
HOUSE BILL 2699

State of Washington

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By Representatives Kagi, Walsh, Senn, Zeiger, Roberts, Klippert, Pettigrew, Sawyer, Jinkins, Farrell, Smith, Fey, Goodman, and Ormsby

Read first time 01/27/14. Referred to Committee on Early Learning & Human Services.

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.

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 a safety plan established by the department.

12 (5) Caseworkers shall discuss the child's interest in and pursuit
13 of normal childhood activities in their monthly health and safety
14 visits and describe the child's participation in normal childhood
15 activities in the individual service and safety plan.

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

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

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

25 The secretary shall have the power and it shall be the secretary's
26 duty:

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

36 (2) In consultation with the children's services advisory
37 committee, and with the advice and assistance of persons representative

1 of the various type agencies to be licensed, to adopt and publish
2 minimum requirements for licensing applicable to each of the various
3 categories of agencies to be licensed.

4 The minimum requirements shall be limited to:

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

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

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

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 number of qualified persons required to render the type of
5 care and treatment for which an agency seeks a license;

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

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

12 (l) The financial ability of an agency to comply with minimum
13 requirements established pursuant to chapter 74.15 RCW and RCW
14 74.13.031; and

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

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

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

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

36 (6) To prescribe the procedures and the form and contents of
37 reports necessary for the administration of chapter 74.15 RCW and RCW
38 74.13.031 and to require regular reports from each licensee;

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

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

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

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