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**SUBSTITUTE HOUSE BILL 2699**

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**State of Washington**

**63rd Legislature**

**2014 Regular Session**

**By** House Early Learning & Human Services (originally sponsored by Representatives Kagi, Walsh, Senn, Zeiger, Roberts, Klippert, Pettigrew, Sawyer, Jenkins, Farrell, Smith, Fey, Goodman, and Ormsby)

READ FIRST TIME 02/05/14.

1           AN ACT Relating to providing caregivers authority to allow children  
2 placed in their care to participate in normal childhood activities  
3 based on a reasonable and prudent parent standard; reenacting and  
4 amending RCW 74.15.030; and adding a new section to chapter 74.13 RCW.

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

6           NEW SECTION.   **Sec. 1.** A new section is added to chapter 74.13 RCW  
7 to read as follows:

8           (1) For the purposes of this section, "caregiver" means a person  
9 with whom a child is placed in out-of-home care, or a designated  
10 official for a group care facility licensed by the department.

11           (2) This section applies to all caregivers providing for children  
12 in out-of-home care.

13           (3) Caregivers have the authority to provide or withhold permission  
14 without prior approval of the caseworker, department, or court to allow  
15 a child in their care to participate in normal childhood activities  
16 based on a reasonable and prudent parent standard.

17           (a) Normal childhood activities include, but are not limited to,  
18 extracurricular, enrichment, and social activities, and may include

1 overnight activities outside the direct supervision of the caregiver  
2 for periods of over twenty-four hours and up to seventy-two hours.

3 (b) The reasonable and prudent parent standard means the standard  
4 of care used by a caregiver in determining whether to allow a child in  
5 his or her care to participate in extracurricular, enrichment, and  
6 social activities. This standard is characterized by careful and  
7 thoughtful parental decision making that is intended to maintain a  
8 child's health, safety, and best interest while encouraging the child's  
9 emotional and developmental growth.

10 (4) Any authorization provided under this section must comply with  
11 provisions included in an existing safety plan established by the  
12 department or court order.

13 (5) Caseworkers shall discuss the child's interest in and pursuit  
14 of normal childhood activities in their monthly health and safety  
15 visits and describe the child's participation in normal childhood  
16 activities in the individual service and safety plan. Caseworkers  
17 shall also discuss a child's interest in and pursuit of normal  
18 childhood activities during monthly meetings with parents.

19 (6) Neither the caregiver nor the department may be held liable for  
20 injuries to the child that occur as a result of authority granted in  
21 this section unless the action or inaction of the caregiver or the  
22 department resulting in injury constitutes willful or wanton  
23 misconduct.

24 (7) This section does not remove or limit any existing liability  
25 protection afforded by law.

26 **Sec. 2.** RCW 74.15.030 and 2007 c 387 s 5 and 2007 c 17 s 14 are  
27 each reenacted and amended to read as follows:

28 The secretary shall have the power and it shall be the secretary's  
29 duty:

30 (1) In consultation with the children's services advisory  
31 committee, and with the advice and assistance of persons representative  
32 of the various type agencies to be licensed, to designate categories of  
33 facilities for which separate or different requirements shall be  
34 developed as may be appropriate whether because of variations in the  
35 ages, sex and other characteristics of persons served, variations in  
36 the purposes and services offered or size or structure of the agencies

1 to be licensed hereunder, or because of any other factor relevant  
2 thereto;

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

8 The minimum requirements shall be limited to:

9 (a) The size and suitability of a facility and the plan of  
10 operation for carrying out the purpose for which an applicant seeks a  
11 license;

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

17 (c) Conducting background checks for those who will or may have  
18 unsupervised access to children, expectant mothers, or individuals with  
19 a developmental disability, however, a background check is not required  
20 if a caregiver approves an activity pursuant to the prudent parent  
21 standard contained in section 1 of this act;

22 (d) Obtaining child protective services information or records  
23 maintained in the department case management information system. No  
24 unfounded allegation of child abuse or neglect as defined in RCW  
25 26.44.020 may be disclosed to a child-placing agency, private adoption  
26 agency, or any other provider licensed under this chapter;

27 (e) Submitting a fingerprint-based background check through the  
28 Washington state patrol under chapter 10.97 RCW and through the federal  
29 bureau of investigation for:

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

32 (ii) Foster care and adoption placements; and

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

34 (f) If any adult living in the home has not resided in the state of  
35 Washington for the preceding five years, the department shall review  
36 any child abuse and neglect registries maintained by any state where  
37 the adult has resided over the preceding five years;

1 (g) The cost of fingerprint background check fees will be paid as  
2 required in RCW 43.43.837;

3 (h) National and state background information must be used solely  
4 for the purpose of determining eligibility for a license and for  
5 determining the character, suitability, and competence of those persons  
6 or agencies, excluding parents, not required to be licensed who are  
7 authorized to care for children or expectant mothers;

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

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

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

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

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

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

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

36 (5) To issue, revoke, or deny licenses to agencies pursuant to  
37 chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the

1 category of care which an agency is authorized to render and the ages,  
2 sex and number of persons to be served;

3 (6) To prescribe the procedures and the form and contents of  
4 reports necessary for the administration of chapter 74.15 RCW and RCW  
5 74.13.031 and to require regular reports from each licensee;

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

9 (8) To review requirements adopted hereunder at least every two  
10 years and to adopt appropriate changes after consultation with affected  
11 groups for child day-care requirements and with the children's services  
12 advisory committee for requirements for other agencies; and

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

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