

**ESHB 2535** - S COMM AMD

By Committee on Human Services & Corrections

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

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 74.15 RCW  
4 to read as follows:

5 If an agency operating under contract with the children's  
6 administration chooses to hire an individual that would be precluded  
7 from employment with the department based on a disqualifying crime or  
8 negative action, the department and its officers and employees have no  
9 liability arising from any injury or harm to a child or other  
10 department client that is attributable to such individual.

11 **Sec. 2.** RCW 74.13.700 and 2013 c 162 s 2 are each amended to read  
12 as follows:

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

15 (a) Deny or delay a license or approval of unsupervised access to  
16 children to an individual solely because of a crime or civil infraction  
17 involving the individual or entity revealed in the background check  
18 process that (~~is not on the secretary's list of crimes and negative~~  
19 ~~actions and is not related~~) does not fall within the categories of  
20 disqualifying crimes described in the adoption and safe families act of  
21 1997 or does not relate directly to child safety, permanence, or well-  
22 being; or

23 (b) Delay the issuance of a license or approval of unsupervised  
24 access to children by requiring the individual to obtain records  
25 relating to a crime or civil infraction revealed in the background  
26 check process that (~~is not on the secretary's list of crimes and~~  
27 ~~negative actions and is not related~~) does not fall within the  
28 categories of disqualifying crimes described in the adoption and safe

1 families act of 1997 or does not relate directly to child safety,  
2 permanence, or well-being (~~((and is not a permanent disqualifier~~  
3 ~~pursuant to department rule))~~).

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

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

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

24 **Sec. 3.** RCW 74.15.030 and 2007 c 387 s 5 and 2007 c 17 s 14 are  
25 each reenacted and amended to read as follows:

26 The secretary shall (~~((have the power and it shall be the~~  
27 ~~secretary's duty))~~):

28 (1) In consultation with the children's services advisory  
29 committee, and with the advice and assistance of (~~((persons))~~)  
30 representatives of the various types of agencies to be licensed, (~~((to))~~)  
31 designate categories of facilities for which separate or different  
32 requirements (~~((shall))~~) must be developed, as (~~((may be))~~) appropriate  
33 (~~((whether because of))~~) based upon variations in the age(~~((s))~~), sex  
34 (~~((and))~~), or other characteristics of the persons served, (~~((variations))~~)  
35 differences in the purposes (~~((and))~~), services offered (~~((or))~~), size, or  
36 structure of the agencies to be licensed (~~((hereunder))~~), or (~~((because of~~  
37 ~~any))~~) for other (~~((factor))~~) relevant (~~((thereto))~~) factors;

1 (2) In consultation with the children's services advisory  
2 committee, and with the advice and assistance of ~~((persons))~~  
3 representatives of the various types of agencies to be licensed, ~~((to))~~  
4 adopt and publish minimum requirements for licensing applicable to each  
5 of the ~~((various))~~ categories of agencies to be licensed.

6 The minimum requirements shall be limited to:

7 (a) The size and suitability of a facility and the plan of  
8 operation for carrying out the purpose for which ~~((an applicant seeks~~  
9 a)) the license is sought;

10 (b) ~~((Obtaining background information and any out-of-state~~  
11 ~~equivalent, to determine whether the applicant or service provider is~~  
12 ~~disqualified and to determine the character, competence, and~~  
13 ~~suitability of an agency, the agency's employees, volunteers, and other~~  
14 ~~persons associated with an agency;~~

15 ~~(c) Conducting background checks for those who will or may have~~  
16 ~~unsupervised access to children, expectant mothers, or individuals with~~  
17 ~~a developmental disability;~~

18 ~~(d) Obtaining child protective services information or records~~  
19 ~~maintained in the department case management information system. No~~  
20 ~~unfounded allegation of child abuse or neglect as defined in RCW~~  
21 ~~26.44.020 may be disclosed to a child placing agency, private adoption~~  
22 ~~agency, or any other provider licensed under this chapter;~~

23 ~~(e) Submitting a fingerprint based background check through the~~  
24 ~~Washington state patrol under chapter 10.97 RCW and through the federal~~  
25 ~~bureau of investigation for;~~

26 ~~(i) Agencies and their staff, volunteers, students, and interns~~  
27 ~~when the agency is seeking license or relicense;~~

28 ~~(ii) Foster care and adoption placements; and~~

29 ~~(iii) Any adult living in a home where a child may be placed;~~

30 ~~(f) If any adult living in the home has not resided in the state of~~  
31 ~~Washington for the preceding five years, the department shall review~~  
32 ~~any child abuse and neglect registries maintained by any state where~~  
33 ~~the adult has resided over the preceding five years;~~

34 ~~(g) The cost of fingerprint background check fees will be paid as~~  
35 ~~required in RCW 43.43.837;~~

36 ~~(h) National and state background information must be used solely~~  
37 ~~for the purpose of determining eligibility for a license and for~~

1 ~~determining the character, suitability, and competence of those persons~~  
2 ~~or agencies, excluding parents, not required to be licensed who are~~  
3 ~~authorized to care for children or expectant mothers;~~

4 ~~(i))~~ The character, suitability, and competence of an agency and  
5 other persons associated with an agency who are directly responsible  
6 for the care and treatment of children, expectant mothers, or  
7 individuals with developmental disabilities;

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

10 ~~((j))~~ (d) The safety, cleanliness, and general adequacy of the  
11 premises to provide for the comfort, care and well-being of children,  
12 expectant mothers or developmentally disabled persons;

13 ~~((k))~~ (e) The provision of necessary care, including food,  
14 clothing, supervision and discipline; physical, mental and social well-  
15 being; and educational, recreational and spiritual opportunities for  
16 those served;

17 ~~((l))~~ (f) The financial ability of an agency to comply with  
18 minimum requirements established pursuant to chapter 74.15 RCW and RCW  
19 74.13.031; and

20 ~~((m))~~ (g) The maintenance of records pertaining to the admission,  
21 progress, health and discharge of persons served;

22 (3) ~~((p))~~ Investigate any person, including relatives by blood or  
23 marriage except for parents, for character, suitability, and competence  
24 in the care and treatment of children, expectant mothers, and  
25 ~~((developmentally disabled))~~ persons with developmental disabilities  
26 prior to authorizing that person to care for children, expectant  
27 mothers, and ((developmentally disabled)) persons with developmental  
28 disabilities, as provided in section 4 of this act. However, if a  
29 child is placed with a relative under RCW 13.34.065 or 13.34.130, and  
30 if such relative appears otherwise suitable and competent to provide  
31 care and treatment the criminal history background check required by  
32 this section need not be completed before placement, but ((shall)) must  
33 be completed as soon as possible after placement;

34 (4) ~~((on reports of alleged child abuse and neglect, to))~~  
35 Investigate agencies in accordance with chapter 26.44 RCW, including  
36 child day((-)care centers and family day((-)care homes, upon reports  
37 of alleged child abuse and neglect, to determine whether the alleged

1 abuse or neglect has occurred, and whether child protective services or  
2 referral to a law enforcement agency is appropriate;

3 (5) ~~((Tø))~~ Issue, revoke, or deny licenses to agencies pursuant to  
4 chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the  
5 category of care which an agency is authorized to render and the ages,  
6 sex and number of persons to be served;

7 (6) ~~((Tø))~~ Prescribe the procedures and the form and contents of  
8 reports necessary for the administration of chapter 74.15 RCW and RCW  
9 74.13.031 and to require regular reports from each licensee;

10 (7) ~~((Tø))~~ Inspect agencies periodically to determine whether or  
11 not there is compliance with chapter 74.15 RCW and RCW 74.13.031 and  
12 the requirements adopted ~~((hereunder))~~ pursuant to this section;

13 (8) ~~((Tø))~~ Review requirements adopted ~~((hereunder))~~ pursuant to  
14 this section at least once every two years and to adopt appropriate  
15 changes after consultation ~~((with affected groups for child day care~~  
16 requirements and)) with the children's services advisory committee  
17 ~~((for requirements for other agencies)) or, in the case of child day~~  
18 care requirements, with the affected groups; and

19 (9) ~~((Tø))~~ Consult with public and private agencies in order to  
20 help ~~((them))~~ improve ~~((their))~~ methods and facilities for the care of  
21 children, expectant mothers, and ~~((developmentally disabled))~~ persons  
22 with developmental disabilities.

23 NEW SECTION. Sec. 4. A new section is added to chapter 74.15 RCW  
24 to read as follows:

25 (1) When obtaining background information concerning persons who  
26 apply to the department for licensure, employment under contract with  
27 the department, or unsupervised access to children, the department  
28 shall:

29 (a) Obtain background information, and any out-of-state equivalent,  
30 to determine whether the applicant or service provider is disqualified,  
31 and to determine the character, competence, and suitability of an  
32 agency, the agency's employees, volunteers, and other persons  
33 associated with an agency;

34 (b) Obtain child protective services information or records  
35 maintained in the department case management information system. No  
36 unfounded allegation of child abuse or neglect as defined in RCW

1 26.44.020 may be disclosed to a child-placing agency, private adoption  
2 agency, or any other provider licensed under this chapter;

3 (c) Submit a fingerprint-based background check through the  
4 Washington state patrol under chapter 10.97 RCW and through the federal  
5 bureau of investigation for:

6 (i) Agencies and their staff, volunteers, students, and interns  
7 when the agency is seeking license or relicense;

8 (ii) Foster care and adoption placements; and

9 (iii) Any adult living in a home where a child may be placed.

10 (2) If any adult living in the home has not resided in the state of  
11 Washington for the preceding five years, the department shall review  
12 any child abuse and neglect registries maintained by any state where  
13 the adult has resided over the preceding five years.

14 (3) The cost of fingerprint background check fees under this  
15 section will be paid as required in RCW 43.43.837.

16 (4) National and state background information must be used solely  
17 for the purpose of determining eligibility for a license and for  
18 determining the character, suitability, and competence of those persons  
19 or agencies, excluding parents, not required to be licensed who are  
20 authorized to care for children, expectant mothers, or persons with  
21 developmental disabilities."

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22 On page 1, line 1 of the title, after "Relating to" strike the  
23 remainder of the title and insert "licensing and employment decisions  
24 by the children's administration; amending RCW 74.13.700; reenacting  
25 and amending RCW 74.15.030; and adding new sections to chapter 74.15  
26 RCW."

EFFECT: The amendments are technical and do not change the

substance of the bill.

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