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SENATE BILL 5565

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Hargrove, Carrell, Keiser, Harper, Nelson, Kohl-Welles, McAuliffe, and Kline

Read first time 02/04/13. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to background checks; amending RCW 74.13.020;  
2 reenacting and amending RCW 74.13.020; adding new sections to chapter  
3 74.13 RCW; creating a new section; providing an effective date; and  
4 providing an expiration date.

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) In addition to reviewing an individual's criminal background  
9 history, if any, to determine whether the individual should be granted  
10 a license or unsupervised access to children, the department must also  
11 assess an individual's character, suitability, and competence to have  
12 unsupervised access to children. In assessing an individual's  
13 character, suitability, and competence to have unsupervised access to  
14 children, the department must consider only the following factors:

15 (a) The vulnerability of the children to whom the individual would  
16 have unsupervised access;

17 (b) The relationship, if any, that the individual has to the child;

18 (c) The proximity of the individual's residence to the child's  
19 family, school, and community;

1 (d) The individual's ability to meet the physical, emotional, and  
2 mental health needs of the child;

3 (e) The individual's ability to meet the racial, ethnic, cultural,  
4 and religious needs of the child;

5 (f) The specific experiences or training that the individual has  
6 that has prepared him or her to provide for or support the special  
7 needs of the child, if any;

8 (g) The degree to which the individual is willing to initiate and  
9 participate in medical or therapeutic treatment of the child;

10 (h) The individual's ability to provide care to the child and his  
11 or her siblings, if any; and

12 (i) The individual's history, if any, with child protective  
13 services in this or any other jurisdiction and with foster care or  
14 child care licensing in this or any other jurisdiction.

15 (2) In determining the character, suitability, and competence of an  
16 individual, the department may not:

17 (a) Deny a license or unsupervised access to an individual solely  
18 because of a criminal or negative action involving the individual or  
19 entity revealed in the background check process that is not related  
20 directly to child safety; or

21 (b) Delay the issuance of a license or approval of unsupervised  
22 access to children if information relating to a crime or negative  
23 action is not related directly to child safety or by requiring the  
24 individual to obtain records relating to a criminal or negative action  
25 revealed in the background check process that is not related directly  
26 to child safety and is not a permanent disqualifier pursuant to  
27 department rule.

28 (3) If the department determines that an individual does not  
29 possess the character, suitability, or competence to provide care or  
30 have unsupervised access to a child, it must provide the reasons for  
31 its decision in writing to the individual within ten days of making the  
32 decision.

33 (4) For purposes of this section, "individual" means a state  
34 employee, a person pursuing licensing as a foster parent, or a person  
35 employed by a business or organization licensed by the department or  
36 with whom the department has a contract to provide care, supervision,  
37 case management, or treatment of children in the care of the  
38 department.

1 (5) The department may not be held civilly liable based upon its  
2 decision to grant unsupervised access to children if the background  
3 information it relied upon at the time the decision was made did not  
4 indicate that child safety would be a concern.

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

7 The department shall charge a fee to process a request made by an  
8 out-of-state jurisdiction for an individual's child abuse or neglect  
9 history in this state or other background history on the individual  
10 possessed by the department. The fee must be set at an amount to  
11 cover, but not exceed, the cost of processing the request for the  
12 information.

13 **Sec. 3.** RCW 74.13.020 and 2012 c 205 s 12 are each amended to read  
14 as follows:

15 For purposes of this chapter:

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

25 (2) "Child" means:

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

27 (b) A person age eighteen to twenty-one years who is eligible to  
28 receive the extended foster care services authorized under RCW  
29 74.13.031.

30 (3) "Child protective services" has the same meaning as in RCW  
31 26.44.020.

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

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

4 (b) Protecting and caring for dependent, abused, or neglected  
5 children;

6 (c) Assisting children who are in conflict with their parents, and  
7 assisting parents who are in conflict with their children, with  
8 services designed to resolve such conflicts;

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

11 (e) Providing adequate care of children away from their homes in  
12 foster family homes or day care or other child care agencies or  
13 facilities.

14 "Child welfare services" does not include child protection  
15 services.

16 (5) "Committee" means the child welfare transformation design  
17 committee.

18 (6) "Department" means the department of social and health  
19 services.

20 (7) "Extended foster care services" means residential and other  
21 support services the department is authorized to provide to foster  
22 children. These services include, but are not limited to, placement in  
23 licensed, relative, or otherwise approved care, or supervised  
24 independent living settings; assistance in meeting basic needs;  
25 independent living services; medical assistance; and counseling or  
26 treatment.

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

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

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

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

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

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

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

23 **Sec. 4.** RCW 74.13.020 and 2012 c 259 s 7 and 2012 c 205 s 12 are  
24 each reenacted and amended to read as follows:

25 For purposes of this chapter:

26 (1) "Case management" means convening family meetings, developing,  
27 revising, and monitoring implementation of any case plan or individual  
28 service and safety plan, coordinating and monitoring services needed by  
29 the child and family, caseworker-child visits, family visits, and the  
30 assumption of court-related duties, excluding legal representation,  
31 including preparing court reports, attending judicial hearings and  
32 permanency hearings, and ensuring that the child is progressing toward  
33 permanency within state and federal mandates, including the Indian  
34 child welfare act.

35 (2) "Child" means:

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

1 (b) A person age eighteen to twenty-one years who is eligible to  
2 receive the extended foster care services authorized under RCW  
3 74.13.031.

4 (3) "Child protective services" has the same meaning as in RCW  
5 26.44.020.

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

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

13 (b) Protecting and caring for dependent, abused, or neglected  
14 children;

15 (c) Assisting children who are in conflict with their parents, and  
16 assisting parents who are in conflict with their children, with  
17 services designed to resolve such conflicts;

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

20 (e) Providing adequate care of children away from their homes in  
21 foster family homes or day care or other child care agencies or  
22 facilities.

23 "Child welfare services" does not include child protection  
24 services.

25 (5) "Committee" means the child welfare transformation design  
26 committee.

27 (6) "Department" means the department of social and health  
28 services.

29 (7) "Extended foster care services" means residential and other  
30 support services the department is authorized to provide to foster  
31 children. These services include, but are not limited to, placement in  
32 licensed, relative, or otherwise approved care, or supervised  
33 independent living settings; assistance in meeting basic needs;  
34 independent living services; medical assistance; and counseling or  
35 treatment.

36 (8) "Family assessment" means a comprehensive assessment of child  
37 safety, risk of subsequent child abuse or neglect, and family strengths  
38 and needs that is applied to a child abuse or neglect report. Family

1 assessment does not include a determination as to whether child abuse  
2 or neglect occurred, but does determine the need for services to  
3 address the safety of the child and the risk of subsequent  
4 maltreatment.

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

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

16 (11) "Performance-based contracting" means the structuring of all  
17 aspects of the procurement of services around the purpose of the work  
18 to be performed and the desired results with the contract requirements  
19 set forth in clear, specific, and objective terms with measurable  
20 outcomes. Contracts shall also include provisions that link the  
21 performance of the contractor to the level and timing of reimbursement.

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

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

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

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

1        NEW SECTION.    **Sec. 5.**    (1) The legislature finds that many parents  
2 who have had a founded finding of child abuse or neglect or have been  
3 involved in a dependency action involving one or more of their children  
4 are able to turn their lives around and establish good parenting  
5 relationships with their children.    Unfortunately, their prior  
6 involvement with child protective services or the dependency court can  
7 hamper their ability to find future employment, especially if the  
8 employment involves unsupervised access to children or other vulnerable  
9 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) The department of social and health services shall convene a  
21 work group to explore the possibility of creating a certificate of  
22 suitability for parents who have turned their lives around after having  
23 been involved with child protective services or the dependency system.  
24 The work group shall contain persons representing the following:    The  
25 courts, veteran parents, child-placing agencies, the attorney general's  
26 office, the governor's policy office, and the legislature.    The work  
27 group shall explore the following issues:

- 28        (a) The factors to consider in granting a certificate;  
29        (b) The entity with the authority to grant the certificate;  
30        (c) The process to be used to obtain such a certificate; and  
31        (d) The effect such a certificate will have on employment or  
32 volunteer work with vulnerable populations.

33        (4) The department of social and health services shall report the  
34 work group's recommendations to the appropriate committees of the  
35 legislature no later than December 31, 2013.

36        NEW SECTION.    **Sec. 6.**    Section 3 of this act expires December 1,  
37 2013.



1        NEW SECTION.   **Sec. 7.**   Section 4 of this act takes effect December  
2   1, 2013.

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