
SENATE BILL 5533

State of Washington

66th Legislature

2019 Regular Session

By Senators Braun, Darneille, and Zeiger

Read first time 01/23/19. Referred to Committee on Human Services, Reentry & Rehabilitation.

1 AN ACT Relating to certificates of parental improvement; amending
2 RCW 74.13.700; reenacting and amending RCW 28A.400.303 and 74.13.020;
3 adding new sections to chapter 74.13 RCW; adding a new section to
4 chapter 18.20 RCW; and adding a new section to chapter 18.51 RCW.

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

6 **Sec. 1.** RCW 28A.400.303 and 2017 3rd sp.s. c 33 s 1 and 2017 3rd
7 sp.s. c 6 s 220 are each reenacted and amended to read as follows:

8 (1) School districts, educational service districts, the
9 Washington state center for childhood deafness and hearing loss, the
10 state school for the blind, and their contractors hiring employees
11 who will have regularly scheduled unsupervised access to children or
12 developmentally disabled persons shall require a record check through
13 the Washington state patrol criminal identification system under RCW
14 43.43.830 through 43.43.834, 10.97.030, and 10.97.050 and through the
15 federal bureau of investigation before hiring an employee. The record
16 check shall include a fingerprint check using a complete Washington
17 state criminal identification fingerprint card. The requesting entity
18 may provide a copy of the record report to the applicant at the
19 applicant's request. When necessary, applicants may be employed on a
20 conditional basis pending completion of the investigation. If the
21 applicant has had a record check within the previous two years, the

1 district, the Washington state center for childhood deafness and
2 hearing loss, the state school for the blind, or contractor may waive
3 the requirement. Except as provided in subsection (2) of this
4 section, the district, pursuant to chapter 41.59 or 41.56 RCW, the
5 Washington state center for childhood deafness and hearing loss, the
6 state school for the blind, or contractor hiring the employee shall
7 determine who shall pay costs associated with the record check.

8 (2) Federal bureau of Indian affairs-funded schools may use the
9 process in subsection (1) of this section to perform record checks
10 for their employees and applicants for employment.

11 (3)(a) School districts, educational service districts, the
12 Washington state center for childhood deafness and hearing loss, the
13 state school for the blind, federal bureau of Indian affairs-funded
14 schools, charter schools established under chapter 28A.710 RCW,
15 schools that are the subject of a state-tribal education compact
16 under chapter 28A.715 RCW, and their contractors may use the process
17 in subsection (1) of this section to perform record checks for any
18 prospective volunteer who will have regularly scheduled unsupervised
19 access to children under eighteen years of age or developmentally
20 disabled persons, during the course of his or her involvement with
21 the school or organization under circumstances where access will or
22 may involve the following:

23 (i) Groups of five or fewer children under twelve years of age;

24 (ii) Groups of three or fewer children between twelve and
25 eighteen years of age; or

26 (iii) Developmentally disabled persons.

27 (b) For purposes of (a) of this subsection, "unsupervised" means
28 not in the presence of:

29 (i) Another employee or volunteer from the same school or
30 organization; or

31 (ii) Any relative or guardian of any of the children or
32 developmentally disabled persons to which the prospective employee or
33 volunteer has access during the course of his or her involvement with
34 the school or organization.

35 (4) School districts, educational service districts, the
36 Washington state center for childhood deafness and hearing loss, the
37 state school for the blind, federal bureau of Indian affairs-funded
38 schools, charter schools established under chapter 28A.710 RCW,
39 schools that are the subject of a state-tribal education compact
40 under chapter 28A.715 RCW, and their contractors may not deny a

1 prospective volunteer solely because of a founded finding of abuse or
2 neglect involving the individual revealed in the record check or a
3 court finding that the individual's child was dependent pursuant to
4 chapter 13.34 RCW when that founded finding or court finding is
5 accompanied by a certificate of parental improvement as defined in
6 chapter 74.13 RCW related to the same incident.

7 (5) Individuals who hold a valid portable background check
8 clearance card issued by the department of children, youth, and
9 families consistent with RCW 43.216.270 can meet the requirements in
10 subsection (1) of this section by providing a true and accurate copy
11 of their Washington state patrol and federal bureau of investigation
12 background report results to the office of the superintendent of
13 public instruction.

14 ~~((+5))~~ (6) The cost of record checks must include: The fees
15 established by the Washington state patrol and the federal bureau of
16 investigation for the criminal history background checks; a fee paid
17 to the superintendent of public instruction for the cost of
18 administering this section and RCW 28A.195.080 and 28A.410.010; and
19 other applicable fees for obtaining the fingerprints.

20 NEW SECTION. Sec. 2. A new section is added to chapter 74.13
21 RCW to read as follows:

22 (1) The department shall develop and implement a process by which
23 an individual with a founded finding of child abuse or neglect as
24 defined in RCW 26.44.020 or an individual whose child was found by a
25 court to be dependent pursuant to chapter 13.34 RCW may petition the
26 department for issuance of a certificate of parental improvement.

27 (2) The department shall respond to a certificate of parental
28 improvement request and notify the individual making the request of
29 the department's determination to issue or deny that request within
30 sixty days.

31 (3) The department may not issue a certificate of parental
32 improvement to any individual if:

33 (a) Fewer than five years have passed since the applicant's last
34 founded finding of child abuse or neglect as defined in RCW
35 26.44.020; or

36 (b) The applicant has any conviction or pending criminal action
37 for:

38 (i) Any felony offense involving the physical neglect of a child
39 under chapter 9A.42 RCW;

1 (ii) Any felony offense under chapter 9A.32 or 9A.36 RCW
2 involving a physical injury or death of a child;

3 (iii) Any felony domestic violence offense committed against a
4 family or household member as defined in chapter 10.99 RCW;

5 (iv) A felony offense against a child under chapter 9.68A RCW;

6 (v) Any of the following felony offenses:

7 (A) Any felony defined under any law as a class A felony or an
8 attempt to commit a class A felony;

9 (B) Criminal solicitation of or criminal conspiracy to commit a
10 class A felony;

11 (C) Manslaughter in the first or second degree;

12 (D) Indecent liberties if committed by forcible compulsion;

13 (E) Kidnapping in the second degree;

14 (F) Arson in the second degree;

15 (G) Extortion in the first degree;

16 (H) Robbery in the second degree;

17 (I) Drive-by shooting; and

18 (J) Vehicular homicide; or

19 (vi) Any out-of-state, federal, or state conviction for a felony
20 offense that is comparable to an offense listed in this subsection
21 (3)(b).

22 (4) The department shall consider the following when determining
23 whether to issue a certificate of parental improvement:

24 (a) Documentation of any founded finding of child abuse or
25 neglect and the underlying documentation the department relied upon
26 to make that finding;

27 (b) Findings from any civil adjudication proceeding as defined in
28 RCW 43.43.830;

29 (c) Referral history alleging child abuse or neglect against the
30 applicant;

31 (d) The length of time that has elapsed since the founded finding
32 of child abuse or neglect;

33 (e) Whether a court made a finding that the applicant's child was
34 dependent pursuant to chapter 13.34 RCW, the length of time elapsed
35 since that dependency court process was dismissed, and the outcome of
36 the dependency court process including whether the child was returned
37 to the applicant's care;

38 (f) Any documentation that the applicant successfully addressed
39 the circumstances that led to an administrative finding of child
40 abuse or neglect, including but not limited to: A declaration by the

1 applicant; recent assessments or evaluations; completion or progress
2 toward completion of recommended court ordered treatment, services,
3 or programs;

4 (g) Any pending criminal or civil actions against the applicant;

5 (h) Results of a Washington state patrol criminal history and
6 federal background check;

7 (i) Personal and professional references from employers,
8 professionals, and agencies familiar with the applicant who can
9 address the applicant's current character; and

10 (j) Any education, volunteer work, employment history, or
11 community involvement of the applicant.

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.13
13 RCW to read as follows:

14 (1) A person who applies for a certificate of parental
15 improvement pursuant to section 2 of this act has the right to seek
16 review of the department's denial of this certificate request as
17 provided in this section.

18 (2) Within thirty calendar days after the department has notified
19 the applicant that the department is denying the applicant's request
20 for a certificate of parental improvement pursuant to section 2 of
21 this act, the applicant may request that the department review this
22 determination. The applicant's request for department review must be
23 made in writing. The written notice provided by the department
24 denying an applicant's request for a certificate of parental
25 improvement must include at least the following information in plain
26 language:

27 (a) The reason or reasons for the department's denial of an
28 applicant's request for issuance of a certificate of parental
29 improvement following a child abuse or neglect finding; and

30 (b) That the applicant has a right to challenge the department's
31 decision not to issue a certificate of parental improvement following
32 a child abuse or neglect finding, including a description of the
33 process for requesting a review of the department's decision to deny
34 a request for a certificate of parental improvement.

35 (3) If an applicant does not request review according to the
36 process provided in this subsection, the applicant may not further
37 challenge the department's decision not to issue a certificate of
38 parental improvement following a child abuse or neglect finding.

1 (4) Upon receipt of a written request for review, the department
2 shall review and, if appropriate, may change its decision and issue a
3 certificate of parental improvement. The secretary shall designate
4 the appropriate staff to conduct this review. The review must be
5 completed within thirty days after receiving the written request for
6 departmental review. Upon completion of this review, the department
7 shall notify the applicant in writing of the department's
8 determination.

9 (5) If the department does not alter its decision not to issue a
10 certificate of parental improvement following a child abuse or
11 neglect finding, the applicant may request an adjudicative hearing to
12 contest this decision. The adjudicative proceeding is governed by the
13 administrative procedure act, chapter 34.05 RCW, and this section.
14 The request for an adjudicative proceeding must be filed within
15 thirty calendar days after receiving notice of the agency review
16 determination. If a request for an adjudicative proceeding is not
17 made as provided in this section, the applicant may not further
18 challenge the department's decision and has no right to departmental
19 review, an adjudicative hearing, or judicial review of the
20 determination not to issue a certificate of parental improvement.

21 (6) Reviews and hearings conducted under this section are
22 confidential and are not open to the public. Information about
23 reports, reviews, and hearings may be disclosed only in accordance
24 with federal and state laws pertaining to child welfare records and
25 child protective services reports.

26 (7) The department shall establish by administrative rule
27 procedures for reviewing decisions not to issue certificates of
28 parental improvement. The department may adopt additional rules to
29 implement this section.

30 **Sec. 4.** RCW 74.13.700 and 2014 c 88 s 4 are each amended to read
31 as follows:

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

34 (a) Deny or delay a license or approval of unsupervised access to
35 children to an individual solely because of a crime or civil
36 infraction involving the individual or entity revealed in the
37 background check process that does not fall within the categories of
38 disqualifying crimes described in the adoption and safe families act

1 of 1997 or does not relate directly to child safety, permanence, or
2 well-being; (~~or~~)

3 (b) Deny or delay a license or approval of unsupervised access to
4 children to an individual solely because of a founded finding of
5 abuse or neglect involving the individual revealed in the background
6 check process or solely because the individual's child was found by a
7 court to be dependent pursuant to chapter 13.34 RCW when that founded
8 finding or court finding is accompanied by a certificate of parental
9 improvement as defined in this chapter related to the same incident;
10 or

11 (c) Delay the issuance of a license or approval of unsupervised
12 access to children by requiring the individual to obtain records
13 relating to a crime or civil infraction revealed in the background
14 check process that does not fall within the categories of
15 disqualifying crimes described in the adoption and safe families act
16 of 1997 or does not relate directly to child safety, permanence, or
17 well-being.

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
22 related to its decision to the individual within ten days of making
23 the decision.

24 (3) For purposes of this section, "individual" means a relative
25 as 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
30 children in the care of the department. "Individual" does not include
31 long-term care workers defined in RCW 74.39A.009(~~(17)(a)~~) whose
32 background checks are conducted as provided in RCW 74.39A.056.

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

38 **Sec. 5.** RCW 74.13.020 and 2018 c 284 s 36, 2018 c 58 s 51, and
39 2018 c 34 s 3 are each reenacted and amended to read as follows:

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

3 (1) "Case management" means convening family meetings,
4 developing, revising, and monitoring implementation of any case plan
5 or individual service and safety plan, coordinating and monitoring
6 services needed by the child and family, caseworker-child visits,
7 family visits, and the assumption of court-related duties, excluding
8 legal representation, including preparing court reports, attending
9 judicial hearings and permanency hearings, and ensuring that the
10 child is progressing toward permanency within state and federal
11 mandates, including the Indian child welfare act.

12 (2) "Child" means:

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

14 (b) A person age eighteen to twenty-one years who is eligible to
15 receive the extended foster care services authorized under RCW
16 74.13.031.

17 (3) "Child protective services" has the same meaning as in RCW
18 26.44.020.

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

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

26 (b) Protecting and caring for dependent, abused, or neglected
27 children;

28 (c) Assisting children who are in conflict with their parents,
29 and assisting parents who are in conflict with their children, with
30 services designed to resolve such conflicts;

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

34 (e) Providing adequate care of children away from their homes in
35 foster family homes or day care or other child care agencies or
36 facilities.

37 "Child welfare services" does not include child protection
38 services.

39 (5) "Department" means the department of children, youth, and
40 families.

1 (6) "Extended foster care services" means residential and other
2 support services the department is authorized to provide to dependent
3 children. These services include, but are not limited to, placement
4 in licensed, relative, or otherwise approved care, or supervised
5 independent living settings; assistance in meeting basic needs;
6 independent living services; medical assistance; and counseling or
7 treatment.

8 (7) "Family assessment" means a comprehensive assessment of child
9 safety, risk of subsequent child abuse or neglect, and family
10 strengths and needs that is applied to a child abuse or neglect
11 report. Family assessment does not include a determination as to
12 whether child abuse or neglect occurred, but does determine the need
13 for services to address the safety of the child and the risk of
14 subsequent maltreatment.

15 (8) "Medical condition" means, for the purposes of qualifying for
16 extended foster care services, a physical or mental health condition
17 as documented by any licensed health care provider regulated by a
18 disciplining authority under RCW 18.130.040.

19 (9) "Nonminor dependent" means any individual age eighteen to
20 twenty-one years who is participating in extended foster care
21 services authorized under RCW 74.13.031.

22 (10) "Out-of-home care services" means services provided after
23 the shelter care hearing to or for children in out-of-home care, as
24 that term is defined in RCW 13.34.030, and their families, including
25 the recruitment, training, and management of foster parents, the
26 recruitment of adoptive families, and the facilitation of the
27 adoption process, family reunification, independent living, emergency
28 shelter, residential group care, and foster care, including relative
29 placement.

30 (11) "Performance-based contracting" means the structuring of all
31 aspects of the procurement of services around the purpose of the work
32 to be performed and the desired results with the contract
33 requirements set forth in clear, specific, and objective terms with
34 measurable outcomes. Contracts shall also include provisions that
35 link the performance of the contractor to the level and timing of
36 reimbursement.

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

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

6 (14) "Secretary" means the secretary of the department.

7 (15) "Supervised independent living" includes, but is not limited
8 to, apartment living, room and board arrangements, college or
9 university dormitories, and shared roommate settings. Supervised
10 independent living settings must be approved by the department or the
11 court.

12 (16) "Unsupervised" has the same meaning as in RCW 43.43.830.

13 (17) "Voluntary placement agreement" means, for the purposes of
14 extended foster care services, a written voluntary agreement between
15 a nonminor dependent who agrees to submit to the care and authority
16 of the department for the purposes of participating in the extended
17 foster care program.

18 (18) "Certificate of parental improvement" means a certificate
19 issued under section 2 of this act to an individual with a founded
20 finding of child abuse or neglect or a court finding that the
21 individual's child was dependent pursuant to chapter 13.34 RCW.

22 NEW SECTION. Sec. 6. A new section is added to chapter 74.13
23 RCW to read as follows:

24 Assisted living facilities, as defined in RCW 18.20.020, and
25 nursing homes, as defined in RCW 18.51.010, may not deny a
26 prospective volunteer solely because of a founded finding of abuse or
27 neglect involving the individual revealed in the record check or a
28 court finding that the individual's child was dependent pursuant to
29 chapter 13.34 RCW when that founded finding or court finding is
30 accompanied by a certificate of parental improvement as defined in
31 this chapter related to the same incident.

32 NEW SECTION. Sec. 7. A new section is added to chapter 18.20
33 RCW to read as follows:

34 Assisted living facilities, as defined in this chapter, may not
35 deny a prospective volunteer solely because of a founded finding of
36 abuse or neglect involving the individual revealed in the record
37 check or a court finding that the individual's child was dependent
38 pursuant to chapter 13.34 RCW when that founded finding or court

1 finding is accompanied by a certificate of parental improvement as
2 defined in chapter 74.13 RCW related to the same incident.

3 NEW SECTION. **Sec. 8.** A new section is added to chapter 18.51
4 RCW to read as follows:

5 Nursing homes, as defined in this chapter, may not deny a
6 prospective volunteer solely because of a founded finding of abuse or
7 neglect involving the individual revealed in the record check or a
8 court finding that the individual's child was dependent pursuant to
9 chapter 13.34 RCW when that founded finding or court finding is
10 accompanied by a certificate of parental improvement as defined in
11 chapter 74.13 RCW related to the same incident.

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