
SUBSTITUTE SENATE BILL 5703

State of Washington

62nd Legislature

2011 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Kohl-Welles and Stevens)

READ FIRST TIME 02/21/11.

1 AN ACT Relating to background checks of employees or volunteers who
2 will or may have unsupervised access to children, individuals with
3 developmental disabilities, or vulnerable adults; and amending RCW
4 43.43.838.

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

6 **Sec. 1.** RCW 43.43.838 and 2009 c 170 s 1 are each amended to read
7 as follows:

8 (1) After January 1, 1988, and notwithstanding any provision of RCW
9 43.43.700 through 43.43.810 to the contrary, the state patrol shall
10 furnish a transcript of the conviction record pertaining to any person
11 for whom the state patrol or the federal bureau of investigation has a
12 record upon the written request of:

13 (a) The subject of the inquiry;

14 (b) Any business or organization for the purpose of conducting
15 evaluations under RCW 43.43.832;

16 (c) The department of social and health services;

17 (d) Any law enforcement agency, prosecuting authority, or the
18 office of the attorney general;

1 (e) The department of social and health services for the purpose of
2 meeting responsibilities set forth in chapter 74.15, 18.51, 18.20, or
3 72.23 RCW, or any later-enacted statute which purpose is to regulate or
4 license a facility which handles vulnerable adults. However, access to
5 conviction records pursuant to this subsection (1)(e) does not limit or
6 restrict the ability of the department to obtain additional information
7 regarding conviction records and pending charges as set forth in RCW
8 74.15.030(2)(b); or

9 (f) The department of early learning for the purpose of meeting
10 responsibilities in chapter 43.215 RCW.

11 (2) The state patrol shall by rule establish fees for disseminating
12 records under this section to recipients identified in subsection
13 (1)(a) and (b) of this section. The state patrol shall also by rule
14 establish fees for disseminating records in the custody of the national
15 crime information center. The revenue from the fees shall cover, as
16 nearly as practicable, the direct and indirect costs to the state
17 patrol of disseminating the records. No fee shall be charged to a
18 nonprofit organization for the name and date of birth records check.
19 Record checks requested by school districts and educational service
20 districts using only name and date of birth will be provided free of
21 charge.

22 (3) A nonprofit organization may conduct a records check through
23 the federal bureau of investigation on behalf of any prospective
24 employee or volunteer who will or may have unsupervised access to
25 children, individuals with developmental disabilities, or vulnerable
26 adults. The records check shall consist of a background check as
27 allowed through the Washington state criminal records privacy act under
28 RCW 10.97.050, the Washington state patrol criminal identification
29 system under RCW 43.43.832 through 43.43.834, and the federal bureau of
30 investigation. These background checks shall be done through the
31 Washington state patrol criminal identification section and may include
32 a national check from the federal bureau of investigation, which shall
33 be through the submission of fingerprints. The nonprofit organization
34 or prospective employee or volunteer is required to pay the current
35 federal and state fees for the fingerprint-based criminal history
36 records check.

37 (4) No employee of the state, employee of a business or
38 organization, or the business or organization is liable for defamation,

1 invasion of privacy, negligence, or any other claim in connection with
2 any lawful dissemination of information under RCW 43.43.830 through
3 43.43.840 or 43.43.760.

4 ~~((4))~~ (5) Before July 26, 1987, the state patrol shall adopt
5 rules and forms to implement this section and to provide for security
6 and privacy of information disseminated under this section, giving
7 first priority to the criminal justice requirements of this chapter.
8 The rules may include requirements for users, audits of users, and
9 other procedures to prevent use of civil adjudication record
10 information or criminal history record information inconsistent with
11 this chapter.

12 ~~((5))~~ (6) Nothing in RCW 43.43.830 through 43.43.840 shall
13 authorize an employer to make an inquiry not specifically authorized by
14 this chapter, or be construed to affect the policy of the state
15 declared in chapter 9.96A RCW.

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