
SUBSTITUTE HOUSE BILL 3002

State of Washington

55th Legislature

1998 Regular Session

By House Committee on Children & Family Services (originally sponsored by Representatives Cooke, Tokuda, Costa, Cody and Thompson; by request of Department of Social and Health Services)

Read first time 02/06/98. Referred to Committee on .

1 AN ACT Relating to background checks for persons being authorized
2 to care for children; and amending RCW 74.15.030.

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

4 **Sec. 1.** RCW 74.15.030 and 1997 c 386 s 33 are each amended to read
5 as follows:

6 The secretary shall have the power and it shall be the secretary's
7 duty:

8 (1) In consultation with the children's services advisory
9 committee, and with the advice and assistance of persons representative
10 of the various type agencies to be licensed, to designate categories of
11 facilities for which separate or different requirements shall be
12 developed as may be appropriate whether because of variations in the
13 ages, sex and other characteristics of persons served, variations in
14 the purposes and services offered or size or structure of the agencies
15 to be licensed hereunder, or because of any other factor relevant
16 thereto;

17 (2) In consultation with the children's services advisory
18 committee, and with the advice and assistance of persons representative
19 of the various type agencies to be licensed, to adopt and publish

1 minimum requirements for licensing applicable to each of the various
2 categories of agencies to be licensed.

3 The minimum requirements shall be limited to:

4 (a) The size and suitability of a facility and the plan of
5 operation for carrying out the purpose for which an applicant seeks a
6 license;

7 (b) The character, suitability and competence of an agency and
8 other persons associated with an agency directly responsible for the
9 care and treatment of children, expectant mothers or developmentally
10 disabled persons. ~~((In consultation with law enforcement personnel,
11 the secretary shall investigate the conviction record or pending
12 charges and dependency record information under chapter 43.43 RCW of
13 each agency and its staff seeking licensure or relicensure.))~~

14 (i) In order to determine the character, suitability, and
15 competence of applicants for an agency license, licensees, their
16 employees, and other persons who have unsupervised access to children
17 in care, ~~((and))~~ the department shall:

18 (A) In consultation with law enforcement personnel, investigate the
19 conviction record or pending charges and dependency record information
20 under chapter 43.43 RCW of any such person;

21 (B) Have access, under RCW 10.97.050(4), to criminal history record
22 information, which includes records of arrest, charges, or allegations
23 of criminal conduct and other nonconviction data; and

24 (C) Require that any such person who ((have)) has not resided in
25 the state of Washington during the three-year period before being
26 authorized to care for children ((shall)) be fingerprinted. The
27 fingerprints shall be forwarded to the Washington state patrol and
28 federal bureau of investigation for a criminal history records check.
29 To investigate criminal history information, the department may
30 reasonably rely on a criminal history records check of the Washington
31 state patrol criminal identification system and, where a federal bureau
32 of investigation check is required, a federal bureau of investigation
33 check by the Washington state patrol or by another governmental agency
34 or a branch of the United States military if the check is less than one
35 year old.

36 (ii) The fingerprint criminal history records checks will be at the
37 expense of the licensee except that ~~((in the case of a foster family
38 home, if this expense would work a hardship on the licensee, the
39 department shall pay the expense))~~ the department shall pay the expense

1 for foster family homes and for family day care homes and child day
2 care centers which received state subsidies for at least twenty percent
3 of the children in their care during the past three months. If the
4 licensee (~~may not pass~~) passes this cost on to the employee or
5 prospective employee, (~~unless the employee is determined to be~~
6 unsuitable due to his or her criminal history record)) the licensee may
7 reimburse the employee or prospective employee for the cost if the
8 employee or prospective employee remains in the licensee's employ for
9 six months.

10 (iii) The (~~secretary~~) department shall use (~~the~~) criminal
11 history records check information solely for the purpose of determining
12 eligibility for a license and for determining the character,
13 suitability, and competence of those persons or agencies, excluding
14 parents, (~~not required to be~~) licensed (~~who are~~) or authorized by
15 the department to care for children, expectant mothers, and
16 developmentally disabled persons. The department shall use
17 nonconviction data solely as a tool for investigation and shall not
18 base any decision regarding character, suitability, or competence to
19 care for children solely on the basis of nonconviction data. The
20 department shall share the conviction record, pending charges, and
21 dependency record information with the child-placing agency that is
22 responsible for certifying the licensee or applicant. Criminal justice
23 agencies shall provide the secretary such information as they may have
24 and that the secretary may require for such purposes;

25 (c) The number of qualified persons required to render the type of
26 care and treatment for which an agency seeks a license;

27 (d) The safety, cleanliness, and general adequacy of the premises
28 to provide for the comfort, care and well-being of children, expectant
29 mothers or developmentally disabled persons;

30 (e) The provision of necessary care, including food, clothing,
31 supervision and discipline; physical, mental and social well-being; and
32 educational, recreational and spiritual opportunities for those served;

33 (f) The financial ability of an agency to comply with minimum
34 requirements established pursuant to chapter 74.15 RCW and RCW
35 74.13.031; and

36 (g) The maintenance of records pertaining to the admission,
37 progress, health and discharge of persons served;

38 (3) To investigate any person, including relatives by blood or
39 marriage except for parents, for character, suitability, and competence

1 in the care and treatment of children, expectant mothers, and
2 developmentally disabled persons prior to authorizing that person to
3 care for children, expectant mothers, and developmentally disabled
4 persons. However, if a child is placed with a relative under RCW
5 13.34.060 or 13.34.130, and if such relative appears otherwise suitable
6 and competent to provide care and treatment the criminal history
7 background check required by this section need not be completed before
8 placement, but shall be completed as soon as possible after placement;

9 (4) On reports of alleged child abuse and neglect, to investigate
10 agencies in accordance with chapter 26.44 RCW, including child day-care
11 centers and family day-care homes, to determine whether the alleged
12 abuse or neglect has occurred, and whether child protective services or
13 referral to a law enforcement agency is appropriate;

14 (5) To issue, revoke, or deny licenses to agencies pursuant to
15 chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the
16 category of care which an agency is authorized to render and the ages,
17 sex and number of persons to be served;

18 (6) To prescribe the procedures and the form and contents of
19 reports necessary for the administration of chapter 74.15 RCW and RCW
20 74.13.031 and to require regular reports from each licensee;

21 (7) To inspect agencies periodically to determine whether or not
22 there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the
23 requirements adopted hereunder;

24 (8) To review requirements adopted hereunder at least every two
25 years and to adopt appropriate changes after consultation with the
26 child care coordinating committee and other affected groups for child
27 day-care requirements and with the children's services advisory
28 committee for requirements for other agencies; and

29 (9) To consult with public and private agencies in order to help
30 them improve their methods and facilities for the care of children,
31 expectant mothers and developmentally disabled persons.

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