

HOUSE BILL REPORT

HB 1645

As Reported by House Committee On:
Human Services & Early Learning
Appropriations

Title: An act relating to certificates of parental improvement.

Brief Description: Concerning certificates of parental improvement.

Sponsors: Representatives Ortiz-Self, Frame, Gregerson, Valdez, Jinkins, Davis, Santos and Morgan.

Brief History:

Committee Activity:

Human Services & Early Learning: 2/12/19, 2/15/19 [DPS], 1/31/20, 2/5/20 [DP2S];
Appropriations: 2/11/20 [DP2S(HSEL)].

Brief Summary of Second Substitute Bill

- Requires the Department of Children, Youth, and Families (DCYF) to implement a process where an individual who received a founded finding or court finding of abuse or neglect can petition the DCYF for a certificate of parental improvement (CPI).
- Prohibits the DCYF from denying or delaying a foster care or child care license or approval for unsupervised access solely because of a founded finding of abuse or neglect or court finding that the individual's child is dependent based on abuse or neglect if that finding is accompanied by a CPI.
- Prohibits nursing homes and assisted living facilities from automatically denying a prospective volunteer solely based on a founded finding of abuse or neglect or a dependency court finding when that finding is accompanied by a CPI.

HOUSE COMMITTEE ON HUMAN SERVICES & EARLY LEARNING

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 10 members: Representatives Senn, Chair; Callan, Vice

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Chair; Frame, Vice Chair; Eslick, Assistant Ranking Minority Member; Corry, Goodman, Griffey, Kilduff, Lovick and Ortiz-Self.

Minority Report: Do not pass. Signed by 3 members: Representatives Dent, Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Klippert.

Staff: Luke Wickham (786-7146).

Background:

The Department of Children, Youth, and Families.

The Department of Children, Youth, and Families (DCYF) was created in 2017 and oversees early learning programs, child welfare services, and juvenile justice programs.

Reports of Child Abuse or Neglect.

If an individual suspects that a child has been abused or neglected, that abuse or neglect can be reported to the DCYF Child Protective Services (CPS) office or to law enforcement. There are many individuals who are required by law to report suspected abuse or neglect.

The CPS will then determine whether the report of child abuse or neglect is credible and whether the report meets the sufficiency screening criteria. If the report meets the screening criteria, the CPS will assign either: (1) a 24-hour response that includes an investigation; or (2) a family assessment response (FAR) for low- to moderate-risk allegations that requires a 72-hour response.

The DCYF, or anyone else, can file a court petition alleging that the child should be a dependent of the state due to abuse, neglect, or because no parent, guardian, or custodian is capable of adequately caring for the child. A court will hold a shelter care hearing following removal of a child from his or her home within 72 hours. At this hearing, the court will determine if the child can return home safely.

If a report of child abuse or neglect is investigated by the DCYF, the DCYF must complete the investigation within at least 90 days, unless law enforcement or the prosecuting attorney has determined that a longer investigation is necessary. At the completion of the investigation, the DCYF must make a finding that the report of child abuse or neglect is founded or unfounded. A "founded" determination means that it is more likely than not that child abuse or neglect did occur. An "unfounded" determination means that available information indicates that, more likely than not, child abuse or neglect did not occur, or that there is insufficient evidence for the DCYF to determine that it did or did not occur.

If a court in a civil or criminal proceeding, considering the same facts as contained in the report investigated by the DCYF, makes a finding by a preponderance of the evidence or higher that the subject of the investigation abused or neglect the child, the DCYF must adopt that finding.

Foster Parent Licensure.

When a child is placed in out-of-home care pursuant to a dependency court process, the child may be placed with relatives or in foster care. Foster parents are licensed by the DCYF to provide 24-hour temporary care to children placed in out-of-home care.

Individuals can apply for a foster parent license directly to the DCYF or through a child-placing agency (CPA). The CPAs are licensed by the DCYF and can certify that an individual meets the foster licensing requirements before the application is sent to the DCYF. The CPAs also provide ongoing case management to foster families.

To receive a foster parent license, an individual must:

- be age 21 or older;
- complete, along with individuals age 18 or older in the household:
 - first aid training;
 - age-appropriate adult and/or infant cardiopulmonary resuscitation;
 - human immunodeficiency virus/acquired immunodeficiency syndrome; and
 - blood borne pathogens training;
- pass, along with certain household members, a background check;
- submit, along with individuals age 18 or older in the household, a negative tuberculosis test or an X-ray;
- submit proof of current immunization status for any children living on the premises, not in out-of-home care;
- provide proof of pertussis and influenza immunizations for all people living in the home when serving foster children under age 2;
- pass a home assessment and demonstrate the ability to provide the quality of care needed by children placed in the home; and
- complete training requirements.

Summary of Second Substitute Bill:

The DCYF must implement a process where an individual who received a founded finding of neglect, maltreatment, or physical abuse, or a court finding that the individual's child was dependent based on abuse or neglect can petition the DCYF for a certificate of parental improvement (CPI).

The DCYF must respond to a request for a CPI within 60 days.

The DCYF may not issue a CPI if:

- fewer than five years have passed since the applicant's last founded finding of child abuse or neglect;
- fewer than two years have passed since the Secretary of the DCYF's denial of an individual's request for a CPI;
- the requestor has a final founded finding for sexual abuse, sexual exploitation, or physical abuse if the conduct involved cutting, burning, interfering with a child's breathing, shaking a child under age 3, or threatening a child with a deadly weapon;
- the individual has already received one CPI and is the alleged perpetrator of a subsequent, final founded finding of child abuse or neglect; or

- the applicant has any conviction or pending criminal action for:
 - any felony offense involving the physical neglect of a child;
 - any felony offense under chapter involving a physical injury or death of a child;
 - any felony domestic violence offense committed against a family or household member;
 - a felony offense against a child; or
 - any of the following felony offenses:
 - class A felony or an attempt to commit a class A felony;
 - criminal solicitation of or criminal conspiracy to commit a class A felony;
 - Manslaughter in the first or second degree;
 - Indecent Liberties Committed by Forcible Compulsion;
 - Kidnapping in the second degree;
 - Arson in the second degree;
 - Extortion in the first degree;
 - Robbery in the second degree;
 - Drive-by Shooting; and
 - Vehicular Homicide.

The DCYF shall consider the following when determining whether to issue a CPI:

- documentation of any founded finding of child abuse or neglect and the underlying documentation the DCYF relied upon to make that finding;
- findings from any civil adjudication proceeding;
- referral history alleging child abuse or neglect against the applicant;
- the length of time that has elapsed since the founded finding of child abuse or neglect;
- whether a court made a finding that the applicant's child was dependent, the length of time elapsed since that dependency court process was dismissed, and the outcome of the dependency court process including whether the child was returned to the applicant's care;
- any documentation that the applicant successfully addressed the circumstances that led to an administrative finding of child abuse or neglect, including but not limited to a declaration by the applicant; recent assessments or evaluations; completion or progress toward completion of recommended court-ordered treatment, services, or programs;
- any pending criminal or civil actions against the applicant;
- results of a Washington State Patrol criminal history and federal background check;
- personal and professional references from employers, professionals, and agencies familiar with the applicant who can address the applicant's current character; and
- any education, volunteer work, employment history, or community involvement of the applicant.

A person who is denied a CPI has the right to seek review of the DCYF's denial of this CPI by first asking the DCYF to review the decision, and if the DCYF does not change its decision, the person may request an administrative hearing to review the decision.

The DCYF cannot deny or delay a foster care or child care license or approval or unsupervised access solely because of a founded finding of abuse or neglect or court finding

that the individual's child is dependent based on abuse or neglect if that finding is accompanied by a CPI.

The Department of Social and Health Services (DSHS) may not consider founded findings of child abuse or negligent treatment when evaluating an applicant or employee's character if the finding is accompanied by a CPI.

A long-term care worker may not be employed with or have unsupervised access to vulnerable adults if the provider:

- is on the vulnerable adult abuse registry or equivalent;
- has a finding of child abuse or neglect, unless accompanied by a CPI;
- has received a finding of abuse, abandonment, neglect, or financial exploitation of a minor or vulnerable adult; or
- has issued a court order that includes a finding of fact or conclusion of law that the provider has committed abuse, abandonment, neglect, financial exploitation of a minor or vulnerable adult unless accompanied by a CPI.

Nursing homes and assisted living facilities cannot deny a prospective volunteer solely based on a founded finding of abuse or neglect or a court finding that the individual's child was dependent based on abuse or neglect when that finding is accompanied by a CPI.

Second Substitute Bill Compared to Original Bill:

The substitute bill removes the provision prohibiting school districts, and other kindergarten through twelfth grade education entities from denying a prospective volunteer solely because of a founded finding of abuse or neglect when that is accompanied by a CPI.

The substitute bill requires that the Secretary of the DCYF issue a CPI if, on a more probable than not basis, the requestor has the character, suitability, and competence to care for children and meets the other requirements in the bill.

The substitute bill prohibits the Secretary of the DCYF from issuing a CPI if:

- fewer than two years have passed since the Secretary's denial of an individual's request for a CPI;
- the requestor has a final founded finding for sexual abuse, sexual exploitation, or physical abuse if the conduct involved cutting, burning, interfering with a child's breathing, shaking a child under age 3, or threatening a child with a deadly weapon; or
- the individual has already received one CPI and is the alleged perpetrator of a subsequent, final founded finding of child abuse or neglect.

The substitute bill allows the Secretary of the DCYF to enact rules to implement the process for requesting a CPI.

The substitute bill provides that government entities are not liable in tort for acts or omissions in issuing a CPI.

The substitute bill allows individuals requesting a CPI to request that the DCYF review its denial of a certificate request within 45 days of the DCYF placing the notice in the mail.

The substitute bill prohibits assisted living facilities and nursing homes from automatically denying a prospective volunteer or employee solely because of a founded finding of child abuse or neglect accompanied by a CPI without conducting a review to determine the individual's character, suitability, and competency to volunteer with vulnerable adults.

The substitute bill allows the DCYF to adopt rules and investigate convictions when responding to a request for a CPI.

The substitute bill prohibits the DSHS from considering founded findings of child abuse or negligent treatment when evaluating an applicant or employee's character if the finding is accompanied by a CPI.

The substitute bill prohibits a long-term care worker from being employed in the care of and having unsupervised access to vulnerable adults if the provider:

- is on the vulnerable adult abuse registry or equivalent;
- has a finding of child abuse or neglect, unless accompanied by a CPI;
- has received a finding of abuse, abandonment, neglect, or financial exploitation of a minor or vulnerable adult; or
- has issued a court order that includes a finding of fact or conclusion of law that the provider has committed abuse, abandonment, neglect, financial exploitation of a minor or vulnerable adult unless accompanied by a certificate of parental improvement.

The substitute bill prohibits the DCYF from denying or delaying a license to provide child care and early learning services solely because of a founded finding of physical abuse or negligent treatment when accompanied by a CPI.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill takes effect on January 1, 2021.

Staff Summary of Public Testimony:

(In support) This bill provides a second chance to individuals who have made mistakes. This bill was before the committee last year, and it passed out of the committee unanimously. The DCYF has a mission to treat people equally, and this bill aligns with that mission. This bill will help parents who have turned their lives around. This bill will allow parents who were involved in the child welfare system but corrected their parental deficiencies to care for their relatives if needed. People with lived experience are often in the best position to be involved with families that are impacted by the child welfare system and should not be prohibited from this activity if they have corrected their parental deficiencies. This bill recognizes that

findings of neglect and maltreatment should not be a lifetime ban on licensure or unsupervised access to children. Many of the individuals eligible for this certificate were not able to participate in the FAR, as that process is still relatively new. Individuals subject to a founded finding can appeal that decision, but the appeal procedure is time-limited and only deals with the sufficiency of the evidence to substantiate that finding, and not whether that individual has remedied the deficiency. Five years is too long for individuals to wait for eligibility for this process; it should be three years. Child welfare involvement is a race equity issue. There is disproportionate contact with the child welfare system among racial minorities, and this bill would help remedy that problem. A majority of children under the DCYF care live with relatives, and this bill would allow increased placement with relatives.

(Opposed) None.

Persons Testifying: Representative Ortiz-Self, prime sponsor; Karen Monroe; Chris Desmond, Desmond Law Group P.S.; Patrick Dowd, Office of the Family and Children's Ombuds; Mary Fisher, Institute for Family Development; and Laurie Lippold, Partners for Our Children.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill by Committee on Human Services & Early Learning be substituted therefor and the second substitute bill do pass. Signed by 28 members: Representatives Ormsby, Chair; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Stokesbary, Ranking Minority Member; Rude, Assistant Ranking Minority Member; Chandler, Chopp, Cody, Corry, Dolan, Fitzgibbon, Hansen, Hoff, Hudgins, Kilduff, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Senn, Springer, Steele, Sullivan, Sutherland, Tarleton, Tharinger and Ybarra.

Minority Report: Do not pass. Signed by 4 members: Representatives Caldier, Dye, Kraft and Schmick.

Staff: Mary Mulholland (786-7391).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Human Services & Early Learning:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill takes effect on January 1, 2021.

Staff Summary of Public Testimony:

(In support) The new program will provide an opportunity for folks with a founded finding of child abuse or neglect to pursue volunteer activities, licensed caregiving, and certain kinds of employment. Around 60 to 70 percent of founded findings are for neglect. If those situations happened today, many would go through the FAR pathway, rather than the investigation pathway, and FAR cases do not feature findings. Over time, fewer individuals may have founded findings, and there may be fewer requests for certificates of parental improvement. The proposal contains strict parameters. It does not mean that state agencies or businesses are required to license or hire anyone. Many individuals have lived experiences that can contribute to their work.

(Opposed) None.

Persons Testifying: Laurie Lippold, Partners for Our Children.

Persons Signed In To Testify But Not Testifying: None.