

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1395

69th Legislature
2025 Regular Session

Passed by the House April 18, 2025
Yeas 59 Nays 38

**Speaker of the House of
Representatives**

Passed by the Senate April 14, 2025
Yeas 31 Nays 18

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 1395** 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 1395

AS AMENDED BY THE SENATE

Passed Legislature - 2025 Regular Session

State of Washington

69th Legislature

2025 Regular Session

By House Postsecondary Education & Workforce (originally sponsored by Representatives Farivar, Fosse, Nance, Reeves, Simmons, Obras, Berry, Mena, Scott, Doglio, Macri, Peterson, Salahuddin, Parshley, Cortes, Paul, Alvarado, Ryu, Duerr, Reed, Ramel, Shavers, Wylie, Ormsby, Street, Hill, and Donaghy)

READ FIRST TIME 02/06/25.

1 AN ACT Relating to streamlining the home care worker background
2 check process; and amending RCW 43.20A.715 and 74.39A.056.

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

4 **Sec. 1.** RCW 43.20A.715 and 2023 c 470 s 3014 are each amended to
5 read as follows:

6 (1) Where the department is required to screen a long-term care
7 worker, contracted provider, or licensee through a background check
8 to determine whether the person has a history that would disqualify
9 the person from having unsupervised access to, working with, or
10 providing supervision, care, or treatment to vulnerable adults or
11 children, the department may not automatically disqualify a person on
12 the basis of a criminal record that includes a conviction of any of
13 the following crimes once the specified amount of time has passed for
14 the particular crime:

15 (a) Selling cannabis to a person under RCW 69.50.401 after three
16 years or more have passed between the most recent conviction and the
17 date the background check is processed;

18 (b) Theft in the first degree under RCW 9A.56.030 after 10 years
19 or more have passed between the most recent conviction and the date
20 the background check is processed;

1 (c) Robbery in the second degree under RCW 9A.56.210 after five
2 years or more have passed between the most recent conviction and the
3 date the background check is processed;

4 (d) Extortion in the second degree under RCW 9A.56.130 after five
5 years or more have passed between the most recent conviction and the
6 date the background check is processed;

7 (e) Assault in the second degree under RCW 9A.36.021 after five
8 years or more have passed between the most recent conviction and the
9 date the background check is processed; and

10 (f) Assault in the third degree under RCW 9A.36.031 after five
11 years or more have passed between the most recent conviction and the
12 date the background check is processed.

13 (2) The provisions of subsection (1) of this section do not apply
14 where the department is performing background checks for the
15 department of children, youth, and families.

16 (3) The provisions of subsection (1) of this section do not apply
17 to department employees or applicants for department positions except
18 for positions in the state-operated community residential program.

19 (4) Notwithstanding subsection (1) of this section, a long-term
20 care worker, contracted provider, or licensee may not provide, or be
21 paid to provide, care to children or vulnerable adults under the
22 medicare or medicaid programs if the worker is excluded from
23 participating in those programs by federal law.

24 (5) The department(~~(, a contracted provider, or a licensee)~~) or
25 an authorized entity, when conducting a character, competence, and
26 suitability review for the purpose of hiring, licensing, certifying,
27 contracting with, permitting, or continuing to permit a person to be
28 employed in any position caring for or having unsupervised access to
29 vulnerable adults or children, may, in its sole discretion, determine
30 whether to consider any of the convictions identified in subsection
31 (1) of this section. If the department or a consumer directed
32 employer as defined in RCW 74.39A.009 determines that an individual
33 with any of the convictions identified in subsection (1) of this
34 section is qualified to provide services to a department client as an
35 individual provider as defined in RCW 74.39A.240, the department or
36 the consumer directed employer must provide the client, and their
37 guardian if any, with the results of the state background check for
38 their determination of character, suitability, and competence of the
39 individual before the individual begins providing services. The
40 department(~~(, a contracted provider, or a licensee)~~) or an authorized

1 entity, when conducting a character, competence, and suitability
2 review for the purpose of hiring, licensing, certifying, contracting
3 with, permitting, or continuing to permit a person to be employed in
4 any position caring for or having unsupervised access to vulnerable
5 adults or children, has a rebuttable presumption that its exercise of
6 discretion under this section or the refusal to exercise such
7 discretion was appropriate. This subsection does not create a duty
8 for the department to conduct a character, competence, and
9 suitability review.

10 (6)(a) An employer or an authorized entity shall not conduct a
11 character, competence, and suitability review for individual
12 providers and home care agency providers, based on a name and date of
13 birth or fingerprint-based background check result, when:

14 (i) The employer or authorized entity has already conducted a
15 character, competence, and suitability review for the individual
16 provider or home care agency provider for a previously reviewed
17 nonautomatically disqualifying conviction, pending charge, or
18 negative action found during a previous background check, for which
19 the employer or authorized entity has previously conducted a
20 character, competence, and suitability review; or

21 (ii) It is known to the employer or authorized entity that more
22 than 10 years have passed since the last nonautomatically
23 disqualifying conviction or negative action against the individual
24 provider or home care agency provider.

25 (b) The department shall develop rules to establish standards for
26 conducting character, competence, and suitability reviews under this
27 subsection (6), including parameters to prioritize the safety of
28 vulnerable adults and minors, clients' rights regarding individual
29 and home care agency providers' background check results and
30 character, competence, and suitability reviews, and an equitable
31 review process for individual providers and home care agency
32 providers.

33 (7)(a) Individual providers and home care agency providers
34 subject to and awaiting a character, competence, and suitability
35 review may work for up to 30 days before the character, competence,
36 and suitability review is completed, provided that their background
37 check did not include any automatically disqualifying conviction,
38 crime, negative action, or pending charge, and the employer has not
39 completed the character, competence, and suitability review and

1 determined the home care agency provider or individual provider
2 unable to work.

3 (b)(i) Prior to the provision of any care services by an
4 individual provider or home care agency provider during the 30-day
5 temporary practice period established in (a) of this subsection, the
6 parent or guardian of the minor, the vulnerable adult, or the
7 guardian of the vulnerable adult must be:

8 (A) Notified in writing that the character, competence, and
9 suitability review for the individual provider or home care agency
10 provider has not been completed; and

11 (B) Provided with an opportunity to decline the receipt of care
12 services from the individual provider or home care agency provider
13 and an explanation of the procedure for declining the receipt of
14 care.

15 (ii) The notice requirement of this subsection does not apply to
16 any home care agency provider that has been employed by the same
17 employer since the previous name and date of birth background check
18 or fingerprint-based background check was conducted.

19 (8) For the purposes of the section:

20 (a) "Authorized entity" means a service provider, licensee,
21 contractor, or other public or private agency that:

22 (i) Is required to conduct background checks; and

23 (ii) Is authorized to conduct background checks through the
24 department's background check central unit.

25 (b) "Character, competence, and suitability review" means a
26 review process that the employer or an authorized entity uses to
27 decide whether a person has the character, competence, and
28 suitability to work in a position that may have unsupervised access
29 to minors or vulnerable adults.

30 (c) "Contracted provider" means a provider, and its employees,
31 contracted with the department or an area agency on aging to provide
32 services to department clients under programs under chapter 74.09,
33 74.39, 74.39A, or 71A.12 RCW. "Contracted provider" includes area
34 agencies on aging and their subcontractors who provide case
35 management.

36 ~~((b))~~ (d) "Fingerprint-based background check" means a search
37 of in-state criminal history records through the Washington state
38 patrol and national criminal history records through the federal
39 bureau of investigation.

1 (e) "Home care agency provider" means a long-term care worker
2 paid by a home care agency, as described in RCW 43.20A.710(1)(b).

3 (f) "Individual provider" has the same meaning as in RCW
4 74.39A.240.

5 (g) "Licensee" means a nonstate facility or setting that is
6 licensed or certified, or has applied to be licensed or certified, by
7 the department and includes the licensee and its employees.

8 (h) "Managing employer" has the same meaning as in RCW
9 74.39A.009.

10 (i) "Name and date of birth background check" means a search of
11 Washington state criminal history and negative action records using
12 the applicant's name and date of birth conducted by the department's
13 background check central unit.

14 (j) "Nonautomatically disqualifying" means, when used in
15 reference to a conviction, pending charge, or negative action, that
16 the conviction, pending charge, or negative action is one other than
17 a permanently disqualifying conviction, permanently disqualifying
18 negative action, or a time-limited permanently disqualifying
19 conviction or negative action after the defined amount of time has
20 passed, as described in RCW 43.43.842 and 43.20A.710(5), and related
21 department rules.

22 **Sec. 2.** RCW 74.39A.056 and 2023 c 223 s 4 are each amended to
23 read as follows:

24 (1)(a) All long-term care workers shall be screened through state
25 and federal background checks in a uniform and timely manner to
26 verify that they do not have a history that would disqualify them
27 from working with vulnerable persons. The department must process
28 background checks for long-term care workers and, based on this
29 screening, inform employers, prospective employers, and others as
30 authorized by law, whether screened applicants are ineligible for
31 employment.

32 (b)(i) For long-term care workers hired on or after January 7,
33 2012, the background checks required under this section shall include
34 checking against the federal bureau of investigation fingerprint
35 identification records system or its successor program. The
36 department shall require these long-term care workers to submit
37 fingerprints for the purpose of investigating conviction records
38 through both the Washington state patrol and the federal bureau of

1 investigation. The department shall not pass on the cost of these
2 criminal background checks to the workers or their employers.

3 (ii) A long-term care worker who is not disqualified by the state
4 background check can work and have unsupervised access pending the
5 results of the federal bureau of investigation fingerprint background
6 check as allowed by rules adopted by the department.

7 (c)(i) Individual providers and home care agency providers must
8 complete a fingerprint-based background check required in this
9 section, RCW 43.20A.710, and 43.43.837 only:

10 (A) At the point of initial hire;

11 (B) As required by federal law;

12 (C) Before an individual provider starts providing new services
13 for a new managing employer when the last fingerprint on the
14 authorized entity's file for the individual provider is five years
15 old or more and the new managing employer requests a fingerprint-
16 based background check; and

17 (D) If there is a reasonable, good faith belief the employer or
18 authorized entity needs to conduct a fingerprint-based background
19 check, due to potential new findings in a fingerprint-based
20 background check, as documented in writing by the employer.

21 (ii) Individual providers and home care agency providers may not
22 be required to complete a fingerprint-based background check at the
23 point of initial hire as required in this subsection if the
24 individual provider or home care agency provider has been previously
25 employed by the same employer and has not lived outside of Washington
26 after the last fingerprint-based background check.

27 (2) A provider may not be employed in the care of and have
28 unsupervised access to vulnerable adults if:

29 (a) The provider is on the vulnerable adult abuse registry or on
30 any other registry based upon a finding of abuse, abandonment,
31 neglect, or financial exploitation of a vulnerable adult;

32 (b) On or after October 1, 1998, the department of children,
33 youth, and families, or its predecessor agency, has made a founded
34 finding of abuse or neglect of a child against the provider. If the
35 provider has received a certificate of parental improvement under
36 chapter 74.13 RCW pertaining to the finding, the provider is not
37 disqualified under this section;

38 (c) A disciplining authority, including the department of health,
39 has made a finding of abuse, abandonment, neglect, or financial

1 exploitation of a minor or a vulnerable adult against the provider;
2 or

3 (d) A court has issued an order that includes a finding of fact
4 or conclusion of law that the provider has committed abuse,
5 abandonment, neglect, or financial exploitation of a minor or
6 vulnerable adult. If the provider has received a certificate of
7 parental improvement under chapter 74.13 RCW pertaining to the
8 finding of fact or conclusion of law, the provider is not
9 disqualified under this section.

10 (3)(a) A client who has elected to receive services from an
11 individual provider must be notified of the results of a background
12 check and of the client's right to request a copy of the background
13 check's results under (b) of this subsection.

14 (b) When a background check produces a review required result, as
15 defined in RCW 43.20A.715, the authorized entity must provide the
16 client who is the managing employer of the individual provider with a
17 copy of the background check results and the Washington state record
18 of arrests and prosecutions, if requested by the client. The
19 individual provider may choose to provide a copy of the federal
20 bureau of investigation record of arrests and prosecutions to the
21 client.

22 (4) The department shall establish, by rule, a state registry
23 which contains identifying information about long-term care workers
24 identified under this chapter who have final substantiated findings
25 of abuse, neglect, financial exploitation, or abandonment of a
26 vulnerable adult as defined in RCW 74.34.020. The rule must include
27 disclosure, disposition of findings, notification, findings of fact,
28 appeal rights, and fair hearing requirements. The department shall
29 disclose, upon request, final substantiated findings of abuse,
30 neglect, financial exploitation, or abandonment to any person so
31 requesting this information. This information must also be shared
32 with the department of health to advance the purposes of chapter
33 18.88B RCW.

34 ((+4)) (5) For the purposes of this section(~~(,—"provider"~~
35 ~~means))~~):

36 (a) "Authorized entity" means a service provider, licensee,
37 contractor, or other public or private agency that:

38 (i) Is required to conduct background checks; and

39 (ii) Is authorized to conduct background checks through the
40 department's background check central unit.

1 **(b) "Fingerprint-based background check" means a search of in-**
2 **state criminal history records through the Washington state patrol**
3 **and national criminal history records through the federal bureau of**
4 **investigation.**

5 **(c) "Home care agency provider" means a long-term care worker**
6 **paid by a home care agency, as described in RCW 43.20A.710(1)(b).**

7 **(d) "Managing employer" has the same meaning as in RCW**
8 **74.39A.009.**

9 **(e) "Provider" means:**

10 **(i) An individual provider ((as defined in RCW 74.39A.240));**

11 **((+b)) (ii) An employee, licensee, or contractor of any of the**
12 **following: A home care agency licensed under chapter 70.127 RCW; a**
13 **nursing home under chapter 18.51 RCW; an assisted living facility**
14 **under chapter 18.20 RCW; an enhanced services facility under chapter**
15 **70.97 RCW; a certified resident services and supports agency licensed**
16 **or certified under chapter 71A.12 RCW; an adult family home under**
17 **chapter 70.128 RCW; or any long-term care facility certified to**
18 **provide medicaid or medicare services; and**

19 **((+e)) (iii) Any contractor of the department who may have**
20 **unsupervised access to vulnerable adults.**

21 **((+5)) (f) "Review required result" means the result of a name**
22 **and date of birth background check or fingerprint-based background**
23 **check for an individual provider or a home care agency provider that**
24 **requires the employer or an authorized entity to determine if a**
25 **character, competence, and suitability review is necessary, and**
26 **related implementing rules adopted by the department.**

27 **(6) The department shall adopt rules to implement this section.**

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