

The times they are a-changing

By Tanya Crites

Until recently, public employers seeking to hire people into job positions that may involve unsupervised access to children under the age of 16, developmentally disabled persons or vulnerable adults, met the background screening standard-of-care by performing a Washington State criminal history check through the Washington State Patrol (WATCH Program). However, under the Child and Adult Abuse Information Act (CAAIA), employers may obtain Criminal History Records Information (CHRI) that goes beyond state conviction history.

The Washington State Legislature recently updated the law to allow public employers to use private organizations to perform criminal background investigations into job applicants, employees, volunteers, private contractors and vendors whose duties fall under the CAAIA. Because private background screening organizations could have access to out-of-state convictions or sex offender registry information, it is now preferred that all criminal screening of applicants, employees, independent contractors, vendors or volunteers whose duties may involve unsupervised access to children, the developmentally disabled or vulnerable adults, are performed through an organization that can provide this expanded service.

The same law now allows a public entity to pass an ordinance/resolution allowing it to request of the Washington State Patrol to obtain a federal background investigation through the FBI, with the applicant's fingerprints.

In addition to performing a more thorough criminal history investigation, employers should screen references for all applicants, employees and volunteers (including minors), whose duties fall under the CAAIA. The employer should request names and contact information for at least one personal and one professional reference, along with the last two employers, and make contact with each reference.

The recommended frequency of criminal history screening has also changed. The one-and-done approach is also no longer advised. Particularly for volunteers, and for employees whose job duties change, periodic criminal history screening should be performed. Public employers should obtain CHRI annually for volunteers or employees who are seasonal or have recurring roles or duties that fall under the CAAIA.

WCIA has many resources that address CAAIA background screening. The Liability Resource Manual guideline, *PAR.20 Background Screening for Park and Recreation and Other Programs Where Staff May Have Contact with Children, Developmentally Disabled Persons and Vulnerable Adults* details the process and steps that should be followed when performing these background screenings. The Liability Resource Manual is available through the Member Resources page on the WCIA website: <http://www.wciapool.org/member-resources>.

WCIA Risk Representatives can provide information on a few of the private background screening organizations that some of the members use. The laws referred to in the article are [RCW 43.43.830-842](#), [RCW 35.21.920](#), [RCW 35A.21.370](#) and [RCW 35.61.130](#).