

RCW 43.216.270 Character, suitability, and competence to provide child care and early learning services—Fingerprint criminal history record checks—Background check clearance card or certificate—Shared background checks—Capacity to perform checks.

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

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

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

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

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

(c) The secretary shall use the fingerprint criminal history record check information solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children.

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

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

(f) The department shall issue a background check clearance card or certificate to the applicant if after the completion of a background check the department concludes the applicant is qualified for unsupervised access to children in child care. The background check clearance card or certificate is valid for five years from the

date of issuance. A valid card or certificate must be accepted by a potential employer as proof that the applicant has successfully completed a background check as required under this chapter. For purposes of renewal of the background clearance card or certificate, all agency licensees holding a license, persons who are employees, and persons who have been previously qualified by the department, must submit a new background application to the department on a date to be determined by the department.

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

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

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

(j) The department shall investigate and conduct a redetermination of an applicant's or licensee's background clearance if the department receives a complaint or information from individuals, a law enforcement agency, or other federal, state, or local government agency. Subject to the requirements contained in RCW 43.216.325 and 43.216.327 and based on a determination that an individual lacks the appropriate character, suitability, or competence to provide child care or early learning services to children, the department may: (i) Invalidate the background card or certificate; or (ii) suspend, modify, or revoke any license authorized by this chapter.

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

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

(5) Subject to the availability of amounts appropriated for this specific purpose and to help satisfy the background check requirements in this section, the department shall maintain the capacity to roll,

print, or scan fingerprints in at least seven of the department's early learning and child welfare offices for the purposes of Washington state patrol and federal bureau of investigation fingerprint-based background checks. Office locations must:

(a) Be prioritized based on proximity to existing fingerprinting service capacity, regional demand, and criteria to enhance timely access;

(b) Provide staff support of a minimum of 0.5 full-time equivalent employees per office location; and

(c) Provide fingerprinting services solely for prospective and current child care employees, licensed group care employees, families, and relatives involved in child welfare. [2024 c 300 s 2; 2023 c 437 s 2; 2022 c 297 s 960; 2020 c 270 s 9. Prior: 2018 c 59 s 1; 2018 c 58 s 69; prior: 2017 3rd sp.s. c 33 s 6; 2017 3rd sp.s. c 6 s 206; prior: 2011 c 295 s 2; 2011 c 253 s 4; 2007 c 415 s 5. Formerly RCW 43.215.215.]

Findings—Intent—2024 c 300: "The legislature finds that accurate background checks play an important role in ensuring the safety of Washington families seeking child care services and for those involved in the child welfare system. The legislature finds that many areas of the state lack convenient access to fingerprinting services, thereby significantly delaying or inhibiting hiring and approval processes. The legislature finds that completing background checks more quickly will help address child care workforce shortfalls by allowing providers to hire, train, and employ new staff. The legislature therefore intends to improve workforce stability by reducing processing times for background checks and directing the department of children, youth, and families to make fingerprinting services available at selected early learning and child welfare offices as provided in this act." [2024 c 300 s 1.]

Effective date—2024 c 300: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 26, 2024]." [2024 c 300 s 4.]

Effective date—2022 c 297: See note following RCW 43.79.565.

Effective date—2020 c 270: See note following RCW 74.13.720.

Effective date—2018 c 59: "This act takes effect July 1, 2018." [2018 c 59 s 2.]

Effective date—2018 c 58: See note following RCW 28A.655.080.

Effective date—2017 3rd sp.s. c 6 ss 102, 104-115, 201-227, 301-337, 401-419, 501-513, 801-803, and 805-822: See note following RCW 43.216.025.