

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1385

69th Legislature
2025 Regular Session

Passed by the House March 5, 2025
Yeas 97 Nays 0

**Speaker of the House of
Representatives**

Passed by the Senate April 5, 2025
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1385** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1385

Passed Legislature - 2025 Regular Session

State of Washington

69th Legislature

2025 Regular Session

By House Early Learning & Human Services (originally sponsored by Representatives Taylor, Burnett, Leavitt, Ley, Davis, Reeves, Obras, Salahuddin, and Wylie; by request of Washington State Patrol)

READ FIRST TIME 02/18/25.

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, the
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" means an individual:

16 (a) Who has, seeks to have, or may have access to children, the
17 elderly, or individuals with disabilities, served by a qualified
18 entity; and

19 (b) Who:

20 (i) Is employed by, volunteers with, or contracts with, or seeks
21 to be employed by or volunteer or contract with a qualified entity;
22 or

23 (ii) Owns or operates or seeks to own or operate, a qualified
24 entity.

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

1 misconduct with a minor; commercial sexual abuse of a minor; child
2 abandonment; promoting pornography; selling or distributing erotic
3 material to a minor; custodial assault; violation of child abuse
4 restraining order; child buying or selling; prostitution; felony
5 indecent exposure; criminal abandonment; or any of these crimes as
6 they may be renamed in the future.

7 ~~((+8+))~~ (10) "Crimes relating to drugs" means a conviction of a
8 crime to manufacture, delivery, or possession with intent to
9 manufacture or deliver a controlled substance.

10 ~~((+9+))~~ (11) "Crimes relating to financial exploitation" means a
11 conviction for first, second, or third degree extortion; first,
12 second, or third degree theft; first or second degree robbery;
13 forgery; or any of these crimes as they may be renamed in the future.

14 ~~((+10+))~~ (12) "Elderly" means a person 60 years of age or older;
15 (13) "Financial exploitation" means "financial exploitation" as
16 defined in RCW 74.34.020.

17 ~~((+11+))~~ (14) "Health care facility" means a nursing home
18 licensed under chapter 18.51 RCW, an assisted living facility
19 licensed under chapter 18.20 RCW, or an adult family home licensed
20 under chapter 70.128 RCW.

21 ~~((+12+))~~ (15) "Individuals with disabilities" means persons with
22 the functional, mental, or physical inability to care for themselves,
23 individuals with developmental disabilities, or individuals subject
24 to a conservatorship or guardianship.

25 (16) "Peer counselor" means a nonprofessional person who has
26 equal standing with another person, providing advice on a topic about
27 which the nonprofessional person is more experienced or
28 knowledgeable, and who is a counselor for a peer counseling program
29 that contracts with or is otherwise approved by the department,
30 another state or local agency, or the court.

31 ~~((+13+))~~ (17) "Qualified entity" means a business or
32 organization, whether public, private, for profit, not for profit, or
33 voluntary, that provides care or care placement services, including a
34 business or organization that licenses or certifies others to provide
35 care or care placement services.

36 (18) "Unsupervised" means not in the presence of:

37 (a) Another employee or volunteer from the same business or
38 organization as the applicant; or

39 (b) Any relative or guardian of any of the children ~~((or~~
40 ~~developmentally disabled persons or vulnerable adults))~~, the elderly,

1 or individuals with disabilities to which the applicant has access
2 during the course of his or her employment or involvement with the
3 qualified entity, business, or organization.

4 With regard to peer counselors, "unsupervised" does not include
5 incidental contact with children under age sixteen at the location at
6 which the peer counseling is taking place. "Incidental contact" means
7 minor or casual contact with a child in an area accessible to and
8 within visual or auditory range of others. It could include passing a
9 child while walking down a hallway but would not include being alone
10 with a child for any period of time in a closed room or office.

11 ~~((14))~~ (19) "Vulnerable adult" means "vulnerable adult" as
12 defined in chapter 74.34 RCW, except that for the purposes of
13 requesting and receiving background checks pursuant to RCW 43.43.832,
14 it shall also include adults of any age who lack the functional,
15 mental, or physical ability to care for themselves.

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

18 (1) In order to facilitate the authorized interstate exchange of
19 criminal history information for noncriminal justice purposes of
20 background checks for the licensing and screening of employees and
21 volunteers under the national child protection act of 1993, as
22 amended, 34 U.S.C. Sec. 40102, and to implement the national crime
23 prevention and privacy compact, 34 U.S.C. Sec. 40316, the Washington
24 state patrol shall execute the compact on behalf of the state.

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

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

33 (4) The state's ratification of the compact remains in effect
34 until legislation is enacted which specifically renounces the
35 compact.

36 (5) Authorized qualified entities and federally recognized tribes
37 are authorized to conduct a state and national fingerprint-based
38 criminal history record check on applicants and covered individuals
39 for noncriminal justice purposes for any employment, licensing, or

1 volunteering purpose which provides care to children, the elderly, or
2 individuals with disabilities.

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

6 (7) In order to participate in this program:

7 (a) Qualified entities and federally recognized tribes must
8 notify the applicant or covered individual that:

9 (i) They have the right to obtain a copy of their own state and
10 federal criminal history record from the qualified entity or
11 federally recognized tribe that conducted the fingerprint check
12 within a specified amount of time determined by the qualified entity
13 or federally recognized tribe;

14 (ii) They have the right to appeal the results of the criminal
15 history record to challenge the accuracy or completion of information
16 in the criminal history record.

17 (b) Qualified entities and federally recognized tribes are
18 obligated to:

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

21 (ii) Submit fingerprints on each applicant and covered individual
22 when requesting criminal history record information under this
23 section;

24 (iii) Maintain a signed waiver for each applicant and covered
25 individual allowing the release of the state and national criminal
26 history record information to the qualified entity or federally
27 recognized tribe;

28 (iv) Ensure the applicant or covered individual is provided
29 notification that the results of the state and federal criminal
30 history records check are handled in a manner that protects the
31 applicant or covered individual's privacy;

32 (v) Provide applicants and covered individuals the opportunity to
33 challenge the accuracy of the information in the state and federal
34 bureau of investigation's criminal history record, if one exists, if
35 using the record to make a determination of the applicant or covered
36 individual's suitability for employment, licensing, or volunteering
37 purposes;

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

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

5 (8) Qualified entities or federally recognized tribes must not
6 deny employment, licenses, or volunteer positions based on
7 information in the criminal history record until the applicant or
8 covered individual has been afforded a reasonable time to correct or
9 complete the record or has declined to do so.

10 (9) The Washington state patrol shall by rule establish fees for
11 submission of fingerprints from and dissemination of records to
12 qualified entities or federally recognized tribes under this section.
13 The revenue from the fees shall cover, as nearly as practicable, the
14 direct and indirect costs to the Washington state patrol of
15 processing the submissions and disseminating the records. The cost of
16 record checks must also include the fee the federal bureau of
17 investigation charges for the criminal history background checks.

18 (10) A qualified entity or federally recognized tribe is not
19 liable for damages solely for failing to obtain the information
20 authorized under this section with respect to an employee,
21 contractor, or volunteer. The state, any political subdivision of the
22 state, or any agency, officer, or employee of the state or a
23 political subdivision is not liable for damages for providing
24 information requested under this section.

25 (11) The Washington state patrol has authority to adopt rules to
26 implement this section.

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