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**SENATE BILL 5774**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** Senators Billig, Hawkins, C. Wilson, and Wellman

Prefiled 12/04/23.

1 AN ACT Relating to increasing the capacity to conduct timely  
2 fingerprint-based background checks for prospective child care  
3 employees and other programs; amending RCW 43.216.270 and 74.15.030;  
4 creating a new section; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that accurate  
7 background checks play an important role in ensuring the safety of  
8 Washington families seeking child care services and for those  
9 involved in the child welfare system. The legislature finds that many  
10 areas of the state lack convenient access to fingerprinting services,  
11 thereby significantly delaying or inhibiting the hiring and approval  
12 process. The legislature finds that completing background checks more  
13 quickly will help address child care workforce shortfalls by allowing  
14 providers to hire, train, and employ new staff. The legislature  
15 therefore intends to improve workforce stability by reducing  
16 processing times for background checks and directing the department  
17 of children, youth, and families to make fingerprinting services  
18 available to the public at its early learning and child welfare  
19 offices throughout the state.

1       **Sec. 2.** RCW 43.216.270 and 2023 c 437 s 2 are each amended to  
2 read as follows:

3       (1)(a) In determining whether an individual is of appropriate  
4 character, suitability, and competence to provide child care and  
5 early learning services to children, the department may consider the  
6 history of past involvement of child protective services or law  
7 enforcement agencies with the individual for the purpose of  
8 establishing a pattern of conduct, behavior, or inaction with regard  
9 to the health, safety, or welfare of a child. No report of child  
10 abuse or neglect that has been destroyed or expunged under RCW  
11 26.44.031 may be used for such purposes. No unfounded or inconclusive  
12 allegation of child abuse or neglect as defined in RCW 26.44.020 may  
13 be disclosed to a provider licensed under this chapter.

14       (b) The department may not deny or delay a license to provide  
15 child care and early learning services under this chapter to an  
16 individual solely because of a founded finding of physical abuse or  
17 negligent treatment or maltreatment involving the individual revealed  
18 in the background check process or solely because the individual's  
19 child was found by a court to be dependent as a result of a finding  
20 that the individual abused or neglected their child pursuant to RCW  
21 13.34.030(6)(b) when that founded finding or court finding is  
22 accompanied by a certificate of parental improvement as defined in  
23 chapter 74.13 RCW related to the same incident.

24       (2) In order to determine the suitability of individuals newly  
25 applying for an agency license, new licensees, their new employees,  
26 and other persons who newly have unsupervised access to children in  
27 child care, shall be fingerprinted.

28       (a) The fingerprints shall be forwarded to the Washington state  
29 patrol and federal bureau of investigation for a criminal history  
30 record check.

31       (b) All individuals applying for first-time agency licenses, all  
32 new employees, and other persons who have not been previously  
33 qualified by the department to have unsupervised access to children  
34 in child care must be fingerprinted and obtain a criminal history  
35 record check pursuant to this section.

36       (c) The secretary shall use the fingerprint criminal history  
37 record check information solely for the purpose of determining  
38 eligibility for a license and for determining the character,  
39 suitability, and competence of those persons or agencies, excluding

1 parents, not required to be licensed who are authorized to care for  
2 children.

3 (d) Criminal justice agencies shall provide the secretary such  
4 information as they may have and that the secretary may require for  
5 such purpose.

6 (e) No later than July 1, 2013, all agency licensees holding  
7 licenses prior to July 1, 2012, persons who were employees before  
8 July 1, 2012, and persons who have been qualified by the department  
9 before July 1, 2012, to have unsupervised access to children in child  
10 care, must submit a new background application to the department.

11 (f) The department shall issue a background check clearance card  
12 or certificate to the applicant if after the completion of a  
13 background check the department concludes the applicant is qualified  
14 for unsupervised access to children in child care. The background  
15 check clearance card or certificate is valid for five years from the  
16 date of issuance. A valid card or certificate must be accepted by a  
17 potential employer as proof that the applicant has successfully  
18 completed a background check as required under this chapter. For  
19 purposes of renewal of the background clearance card or certificate,  
20 all agency licensees holding a license, persons who are employees,  
21 and persons who have been previously qualified by the department,  
22 must submit a new background application to the department on a date  
23 to be determined by the department.

24 (g) The original applicant for an agency license, licensees,  
25 their employees, and other persons who have unsupervised access to  
26 children in child care shall submit a new background check  
27 application to the department, on a form and by a date as determined  
28 by the department.

29 (h) The applicant and agency shall maintain on-site for  
30 inspection a copy of the background check clearance card or  
31 certificate.

32 (i) Individuals who have been issued a background check clearance  
33 card or certificate shall report nonconviction and conviction  
34 information to the department within twenty-four hours of the event  
35 constituting the nonconviction or conviction information.

36 (j) The department shall investigate and conduct a  
37 redetermination of an applicant's or licensee's background clearance  
38 if the department receives a complaint or information from  
39 individuals, a law enforcement agency, or other federal, state, or  
40 local government agency. Subject to the requirements contained in RCW

1 43.216.325 and 43.216.327 and based on a determination that an  
2 individual lacks the appropriate character, suitability, or  
3 competence to provide child care or early learning services to  
4 children, the department may: (i) Invalidate the background card or  
5 certificate; or (ii) suspend, modify, or revoke any license  
6 authorized by this chapter.

7 (3) To satisfy the shared background check requirements of the  
8 department of children, youth, and families, the office of the  
9 superintendent of public instruction, and the department of social  
10 and health services, each department shall share federal fingerprint-  
11 based background check results as permitted under the law. The  
12 purpose of this provision is to allow these departments to fulfill  
13 their joint background check responsibility of checking any  
14 individual who may have unsupervised access to vulnerable adults,  
15 children, or juveniles. These departments may not share the federal  
16 background check results with any other state agency or person.

17 (4) Individuals who have completed a fingerprint background check  
18 as required by the office of the superintendent of public  
19 instruction, consistent with RCW 28A.400.303, and have been  
20 continuously employed by the same school district or educational  
21 service district, can meet the requirements in subsection (2) of this  
22 section by providing a true and accurate copy of their Washington  
23 state patrol and federal bureau of investigation background check  
24 report results to the department or if the school district or the  
25 educational service district provides an affidavit to the department  
26 that the individual has been authorized to work by the school  
27 district or educational service district after completing a record  
28 check consistent with RCW 28A.400.303. The department may require  
29 that additional background checks be completed that do not require  
30 additional fingerprinting.

31 (5) Subject to the availability of amounts appropriated for this  
32 specific purpose and to help satisfy the background check  
33 requirements in this section, the department shall maintain the  
34 capacity to roll, print, or scan fingerprints in the department's  
35 early learning and child welfare offices for the purposes of  
36 Washington state patrol and federal bureau of investigation  
37 fingerprint-based background checks.

38 **Sec. 3.** RCW 74.15.030 and 2019 c 470 s 20 are each amended to  
39 read as follows:

1 The secretary shall have the power and it shall be the  
2 secretary's duty:

3 (1) In consultation with the children's services advisory  
4 committee, and with the advice and assistance of persons  
5 representative of the various type agencies to be licensed, to  
6 designate categories of facilities for which separate or different  
7 requirements shall be developed as may be appropriate whether because  
8 of variations in the ages, sex and other characteristics of persons  
9 served, variations in the purposes and services offered or size or  
10 structure of the agencies to be licensed hereunder, or because of any  
11 other factor relevant thereto;

12 (2) In consultation with the children's services advisory  
13 committee, and with the advice and assistance of persons  
14 representative of the various type agencies to be licensed, to adopt  
15 and publish minimum requirements for licensing applicable to each of  
16 the various categories of agencies to be licensed.

17 The minimum requirements shall be limited to:

18 (a) The size and suitability of a facility and the plan of  
19 operation for carrying out the purpose for which an applicant seeks a  
20 license;

21 (b) Obtaining background information and any out-of-state  
22 equivalent, to determine whether the applicant or service provider is  
23 disqualified and to determine the character, competence, and  
24 suitability of an agency, the agency's employees, volunteers, and  
25 other persons associated with an agency;

26 (c) Conducting background checks for those who will or may have  
27 unsupervised access to children or expectant mothers; however, a  
28 background check is not required if a caregiver approves an activity  
29 pursuant to the prudent parent standard contained in RCW 74.13.710;

30 (d) Obtaining child protective services information or records  
31 maintained in the department case management information system. No  
32 unfounded allegation of child abuse or neglect as defined in RCW  
33 26.44.020 may be disclosed to a child-placing agency, private  
34 adoption agency, or any other provider licensed under this chapter;

35 (e) Submitting a fingerprint-based background check through the  
36 Washington state patrol under chapter 10.97 RCW and through the  
37 federal bureau of investigation for:

38 (i) Agencies and their staff, volunteers, students, and interns  
39 when the agency is seeking license or relicensure;

40 (ii) Foster care and adoption placements; and

1 (iii) Any adult living in a home where a child may be placed;

2 (f) If any adult living in the home has not resided in the state  
3 of Washington for the preceding five years, the department shall  
4 review any child abuse and neglect registries maintained by any state  
5 where the adult has resided over the preceding five years;

6 (g) The cost of fingerprint background check fees will be paid as  
7 required in RCW 43.43.837;

8 (h) Subject to the availability of amounts appropriated for this  
9 specific purpose and to help satisfy the background check  
10 requirements in this section, the department shall maintain the  
11 capacity to roll, print, or scan fingerprints in the department's  
12 early learning and child welfare offices for the purposes of  
13 Washington state patrol and federal bureau of investigation  
14 fingerprint-based background checks;

15 (i) National and state background information must be used solely  
16 for the purpose of determining eligibility for a license and for  
17 determining the character, suitability, and competence of those  
18 persons or agencies, excluding parents, not required to be licensed  
19 who are authorized to care for children or expectant mothers;

20 (~~(i)~~) (j) The number of qualified persons required to render  
21 the type of care and treatment for which an agency seeks a license;

22 (~~(j)~~) (k) The safety, cleanliness, and general adequacy of the  
23 premises to provide for the comfort, care and well-being of children  
24 or expectant mothers;

25 (~~(k)~~) (l) The provision of necessary care, including food,  
26 clothing, supervision and discipline; physical, mental and social  
27 well-being; and educational, recreational and spiritual opportunities  
28 for those served;

29 (~~(l)~~) (m) The financial ability of an agency to comply with  
30 minimum requirements established pursuant to this chapter and RCW  
31 74.13.031; and

32 (~~(m)~~) (n) The maintenance of records pertaining to the  
33 admission, progress, health and discharge of persons served;

34 (3) To investigate any person, including relatives by blood or  
35 marriage except for parents, for character, suitability, and  
36 competence in the care and treatment of children or expectant mothers  
37 prior to authorizing that person to care for children or expectant  
38 mothers. However, if a child is placed with a relative under RCW  
39 13.34.065 or 13.34.130, and if such relative appears otherwise  
40 suitable and competent to provide care and treatment the criminal

1 history background check required by this section need not be  
2 completed before placement, but shall be completed as soon as  
3 possible after placement;

4 (4) On reports of alleged child abuse and neglect, to investigate  
5 agencies in accordance with chapter 26.44 RCW, including agencies or  
6 facilities operated by the department of social and health services  
7 that receive children for care outside their own homes, child day-  
8 care centers, and family day-care homes, to determine whether the  
9 alleged abuse or neglect has occurred, and whether child protective  
10 services or referral to a law enforcement agency is appropriate;

11 (5) To issue, revoke, or deny licenses to agencies pursuant to  
12 this chapter and RCW 74.13.031. Licenses shall specify the category  
13 of care which an agency is authorized to render and the ages, sex and  
14 number of persons to be served;

15 (6) To prescribe the procedures and the form and contents of  
16 reports necessary for the administration of this chapter and RCW  
17 74.13.031 and to require regular reports from each licensee;

18 (7) To inspect agencies periodically to determine whether or not  
19 there is compliance with this chapter and RCW 74.13.031 and the  
20 requirements adopted hereunder;

21 (8) To review requirements adopted hereunder at least every two  
22 years and to adopt appropriate changes after consultation with  
23 affected groups for child day-care requirements and with the  
24 children's services advisory committee for requirements for other  
25 agencies; and

26 (9) To consult with public and private agencies in order to help  
27 them improve their methods and facilities for the care of children or  
28 expectant mothers.

29 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
30 preservation of the public peace, health, or safety, or support of  
31 the state government and its existing public institutions, and takes  
32 effect immediately.

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