



DIVISION OF DEVELOPMENTAL DISABILITIES
Olympia, Washington

TITLE: CRIMINAL HISTORY BACKGROUND CHECKS POLICY 5.01

Authority:	RCW 43.20A.710	Investigation of Conviction Records or Pending Charges
	RCW 74.15.020	Definitions
	RCW 74.15.030	Powers and Duties of Secretary
	RCW 43.43.830-845	Background Checks
	Chapter 9.96A RCW	Restoration of Employment Rights
	Chapter 388-330 WAC	Background Inquires
	WAC 162-12-140 WAC	Pre-employment Inquiries
	DSHS Administrative Policy 9.04	Background Checks on Care Providers

BACKGROUND:

RCW 43.43.830 requires DSHS to conduct criminal history background checks on persons who may have unsupervised access to people with developmental disabilities. RCW 74.15.030 requires DSHS to consider the character, suitability, and competence of persons or agencies who are authorized to care for persons with developmental disabilities. It must, at a minimum, investigate the conviction record, pending charges, and for persons who have resided outside the state within the last three (3) years, submit applicant fingerprints for a national criminal history record check through the FBI.

PURPOSE:

This policy describes procedures for criminal history background checks conducted by DSHS for the Division of Developmental Disabilities (DDD).

SCOPE:

- A. This policy applies to all DDD contractors, employees of contractors, and volunteers who may have unsupervised access to people with developmental disabilities and who provide services funded by DDD.

- B. Parents who are contracted to provide services to their own children are not subject to

background checks.

- C. Background inquiries of applicants for employment with DDD are screened through the DSHS Employee Services Division, pursuant to Personnel Policy 532, *Employment Background Inquiries*.

DEFINITIONS:

"**Roll**" means printing the applicant's fingerprints on the Washington State Patrol/FBI identification card.

"**Unsupervised access**" means not in the presence of another person who has a cleared background check.

"**Volunteer**" means any person who will have regularly scheduled unsupervised access to persons who are developmentally disabled during the course of his or her employment or involvement with the business or organization.

"**Vulnerable Adult**" means adults of any age who lack the functional, mental, or physical ability to care for themselves.

POLICY:

Individuals who may have unsupervised access to persons with developmental disabilities must complete a criminal history background check. Additionally, individuals who have resided less than three (3) years in Washington State must be fingerprinted, so that an FBI criminal history records check may be completed. Criminal history background checks must be renewed every three (3) years.

PROCEDURES:

A. Provider Requirements

1. Providers who may have unsupervised access to DDD clients must complete the Background Inquiry Application, DSHS form 09-653A(X).
2. Applicants or program administrators must attach to the application a copy of the provider's driver license or an identification card. If a driver's license or identification card is not available, some form of identification with the applicant's legal name and date of birth must be attached to the application.

3. Applicants who have resided less than three (3) years in Washington State must be fingerprinted by either a local law enforcement agency or a qualified person who has been trained by Washington State Patrol to roll fingerprints.
4. Applicants or program administrators must send the background inquiry application form, identification, and two (2) fingerprint cards to DSHS Centralized Criminal History Unit, P.O. Box 45038, Olympia, Washington 98504-5038.
5. Providers must submit a background inquiry application every three (3) years after the initial inquiry has been completed.

B. Criteria for Prohibiting Employment

1. Contractors providing services must not hire an individual who may have unsupervised access to persons with developmental disabilities without completing a background inquiry application form.
2. Contractors providing services may provisionally hire an individual for 120 days, if the individual is required to have fingerprint check for a national criminal history check through the FBI and a Washington State criminal history check has been completed.
3. DSHS must disqualify individual contractors, volunteers, or employees of service providers if the inquiry reveals any of the following:
 - a. The individual is listed in the Washington State Patrol's files as having a criminal or civil conviction for child and/or adult abuse.
 - b. The individual has been convicted within the last seven (7) years of an offense listed in Attachment A of this policy.
 - c. The individual has a conviction of Simple Assault, Assault in the Fourth Degree, or the same offense as it may be renamed, within three (3) years of the date of application for employment.
 - d. The individual has a conviction of Prostitution or the same offense as it may be renamed, within three (3) years of the date of application for employment.

- e. The individual has a conviction of Theft in the Third Degree against a vulnerable adult, or the same offense as it may be renamed, within three (3) years of the date of application for employment.
 - f. The individual has a conviction of Theft in the Second Degree against a vulnerable adult, or the same offense as it may be renamed, within five (5) years of the date of application for employment.
 - g. The individual has a conviction of Forgery against a vulnerable adult within five (5) years of the date of application for employment.
 - h. The individual has a conviction from another state that is equivalent to an offense listed in Attachment A.
4. DSHS may disqualify an individual who has been convicted of other offenses, or whose sentence for any offense in Attachment A was more than seven (7) years ago, under the following conditions:
- a. DSHS determines that vulnerable clients would face a significant risk of harm because of the seriousness, recency, kind, or number of offenses; and
 - b. DSHS must not use the conviction as the sole basis for denial to provide care, unless the conviction is directly related to the employment or authorization being sought.
5. DSHS must withhold authorization for an individual to have unsupervised access to people with developmental disabilities if the inquiry reveals pending charge(s) for an offense listed in Attachment A. Authorization must be withheld until dismissal or acquittal of the pending charge(s).

C. Noncompliance

Failure of providers or contractors to adhere to this policy will constitute a breach of contract.

D. Access to Forms

Service providers, contractors, or contract applicants may obtain the Background Inquiry Application (DSHS form 09-653A(X)) from DDD regional offices or DDD outstations.

E. Access to Information

1. DSHS will provide the results of the background inquiries to applicants within fourteen (14) working days, except for FBI inquiries which may take as long as six (6) weeks.
2. DSHS will notify applicants of the reasons for delays.
3. Copies of disqualifying letters will be sent to the appropriate DDD regional office.

EXCEPTIONS:

Any exception to this policy must be allowable by law and approved in writing by the Division Director.

SUPERSESION:

Division Policy: 5.01
Issued January 5, 1999

Division Policy: 5.01
Issued June 14, 1993

Approved: /s/ Linda Rolfe
Director, Division of Developmental Disabilities

Date: 5/15/2001

CRIMES AGAINST PERSONS (RCW 43.43.830 and WAC 388-330-030)

- Aggravated murder
- Arson 1st degree
- Arson 2nd degree
- Assault 1st degree
- Assault 2nd degree
- Assault 3rd degree
- Assault 4th degree (if conviction is less than 3 years)
- Burglary 1st degree
- Child abandonment
- Child abuse or neglect
- Child molestation 1st degree
- Child molestation 2nd degree
- Child molestation 3rd degree
- Child-buying or selling
- Coercion
- Communication with a minor for immoral purposes
- Criminal mistreatment 1st degree
- Criminal mistreatment 2nd degree
- Custodial assault
- Custodial interference 1st degree
- Custodial interference 2nd degree
- Dealing in depictions of a minor engaged in sexually explicit conduct
- Extortion 1st degree
- Extortion 2nd degree
- Family Abandonment
- Felony indecent exposure
- Incest 1st degree
- Incest 2nd degree
- Indecent liberties
- Kidnapping 1st degree
- Kidnapping 2nd degree
- Malicious harassment
- Manslaughter 1st degree
- Manslaughter 2nd degree
- Murder 1st degree
- Murder 2nd degree
- Patronizing a juvenile prostitute
- Possession of depictions of a minor engaged in sexually explicit conduct
- Promoting a suicide attempt
- Promoting pornography
- Promoting prostitution 1st degree
- Promoting prostitution 2nd degree
- Prostitution (if conviction is less than 3 years)
- Public indecency, if towards a person under 14 years
- Rape 1st degree
- Rape 2nd degree
- Rape 3rd degree
- Rape of a child 1st degree
- Rape of a child 2nd degree
- Rape of a child 3rd degree
- Reckless Endangerment
- Robbery 1st degree
- Robbery 2nd degree
- Selling or distributing erotic material to a minor
- Sending or bringing into the state depictions of a minor in sexually explicit conduct
- Sexual exploitation of minors
- Sexual misconduct with a minor 1st degree
- Sexual misconduct with a minor 2nd degree
- Unlawful imprisonment
- Vehicular homicide
- Violation of child abuse restraining order
- Violation of controlled substance act with intent to sell or manufacture

Or any of these crimes as they may be renamed in the future.

CRIMES RELATING TO FINANCIAL EXPLOITATION (RCW 43.43.830)

- Extortion 1st degree
- Extortion 2nd degree
- Extortion 3rd degree
- Forgery (if conviction is less than 5 years)
- Theft 1st degree
- Theft 2nd degree (if conviction is less than 5 years)
- Theft 3rd degree (if conviction is less than 3 years)

OTHER

- Subject to an order of protection under RCW 74.34 regarding abuse or financial exploitation of a vulnerable adult.
- Subject of a final decision issued by a disciplinary board or director of the department who issues professional license or certification