

SSB 5565 - H COMM AMD

By Committee on Early Learning & Human Services

ADOPTED 04/16/2013

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature recognizes that the goals
4 of the child welfare system are the safety, permanence, and well-being
5 of the children it serves. The legislature further recognizes the
6 importance of background checks conducted by the department of social
7 and health services to assess an individual's character, suitability,
8 and competence to determine whether an individual is appropriate to be
9 provided a license under chapter 74.13 RCW or have unsupervised access
10 to children. The legislature does not intend to change the current
11 secretary of social and health services' list of crimes and negative
12 actions. However, the legislature believes that either an unreasonable
13 delay in a determination of whether to approve or deny a license under
14 chapter 74.13 RCW or unsupervised access to children, when such
15 unreasonable delay or denial is based solely on a crime or civil
16 infraction not directly related to child safety, is not appropriate and
17 is not in the best interest of the children being served by the child
18 welfare system.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.13 RCW
20 to read as follows:

21 (1) In determining the character, suitability, and competence of an
22 individual, the department may not:

23 (a) Deny or delay a license or approval of unsupervised access to
24 children to an individual solely because of a crime or civil infraction
25 involving the individual or entity revealed in the background check
26 process that is not on the secretary's list of crimes and negative
27 actions and is not related directly to child safety, permanence, or
28 well-being; or

1 (b) Delay the issuance of a license or approval of unsupervised
2 access to children by requiring the individual to obtain records
3 relating to a crime or civil infraction revealed in the background
4 check process that is not on the secretary's list of crimes and
5 negative actions and is not related directly to child safety,
6 permanence, or well-being and is not a permanent disqualifier pursuant
7 to department rule.

8 (2) If the department determines that an individual does not
9 possess the character, suitability, or competence to provide care or
10 have unsupervised access to a child, it must provide the reasons for
11 its decision in writing with copies of the records or documents related
12 to its decision to the individual within ten days of making the
13 decision.

14 (3) For purposes of this section, "individual" means a relative as
15 defined in RCW 74.15.020(2)(a), an "other suitable person" under
16 chapter 13.34 RCW, a person pursuing licensing as a foster parent, or
17 a person employed or seeking employment by a business or organization
18 licensed by the department or with whom the department has a contract
19 to provide care, supervision, case management, or treatment of children
20 in the care of the department. "Individual" does not include long-term
21 care workers defined in RCW 74.39A.009(17)(a) whose background checks
22 are conducted as provided in RCW 74.39A.056.

23 (4) The department or its officers, agents, or employees may not be
24 held civilly liable based upon its decision to grant or deny
25 unsupervised access to children if the background information it relied
26 upon at the time the decision was made did not indicate that child
27 safety, permanence, or well-being would be a concern.

28 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.13 RCW
29 to read as follows:

30 The department shall charge a fee to process a request made by a
31 person in another state for an individual's child abuse or neglect
32 history in this state or other background history on the individual
33 possessed by the department. All proceeds from the fees collected must
34 go directly to aiding the cost associated with the department
35 conducting background checks.

1 **Sec. 4.** RCW 74.13.020 and 2012 c 205 s 12 are each amended to read
2 as follows:

3 For purposes of this chapter:

4 (1) "Case management" means convening family meetings, developing,
5 revising, and monitoring implementation of any case plan or individual
6 service and safety plan, coordinating and monitoring services needed by
7 the child and family, caseworker-child visits, family visits, and the
8 assumption of court-related duties, excluding legal representation,
9 including preparing court reports, attending judicial hearings and
10 permanency hearings, and ensuring that the child is progressing toward
11 permanency within state and federal mandates, including the Indian
12 child welfare act.

13 (2) "Child" means:

14 (a) A person less than eighteen years of age; or

15 (b) A person age eighteen to twenty-one years who is eligible to
16 receive the extended foster care services authorized under RCW
17 74.13.031.

18 (3) "Child protective services" has the same meaning as in RCW
19 26.44.020.

20 (4) "Child welfare services" means social services including
21 voluntary and in-home services, out-of-home care, case management, and
22 adoption services which strengthen, supplement, or substitute for,
23 parental care and supervision for the purpose of:

24 (a) Preventing or remedying, or assisting in the solution of
25 problems which may result in families in conflict, or the neglect,
26 abuse, exploitation, or criminal behavior of children;

27 (b) Protecting and caring for dependent, abused, or neglected
28 children;

29 (c) Assisting children who are in conflict with their parents, and
30 assisting parents who are in conflict with their children, with
31 services designed to resolve such conflicts;

32 (d) Protecting and promoting the welfare of children, including the
33 strengthening of their own homes where possible, or, where needed;

34 (e) Providing adequate care of children away from their homes in
35 foster family homes or day care or other child care agencies or
36 facilities.

37 "Child welfare services" does not include child protection
38 services.

1 (5) "Committee" means the child welfare transformation design
2 committee.

3 (6) "Department" means the department of social and health
4 services.

5 (7) "Extended foster care services" means residential and other
6 support services the department is authorized to provide to foster
7 children. These services include, but are not limited to, placement in
8 licensed, relative, or otherwise approved care, or supervised
9 independent living settings; assistance in meeting basic needs;
10 independent living services; medical assistance; and counseling or
11 treatment.

12 (8) "Measurable effects" means a statistically significant change
13 which occurs as a result of the service or services a supervising
14 agency is assigned in a performance-based contract, in time periods
15 established in the contract.

16 (9) "Out-of-home care services" means services provided after the
17 shelter care hearing to or for children in out-of-home care, as that
18 term is defined in RCW 13.34.030, and their families, including the
19 recruitment, training, and management of foster parents, the
20 recruitment of adoptive families, and the facilitation of the adoption
21 process, family reunification, independent living, emergency shelter,
22 residential group care, and foster care, including relative placement.

23 (10) "Performance-based contracting" means the structuring of all
24 aspects of the procurement of services around the purpose of the work
25 to be performed and the desired results with the contract requirements
26 set forth in clear, specific, and objective terms with measurable
27 outcomes. Contracts shall also include provisions that link the
28 performance of the contractor to the level and timing of reimbursement.

29 (11) "Permanency services" means long-term services provided to
30 secure a child's safety, permanency, and well-being, including foster
31 care services, family reunification services, adoption services, and
32 preparation for independent living services.

33 (12) "Primary prevention services" means services which are
34 designed and delivered for the primary purpose of enhancing child and
35 family well-being and are shown, by analysis of outcomes, to reduce the
36 risk to the likelihood of the initial need for child welfare services.

37 (13) "Supervising agency" means an agency licensed by the state
38 under RCW 74.15.090, or licensed by a federally recognized Indian tribe

1 located in this state under RCW 74.15.190, that has entered into a
2 performance-based contract with the department to provide case
3 management for the delivery and documentation of child welfare
4 services, as defined in this section. This definition is applicable on
5 or after December 30, 2015.

6 (14) "Unsupervised" has the same meaning as in RCW 43.43.830.

7 **Sec. 5.** RCW 74.13.020 and 2012 c 259 s 7 and 2012 c 205 s 12 are
8 each reenacted and amended to read as follows:

9 For purposes of this chapter:

10 (1) "Case management" means convening family meetings, developing,
11 revising, and monitoring implementation of any case plan or individual
12 service and safety plan, coordinating and monitoring services needed by
13 the child and family, caseworker-child visits, family visits, and the
14 assumption of court-related duties, excluding legal representation,
15 including preparing court reports, attending judicial hearings and
16 permanency hearings, and ensuring that the child is progressing toward
17 permanency within state and federal mandates, including the Indian
18 child welfare act.

19 (2) "Child" means:

20 (a) A person less than eighteen years of age; or

21 (b) A person age eighteen to twenty-one years who is eligible to
22 receive the extended foster care services authorized under RCW
23 74.13.031.

24 (3) "Child protective services" has the same meaning as in RCW
25 26.44.020.

26 (4) "Child welfare services" means social services including
27 voluntary and in-home services, out-of-home care, case management, and
28 adoption services which strengthen, supplement, or substitute for,
29 parental care and supervision for the purpose of:

30 (a) Preventing or remedying, or assisting in the solution of
31 problems which may result in families in conflict, or the neglect,
32 abuse, exploitation, or criminal behavior of children;

33 (b) Protecting and caring for dependent, abused, or neglected
34 children;

35 (c) Assisting children who are in conflict with their parents, and
36 assisting parents who are in conflict with their children, with
37 services designed to resolve such conflicts;

1 (d) Protecting and promoting the welfare of children, including the
2 strengthening of their own homes where possible, or, where needed;

3 (e) Providing adequate care of children away from their homes in
4 foster family homes or day care or other child care agencies or
5 facilities.

6 "Child welfare services" does not include child protection
7 services.

8 (5) "Committee" means the child welfare transformation design
9 committee.

10 (6) "Department" means the department of social and health
11 services.

12 (7) "Extended foster care services" means residential and other
13 support services the department is authorized to provide to foster
14 children. These services include, but are not limited to, placement in
15 licensed, relative, or otherwise approved care, or supervised
16 independent living settings; assistance in meeting basic needs;
17 independent living services; medical assistance; and counseling or
18 treatment.

19 (8) "Family assessment" means a comprehensive assessment of child
20 safety, risk of subsequent child abuse or neglect, and family strengths
21 and needs that is applied to a child abuse or neglect report. Family
22 assessment does not include a determination as to whether child abuse
23 or neglect occurred, but does determine the need for services to
24 address the safety of the child and the risk of subsequent
25 maltreatment.

26 (9) "Measurable effects" means a statistically significant change
27 which occurs as a result of the service or services a supervising
28 agency is assigned in a performance-based contract, in time periods
29 established in the contract.

30 (10) "Out-of-home care services" means services provided after the
31 shelter care hearing to or for children in out-of-home care, as that
32 term is defined in RCW 13.34.030, and their families, including the
33 recruitment, training, and management of foster parents, the
34 recruitment of adoptive families, and the facilitation of the adoption
35 process, family reunification, independent living, emergency shelter,
36 residential group care, and foster care, including relative placement.

37 (11) "Performance-based contracting" means the structuring of all
38 aspects of the procurement of services around the purpose of the work

1 to be performed and the desired results with the contract requirements
2 set forth in clear, specific, and objective terms with measurable
3 outcomes. Contracts shall also include provisions that link the
4 performance of the contractor to the level and timing of reimbursement.

5 (12) "Permanency services" means long-term services provided to
6 secure a child's safety, permanency, and well-being, including foster
7 care services, family reunification services, adoption services, and
8 preparation for independent living services.

9 (13) "Primary prevention services" means services which are
10 designed and delivered for the primary purpose of enhancing child and
11 family well-being and are shown, by analysis of outcomes, to reduce the
12 risk to the likelihood of the initial need for child welfare services.

13 (14) "Supervising agency" means an agency licensed by the state
14 under RCW 74.15.090, or licensed by a federally recognized Indian tribe
15 located in this state under RCW 74.15.190, that has entered into a
16 performance-based contract with the department to provide case
17 management for the delivery and documentation of child welfare
18 services, as defined in this section. This definition is applicable on
19 or after December 30, 2015.

20 (15) "Unsupervised" has the same meaning as in RCW 43.43.830.

21 **Sec. 6.** RCW 13.34.065 and 2011 c 309 s 24 are each amended to read
22 as follows:

23 (1)(a) When a child is taken into custody, the court shall hold a
24 shelter care hearing within seventy-two hours, excluding Saturdays,
25 Sundays, and holidays. The primary purpose of the shelter care hearing
26 is to determine whether the child can be immediately and safely
27 returned home while the adjudication of the dependency is pending.

28 (b) Any parent, guardian, or legal custodian who for good cause is
29 unable to attend the shelter care hearing may request that a subsequent
30 shelter care hearing be scheduled. The request shall be made to the
31 clerk of the court where the petition is filed prior to the initial
32 shelter care hearing. Upon the request of the parent, the court shall
33 schedule the hearing within seventy-two hours of the request, excluding
34 Saturdays, Sundays, and holidays. The clerk shall notify all other
35 parties of the hearing by any reasonable means.

36 (2)(a) If it is likely that the child will remain in shelter care
37 longer than seventy-two hours, in those areas in which child welfare

1 services are being provided by a supervising agency, the supervising
2 agency shall assume case management responsibilities of the case. The
3 department or supervising agency shall submit a recommendation to the
4 court as to the further need for shelter care in all cases in which the
5 child will remain in shelter care longer than the seventy-two hour
6 period. In all other cases, the recommendation shall be submitted by
7 the juvenile court probation counselor.

8 (b) All parties have the right to present testimony to the court
9 regarding the need or lack of need for shelter care.

10 (c) Hearsay evidence before the court regarding the need or lack of
11 need for shelter care must be supported by sworn testimony, affidavit,
12 or declaration of the person offering such evidence.

13 (3)(a) At the commencement of the hearing, the court shall notify
14 the parent, guardian, or custodian of the following:

15 (i) The parent, guardian, or custodian has the right to a shelter
16 care hearing;

17 (ii) The nature of the shelter care hearing, the rights of the
18 parents, and the proceedings that will follow; and

19 (iii) If the parent, guardian, or custodian is not represented by
20 counsel, the right to be represented. If the parent, guardian, or
21 custodian is indigent, the court shall appoint counsel as provided in
22 RCW 13.34.090; and

23 (b) If a parent, guardian, or legal custodian desires to waive the
24 shelter care hearing, the court shall determine, on the record and with
25 the parties present, whether such waiver is knowing and voluntary. A
26 parent may not waive his or her right to the shelter care hearing
27 unless he or she appears in court and the court determines that the
28 waiver is knowing and voluntary. Regardless of whether the court
29 accepts the parental waiver of the shelter care hearing, the court must
30 provide notice to the parents of their rights required under (a) of
31 this subsection and make the finding required under subsection (4) of
32 this section.

33 (4) At the shelter care hearing the court shall examine the need
34 for shelter care and inquire into the status of the case. The
35 paramount consideration for the court shall be the health, welfare, and
36 safety of the child. At a minimum, the court shall inquire into the
37 following:

1 (a) Whether the notice required under RCW 13.34.062 was given to
2 all known parents, guardians, or legal custodians of the child. The
3 court shall make an express finding as to whether the notice required
4 under RCW 13.34.062 was given to the parent, guardian, or legal
5 custodian. If actual notice was not given to the parent, guardian, or
6 legal custodian and the whereabouts of such person is known or can be
7 ascertained, the court shall order the department to make reasonable
8 efforts to advise the parent, guardian, or legal custodian of the
9 status of the case, including the date and time of any subsequent
10 hearings, and their rights under RCW 13.34.090;

11 (b) Whether the child can be safely returned home while the
12 adjudication of the dependency is pending;

13 (c) What efforts have been made to place the child with a relative.
14 The court shall ask the parents whether the department discussed with
15 them the placement of the child with a relative or other suitable
16 person described in RCW 13.34.130(1)(b) and shall determine what
17 efforts have been made toward such a placement;

18 (d) What services were provided to the family to prevent or
19 eliminate the need for removal of the child from the child's home. If
20 the dependency petition or other information before the court alleges
21 that homelessness or the lack of suitable housing was a significant
22 factor contributing to the removal of the child, the court shall
23 inquire as to whether housing assistance was provided to the family to
24 prevent or eliminate the need for removal of the child or children;

25 (e) Is the placement proposed by the department or supervising
26 agency the least disruptive and most family-like setting that meets the
27 needs of the child;

28 (f) Whether it is in the best interest of the child to remain
29 enrolled in the school, developmental program, or child care the child
30 was in prior to placement and what efforts have been made to maintain
31 the child in the school, program, or child care if it would be in the
32 best interest of the child to remain in the same school, program, or
33 child care;

34 (g) Appointment of a guardian ad litem or attorney;

35 (h) Whether the child is or may be an Indian child as defined in
36 RCW 13.38.040, whether the provisions of the federal Indian child
37 welfare act or chapter 13.38 RCW apply, and whether there is compliance

1 with the federal Indian child welfare act and chapter 13.38 RCW,
2 including notice to the child's tribe;

3 (i) Whether, as provided in RCW 26.44.063, restraining orders, or
4 orders expelling an allegedly abusive household member from the home of
5 a nonabusive parent, guardian, or legal custodian, will allow the child
6 to safely remain in the home;

7 (j) Whether any orders for examinations, evaluations, or immediate
8 services are needed. The court may not order a parent to undergo
9 examinations, evaluation, or services at the shelter care hearing
10 unless the parent agrees to the examination, evaluation, or service;

11 (k) The terms and conditions for parental, sibling, and family
12 visitation.

13 (5)(a) The court shall release a child alleged to be dependent to
14 the care, custody, and control of the child's parent, guardian, or
15 legal custodian unless the court finds there is reasonable cause to
16 believe that:

17 (i) After consideration of the specific services that have been
18 provided, reasonable efforts have been made to prevent or eliminate the
19 need for removal of the child from the child's home and to make it
20 possible for the child to return home; and

21 (ii)(A) The child has no parent, guardian, or legal custodian to
22 provide supervision and care for such child; or

23 (B) The release of such child would present a serious threat of
24 substantial harm to such child, notwithstanding an order entered
25 pursuant to RCW 26.44.063; or

26 (C) The parent, guardian, or custodian to whom the child could be
27 released has been charged with violating RCW 9A.40.060 or 9A.40.070.

28 (b) If the court does not release the child to his or her parent,
29 guardian, or legal custodian, the court shall order placement with a
30 relative or other suitable person as described in RCW 13.34.130(1)(b),
31 unless there is reasonable cause to believe the health, safety, or
32 welfare of the child would be jeopardized or that the efforts to
33 reunite the parent and child will be hindered. If such relative or
34 other suitable person appears otherwise suitable and competent to
35 provide care and treatment, the fingerprint-based background check need
36 not be completed before placement, but as soon as possible after
37 placement. The court must also determine whether placement with the

1 relative or other suitable person is in the child's best interests.
2 The relative or other suitable person must be willing and available to:
3 (i) Care for the child and be able to meet any special needs of the
4 child;
5 (ii) Facilitate the child's visitation with siblings, if such
6 visitation is part of the supervising agency's plan or is ordered by
7 the court; and
8 (iii) Cooperate with the department or supervising agency in
9 providing necessary background checks and home studies.
10 (c) If the child was not initially placed with a relative or other
11 suitable person, and the court does not release the child to his or her
12 parent, guardian, or legal custodian, the supervising agency shall make
13 reasonable efforts to locate a relative or other suitable person
14 pursuant to RCW 13.34.060(1). In determining placement, the court
15 shall weigh the child's length of stay and attachment to the current
16 provider in determining what is in the best interest of the child.
17 (d) If a relative or other suitable person is not available, the
18 court shall order continued shelter care and shall set forth its
19 reasons for the order. If the court orders placement of the child with
20 a person not related to the child and not licensed to provide foster
21 care, the placement is subject to all terms and conditions of this
22 section that apply to relative placements.
23 (e) Any placement with a relative, or other suitable person
24 approved by the court pursuant to this section, shall be contingent
25 upon cooperation with the department's or supervising agency's case
26 plan and compliance with court orders related to the care and
27 supervision of the child including, but not limited to, court orders
28 regarding parent-child contacts, sibling contacts, and any other
29 conditions imposed by the court. Noncompliance with the case plan or
30 court order is grounds for removal of the child from the home of the
31 relative or other suitable person, subject to review by the court.
32 (f) Uncertainty by a parent, guardian, legal custodian, relative,
33 or other suitable person that the alleged abuser has in fact abused the
34 child shall not, alone, be the basis upon which a child is removed from
35 the care of a parent, guardian, or legal custodian under (a) of this
36 subsection, nor shall it be a basis, alone, to preclude placement with
37 a relative or other suitable person under (b) of this subsection.

1 (6)(a) A shelter care order issued pursuant to this section shall
2 include the requirement for a case conference as provided in RCW
3 13.34.067. However, if the parent is not present at the shelter care
4 hearing, or does not agree to the case conference, the court shall not
5 include the requirement for the case conference in the shelter care
6 order.

7 (b) If the court orders a case conference, the shelter care order
8 shall include notice to all parties and establish the date, time, and
9 location of the case conference which shall be no later than thirty
10 days before the fact-finding hearing.

11 (c) The court may order another conference, case staffing, or
12 hearing as an alternative to the case conference required under RCW
13 13.34.067 so long as the conference, case staffing, or hearing ordered
14 by the court meets all requirements under RCW 13.34.067, including the
15 requirement of a written agreement specifying the services to be
16 provided to the parent.

17 (7)(a) A shelter care order issued pursuant to this section may be
18 amended at any time with notice and hearing thereon. The shelter care
19 decision of placement shall be modified only upon a showing of change
20 in circumstances. No child may be placed in shelter care for longer
21 than thirty days without an order, signed by the judge, authorizing
22 continued shelter care.

23 (b)(i) An order releasing the child on any conditions specified in
24 this section may at any time be amended, with notice and hearing
25 thereon, so as to return the child to shelter care for failure of the
26 parties to conform to the conditions originally imposed.

27 (ii) The court shall consider whether nonconformance with any
28 conditions resulted from circumstances beyond the control of the
29 parent, guardian, or legal custodian and give weight to that fact
30 before ordering return of the child to shelter care.

31 (8)(a) If a child is returned home from shelter care a second time
32 in the case, or if the supervisor of the caseworker deems it necessary,
33 the multidisciplinary team may be reconvened.

34 (b) If a child is returned home from shelter care a second time in
35 the case a law enforcement officer must be present and file a report to
36 the department.

1 NEW SECTION. **Sec. 7.** (1) The legislature finds that any person
2 who has had a founded finding of child abuse or neglect or has been
3 involved in a dependency action involving one or more of his or her
4 children is able to turn his or her life around and establish good
5 parenting relationships with his or her children. Unfortunately, his
6 or her prior involvement with child protective services or the
7 dependency court can hamper such a person's ability to find future
8 employment, especially if the employment involves unsupervised access
9 to children or other vulnerable populations.

10 (2) The legislature further finds that a number of states permit
11 convicted offenders to seek a certificate of rehabilitation in certain
12 situations. Generally, the certificate declares that a convicted
13 individual is rehabilitated after completing a prison sentence or being
14 released on parole or supervision. Usually, the applicant for a
15 certificate must prove that he or she has met certain criteria before
16 a certificate will be awarded. Such a certificate often restores
17 certain rights to the applicant and makes him or her eligible for
18 certain employment for which he or she would not be eligible without
19 the certificate.

20 (3) A nonprofit with expertise in veteran parent programs shall
21 convene a work group in consultation with the department of social and
22 health services to explore options, including a certificate of
23 rehabilitation, for addressing the impact of founded complaints on the
24 ability of rehabilitated individuals to gain employment or care for
25 children, including volunteer activities. The work group must contain,
26 but not be limited to, persons representing the following: The courts,
27 veteran parents, parent attorneys, foster parents, relative caregivers,
28 kinship caregivers, child-placing agencies, the attorney general's
29 office, the governor's policy office, the office of public defense
30 parent representation program, and the legislature.

31 (4) The work group shall report recommendations to the appropriate
32 committees of the legislature no later than December 31, 2013.

33 NEW SECTION. **Sec. 8.** The department of social and health services
34 shall adopt all necessary rules to implement this act.

35 NEW SECTION. **Sec. 9.** Section 4 of this act expires December 1,
36 2013.

1 NEW SECTION. **Sec. 10.** Section 5 of this act takes effect December
2 1, 2013."

3 Correct the title.

EFFECT: Includes that a crime that is not related to child permanence or well-being may not be the sole reason to deny or delay licensure or unsupervised access to children.

 Adds that officers, agents, and employees of the Department of Social and Health Services may also not be held civilly liable based on decisions to grant or deny unsupervised access to children in certain instances.

 Specifies that when a person in another state requests a background check or an abuse or neglect history check the Department of Social and Health Services must charge a fee.

 Specifies that fingerprint-based background checks do not need to be completed before the court orders child placement with a relative or other suitable person.

 Requires a nonprofit organization with expertise in veteran parent programs to convene a work group in consultation with the Department of Social and Health Services to address the impact of a founded complaint on employment and volunteer opportunities.

 Specifies that the work group shall report recommendations to the appropriate committees of the legislature no later than December 31, 2013.

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