
SUBSTITUTE SENATE BILL 6168

State of Washington

63rd Legislature

2014 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Rivers, Eide, Hargrove, Padden, Fraser, Honeyford, and Rolfes)

READ FIRST TIME 02/07/14.

1 AN ACT Relating to licensing and employment decisions by the
2 children's administration; amending RCW 74.13.700; reenacting and
3 amending RCW 74.15.030; and adding a new section to chapter 74.15 RCW.

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

5 **Sec. 1.** RCW 74.15.030 and 2007 c 387 s 5 and 2007 c 17 s 14 are
6 each reenacted and amended to read as follows:

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

9 (1) In consultation with the children's services advisory
10 committee, and with the advice and assistance of ~~((persons))~~
11 representatives of the various types of agencies to be licensed, ~~((to))~~
12 designate categories of facilities for which separate or different
13 requirements ~~((shall))~~ must be developed, ~~((may be))~~ appropriate
14 ~~((whether because of))~~ based upon variations in the age~~((s))~~, sex
15 ~~((and))~~, or other characteristics of the persons served, ~~((variations))~~
16 differences in the purposes ~~((and))~~, services offered ~~((or))~~, size, or
17 structure of the agencies to be licensed ~~((hereunder))~~, or ~~((because of~~
18 ~~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 2 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 ~~((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 ~~((7))~~ (5) Provide background check information concerning an
4 employee or potential employee of an agency operating under contract
5 with the children's administration with the agency upon receipt of
6 written permission to share the background check information from the
7 employee or potential employee. After receiving the background check
8 information, the contracting agency may use the background check to
9 determine whether or not to hire the potential employee. If a
10 contracting agency chooses to hire an individual that would be
11 precluded from employment with the department based on a disqualifying
12 crime or negative action, the department and its officers and employees
13 shall have no liability arising from any injury or harm to a child or
14 other department client that is attributable to such individual.

15 (6) Issue, revoke, or deny licenses to agencies pursuant to chapter
16 74.15 RCW and RCW 74.13.031. Licenses shall specify the category of
17 care which an agency is authorized to render and the ages, sex and
18 number of persons to be served;

19 ~~((6))~~ (7) Prescribe the procedures and the form and contents
20 of reports necessary for the administration of chapter 74.15 RCW and
21 RCW 74.13.031 and to require regular reports from each licensee;

22 ~~((7))~~ (8) Inspect agencies periodically to determine whether
23 or not there is compliance with chapter 74.15 RCW and RCW 74.13.031 and
24 the requirements adopted ((hereunder)) pursuant to this section;

25 ~~((8))~~ (9) Review requirements adopted ((hereunder)) pursuant
26 to this section at least once every two years and to adopt appropriate
27 changes after consultation ((with affected groups for child day care
28 requirements and)) with the children's services advisory committee
29 ((for requirements for other agencies)) or, in the case of child day
30 care requirements, with the affected groups; and

31 ~~((9))~~ (10) Consult with public and private agencies in order
32 to help ((them)) improve ((their)) methods and facilities for the care
33 of children, expectant mothers, and ((developmentally disabled))
34 persons with developmental disabilities.

35 NEW SECTION. Sec. 2. A new section is added to chapter 74.15 RCW
36 to read as follows:

37 (1) When obtaining background information concerning persons who

1 apply to the department for licensure, employment under contract with
2 the department, or unsupervised access to children, the department
3 shall:

4 (a) Obtain background information, and any out-of-state equivalent,
5 to determine whether the applicant or service provider is disqualified,
6 and to determine the character, competence, and suitability of an
7 agency, the agency's employees, volunteers, and other persons
8 associated with an agency;

9 (b) Obtain child protective services information or records
10 maintained in the department case management information system. No
11 unfounded allegation of child abuse or neglect as defined in RCW
12 26.44.020 may be disclosed to a child-placing agency, private adoption
13 agency, or any other provider licensed under this chapter;

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

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

19 (ii) Foster care and adoption placements; and

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

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

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

27 (4) National and state background information must be used solely
28 for the purpose of determining eligibility for a license and for
29 determining the character, suitability, and competence of those persons
30 or agencies, excluding parents, not required to be licensed who are
31 authorized to care for children, expectant mothers, or person's with
32 developmental disabilities.

33 **Sec. 3.** RCW 74.13.700 and 2013 c 162 s 2 are each amended to read
34 as follows:

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

1 (a) Deny or delay a license or approval of unsupervised access to
2 children to an individual solely because of a crime or civil infraction
3 involving the individual or entity revealed in the background check
4 process that (~~is not on the secretary's list of crimes and negative~~
5 ~~actions and is not related~~) does not fall within the categories of
6 disqualifying crimes described in the adoption and safe families act of
7 1997 or does not relate directly to child safety, permanence, or well-
8 being; or

9 (b) Delay the issuance of a license or approval of unsupervised
10 access to children by requiring the individual to obtain records
11 relating to a crime or civil infraction revealed in the background
12 check process that (~~is not on the secretary's list of crimes and~~
13 ~~negative actions and is not related~~) does not fall within the
14 categories of disqualifying crimes described in the adoption and safe
15 families act of 1997 or does not relate directly to child safety,
16 permanence, or well-being (~~and is not a permanent disqualifier~~
17 ~~pursuant to department rule~~)).

18 (2) If the department determines that an individual does not
19 possess the character, suitability, or competence to provide care or
20 have unsupervised access to a child, it must provide the reasons for
21 its decision in writing with copies of the records or documents related
22 to its decision to the individual within ten days of making the
23 decision.

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

33 (4) The department or its officers, agents, or employees may not be
34 held civilly liable based upon its decision to grant or deny
35 unsupervised access to children if the background information it relied
36 upon at the time the decision was made did not indicate that child

1 safety, permanence, or well-being would be a concern.

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