

SENATE BILL REPORT

SB 5533

As of March 4, 2019

Title: An act relating to certificates of parental improvement.

Brief Description: Concerning certificates of parental improvement.

Sponsors: Senators Braun, Darneille and Zeiger.

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 1/31/19, 2/12/19 [DPS-WM].

Ways & Means: 2/26/19.

Brief Summary of First Substitute Bill

- Creates a Certificate of Parental Improvement for those who have a founded finding of child abuse and neglect or had a child in dependency that is more than five years old and meets other eligibility criteria.
- Specifies a person who has this certificate can not be denied an opportunity to volunteer in school-related settings, assisted living facilities and nursing homes solely based on the founding finding of child abuse or neglect, or a court finding that an individual's child was dependent under state law.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: That Substitute Senate Bill No. 5533 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Walsh, Ranking Member; O'Ban, Wilson, C. and Zeiger.

Staff: Alison Mendiola (786-7488)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Maria Hovde (786-7474)

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.

Background: Volunteering and Background Checks. Individuals who wish to volunteer in school districts, educational service districts, the Washington State Center for Childhood Deafness and Hearing Loss, the State School for the Blind, federal Bureau of Indian Affairs funded schools, charter schools, schools that are the subject of a state-tribal education compact, and their contractors as well as assisted living facilities and nursing homes, must submit to a background check. If that background check reveals a founded finding of child abuse or neglect involving the individual revealed in the record check or a court finding that the individual's child was dependent under state law, that individual is denied the opportunity to volunteer.

Allegations of Child Abuse and Neglect. Reports of child abuse and neglect are received by Child Protective Services and assessed to determine whether the report meets the legal definition of abuse or neglect and how dangerous the situation is. The Department of Children, Youth and Families (DCYF) investigates all reports of child abuse and neglect that do not screen out. After an investigation is complete, DCYF will make a founded or unfounded determination. A founded determination means that based on available information, it is more likely than not that child abuse or neglect did occur. An unfounded determination means that more likely than not, child abuse or neglect did not occur, or that there is insufficient evidence to determine whether the alleged child abuse occurred.

Dependency. DCYF or any person may file a petition in court to determine if a child should be a dependent of the state due to abuse, neglect, abandonment, or because there is no parent or custodian capable of caring for the child. If the court determines the child is dependent, the court conducts periodic reviews and makes determinations about the child's placement and the parent's progress correcting parental deficiencies.

Summary of Bill (First Substitute): Certificate of Parental Improvement. DCYF must develop and implement a process by which individuals with a founded finding of child abuse or neglect or an individual whose child was found by a court to be dependent under state law, may petition DCYF for a certificate of parental improvement (CPI). DCYF must respond to a CPI request by approving or denying the request within 60 days. A requestor may not request a CPI if less than two years have passed since DCYF's denial of an individual's request for a CPI.

Eligibility for a Certificate of Parental Improvement. DCYF may not issue a CPI to an individual if it has been less than five years since the applicant's last 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 homicide or assault felony offense, as provided for in statute, that involves a physical injury or death of a child;
- any felony domestic violence offence committed against a family or household member;
- any felony offense against a child;
- any of the following felony offenses: (1) any felony defined under any law as a Class A felony or an attempt to commit a Class A felony; (2) criminal solicitation of or criminal conspiracy to commit a class A felony; (3) manslaughter in the first or second degree; (4) indecent liberties if committed by forcible compulsion; (5) kidnapping in the second degree; (6) arson in the second degree; (7) extortion in the

- first degree; (8) robbery in the second degree; (9) drive-by shooting; (10) vehicular homicide; or
- any out-of-state, federal, or state conviction for a felony offense in this list.

Factors to Consider for the Issuance of a Certificate of Parental Improvement. DCYF must 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 department relied upon to make that finding;
- findings from any civil adjudication proceeding defined in law;
- referral history alleging child abuse or neglect against the requestor;
- the time elapsed since the founded finding of child abuse or neglect;
- whether a court made a finding that the requestor's child was dependent, the 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 requestor's care;
- any documentation showing the requestor successfully addressed the circumstances that led to an administrative finding of child abuse or neglect, including but not limited to a declaration by the requestor; 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 requestor;
- 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 requestor's current character; and
- any education, volunteer work, employment history, or community involvement of the requestor.

Denial of a Certificate of Parental Improvement. A person who applies for a CPI has the right to seek review of DCYF's denial. Within 30 calendar days after DCYF has notified the requestor that the request for a CPI is being denied, the applicant may request, in writing, that DCYF review this determination. The notice provided to the denied applicant must include the following information in plain language:

- the reason or reasons for DCYF's denial; and
- the applicant has a right to challenge DCYF's decision not to issue a CPI, including a description of the process for requesting a review of DCYF's decision to deny a request.

If an applicant does not request a review according to the process provided, the applicant may not further challenge DCYF's decision.

The Department of Children, Youth and Families Process to Review a Denied Application of a Certificate of Parental Improvement. The secretary of DCYF must designate appropriate staff to review a denied CPI. The review must be completed within 30 days of the request, and DCYF must notify the requestor of its decision in writing by certified mail, return receipt requested, to the requestor's last known address.

If DCYF does not alter its decision, the requestor may request an adjudicative hearing as governed by the Administrative Procedures Act, and the provisions of this bill.

The request for an adjudicative proceeding must be filed within 30 days after receiving notice of DYCF's review determination. If a timely request for a review is not made, the requestor's right to any further review—departmental, adjudicative, or judicial—is exhausted.

Reviews and hearings are confidential and not open to the public. Information about reports, reviews, and hearings may be disclosed only in accordance with federal and state laws pertaining to child welfare records and child protective service reports.

DCYF must establish by rule, procedures for reviewing decisions not to issue CPI.

Determining the Character, Suitability, and Competence of an Individual. DCYF may not deny or delay a license or approval of unsupervised access to children to an individual solely because of a founded finding of child abuse or neglect revealed in the background check process or solely because the individual's child was found by a court to be dependent under state law when that founded finding or court finding is accompanied by a CPI related to the same incident.

DCYF may not deny or delay a license to provide supervised child care and early learning services to an individual solely because of a founded finding of child abuse or neglect revealed in the background check process or solely because the individual's child was found by a court to be dependent under state law when that founded finding or court finding is accompanied by a CPI related to the same incident.

DCYF may adopt additional rules to implement the provisions of this act.

Government entities, their officers, agents, employees, and volunteers are not liable in tort for acts or emissions in issuing CPIs, or any later act of an individual who received a CPI.

An Individual with a Certificate of Parental Improvement and Volunteering. The following entities may not deny a prospective volunteer solely because of a founded finding of child abuse or neglect involving the individual revealed in the record check, or a court finding that the individual's child was dependent under state law when that founded finding or court finding is accompanied by a CPI related to the same incident:

- school districts;
 - educational service districts;
 - the Washington State Center for Childhood Deafness and Hearing Loss;
 - the State School for the Blind;
 - schools funded by the Federal Bureau of Indian Affairs;
 - charter schools;
 - schools that are the subject of a state-tribal education compact, and their contractors;
- and

Assisted living facilities, nursing homes, and long-term care facilities may not automatically deny a request from a prospective volunteer for unsupervised access to vulnerable adults solely because of a founded finding of child abuse and neglect or a court finding of dependency accompanied by a CPI related to the same incident without conducting a review to

determine the individual's character, suitability, and competency to volunteers with vulnerable adults.

EFFECT OF CHANGES MADE BY HUMAN SERVICES, REENTRY & REHABILITATION COMMITTEE (First Substitute): DCYF:

- will issue a certificate of parental improvement (CPI) if, on a more probable than not basis, the requester has the character, suitability, and competence to care for children—and meets the other requirements.
- may not issue a CPI if less than two years have passed since DCYF's denial of an individual's request for a CPI.
- if asked to review a denied request, and that request is denied, that notice shall be sent to the requestor by certified mail.
- may not deny or delay a license to provide supervised child care or early learning services to an individual with a finding of child abuse/neglect or a court finding of dependency when accompanied by a CPI.
- is to adopt rules and investigate conviction records, pending charges, and other information including civil adjudication proceeding records when respond to a request from an individual for a CPI.

Government entities, their officers, agents, employees, and volunteers are not liable in tort for acts or emissions in issuing CPIs, or any later act of an individual who received a CPI.

Assisted living facilities, nursing homes, and long-term care providers may not automatically deny a request from prospective volunteers based on a finding of child abuse/neglect or a court finding of dependency, when accompanied by a CPI, without conducting a review to determine the individual's character, suitability, and competency to volunteer with vulnerable adults.

Petitioner and individual making a request is changed to requestor.

Appropriation: None.

Fiscal Note: Requested on January 18, 2019.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Human Services, Reentry & Rehabilitation): *The committee recommended a different version of the bill than what was heard.* PRO: A person tried to volunteer at an assisted living facility, but the background check revealed an old founded finding of child abuse and there was no process to address this. Expungement exists for criminal records, but not for founded findings of child abuse or neglect. It would open doors for lots of parents who have changed. This impacts parents who cannot volunteer in their kids' classes or go on field trips. Also, this prevents a child from being placed with relatives, even if they have been rehabilitated. Given that the family assessment response process did not exist a few years ago—an alternative to an investigation of child abuse and neglect—there are likely many old findings that would not result in a

finding of child abuse or neglect today. While this is a great step, it does not address the barriers people face with employment. This process should be extended to working with children or vulnerable adults.

Persons Testifying (Human Services, Reentry & Rehabilitation): PRO: Senator John Braun, Prime Sponsor; Mark Fullington, Community and Family Services Foundation; Tanya Morrow, Catholic Community Services; Shrounda Selivanoff, Parent Ally; Jason Bragg, Parent Ally; Laurie Lippold, Partners for Our Children; D'Adre Cunningham, Washington Defender Association; Patrick Dowd, Office of the Family and Children's Ombuds; Karen Monroe, citizen; Amelia Watson, Washington State Office of Public Defense Parent Representation Program.

Persons Signed In To Testify But Not Testifying (Human Services, Reentry & Rehabilitation): PRO: Jack Auaf, Washington State Handlers Association.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: This bill opens up many additional opportunities for parents. Parents who have navigated their child's issues are readily equipped to help others in the system correct their deficiencies. A person's past should not define who they are in the present. People who have lived experiences often provide the best support to other families experiencing similar challenges. About two-thirds of founded allegations are from neglect rather than abuse. Many individuals dealing with a founded finding today would likely have been referred to the Family Assessment Response program if that program were in existence at the time of their involvement in the child welfare system. There are probably ways to reduce this fiscal note and we are happy to work with you to do this.

Persons Testifying (Ways & Means): PRO: Jill May, Washington Association for Children & Families; Laurie Lippold, Partners for Our Children; Jason Bragg, Social Service Specialist, Office of Public Defense.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.