the  
27 department of children, youth, and families shall develop rules  
28 identifying the financial responsibility of service providers,  
29 applicants, and the respective department for paying the fees charged  
30 by law enforcement to roll, print, or scan fingerprints-based for the  
31 purpose of a Washington state patrol or federal bureau of  
32 investigation fingerprint-based background check.

33        ~~((8))~~ (9) For purposes of this section, unless the context  
34 plainly indicates otherwise:

35        (a) "Applicant" means a current or prospective department of  
36 social and health services, department of children, youth, and  
37 families, or service provider employee, volunteer, student, intern,  
38 researcher, contractor, or any ~~((other))~~ individual specified in  
39 subsection ~~((1))~~ (2)(a) through ~~((9))~~ (i) or ~~((3))~~ (4)(a)  
40 through (d) of this section who will or may have unsupervised access

1 to vulnerable adults, children, or juveniles because of the nature of  
2 the work or services he or she provides. "Applicant" includes any  
3 individual who will or may have unsupervised access to vulnerable  
4 adults, children, or juveniles and is:

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

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

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

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

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

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

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

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

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

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

38 (d) "Community residential services and supports provider" means  
39 a person or entity certified by the department of social and health  
40 services to deliver one or more of the services described in RCW

1 71A.12.040 to a person with a developmental disability, as defined in  
2 RCW 71A.10.020, who is eligible to receive services from the  
3 department of social and health services.

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

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

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

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

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

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

34 (h) "Service provider" means entities, facilities, agencies,  
35 businesses, or individuals who are licensed, certified, authorized,  
36 or regulated by, receive payment from, or have contracts or  
37 agreements with the department of social and health services or the  
38 department of children, youth, and families to provide services to  
39 vulnerable adults, juveniles, or children. "Service provider"  
40 includes individuals whom a department of social and health services

1 or department of children, youth, and families client or guardian of  
2 a department of social and health services or department of children,  
3 youth, and families client may choose to hire or engage to provide  
4 services to himself or herself or another vulnerable adult, juvenile,  
5 or child and who might be eligible to receive payment from the  
6 department of social and health services or the department of  
7 children, youth, and families for services rendered.

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

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

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

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

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