

SENATE BILL REPORT

ESSB 5515

As Amended by House, April 7, 2023

Title: An act relating to protecting children from child abuse and neglect.

Brief Description: Protecting children from child abuse and neglect at residential facilities and residential private schools.

Sponsors: Senate Committee on Human Services (originally sponsored by Senators Dhingra, Conway, Hunt, Kauffman, Kuderer, Lovelett, Nguyen, Nobles, Saldaña, Stanford, Valdez, Wellman and Wilson, C.).

Brief History:

Committee Activity: Human Services: 1/31/23, 2/07/23 [DPS-WM].

Ways & Means: 2/21/23, 2/23/23 [DPS (HS)].

Floor Activity: Passed Senate: 3/3/23, 48-0.

Passed House: 4/7/23, 93-4.

Brief Summary of Engrossed First Substitute Bill

- Directs the Department of Children, Youth and Families (DCYF) to investigate referrals of alleged child abuse or neglect occurring at substance use disorder treatment facilities, entities that provide behavioral health services, and residential private schools, and determine whether there is a finding of abuse or neglect.
- Requires living accommodations provided by residential private schools to be licensed by DCYF, effective July 1, 2025, unless the residential private school is exempt from licensing.

SENATE COMMITTEE ON HUMAN SERVICES

Majority Report: That Substitute Senate Bill No. 5515 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

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

Signed by Senators Wilson, C., Chair; Kauffman, Vice Chair; Boehnke, Ranking Member; Frame, Nguyen, Warnick and Wilson, J..

Staff: Alison Mendiola (786-7488)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5515 as recommended by Committee on Human Services be substituted therefor, and the substitute bill do pass.

Signed by Senators Rolfes, Chair; Robinson, Vice Chair, Operating & Revenue; Mullet, Vice Chair, Capital; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Rivers, Assistant Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Billig, Boehnke, Braun, Conway, Dhingra, Hasegawa, Hunt, Keiser, Muzzall, Nguyen, Pedersen, Saldaña, Torres, Van De Wege, Wagoner and Wellman.

Staff: Joshua Hinman (786-7281)

Background: 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. Abuse and neglect is defined as injury, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child by any person under circumstances which indicate that the child's health, welfare, and safety is harmed. 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. DCYF must send a copy of the investigation report, including the finding, regarding any incidents of alleged child abuse or neglect.

In addition to licensing early learning programs and school-age sites in Washington, DCYF also licenses child placing agencies, group care facilities, and foster homes.

State Board of Education. The State Board of Education (SBE) approves private schools. A private school is a nonpublic school that conducts a program of kindergarten and at least grade one, or a program of any or all grades one through twelve. Private schools must maintain a program that ensures a sufficient basic education for students to meet usual state graduation requirements, and meet reasonable standards for health and safety of private school students.

Under the Community Behavioral Health Services Act, the Department of Health licenses

substance use disorder treatment facilities. Substance use disorder means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

Behavioral health services means mental health services and substance use disorder treatment services that, depending on the type of service, are provided by licensed or certified behavioral health agencies, behavioral health providers, or integrated into other health care providers.

Summary of Engrossed First Substitute Bill: Starting January 1, 2024, DCYF is to investigate referrals of alleged child abuse or neglect occurring at substance use disorder treatment facilities, entities that provide behavioral health services, and residential private schools, and determine whether there is a finding of abuse or neglect. Any facilities where DCYF is investigating child abuse or neglect must share records and any other information relevant to DCYF's investigation. Any records or information shared with DCYF retains any otherwise existing confidentiality protections under state or federal law.

DCYF must send a copy of the investigation report, including the finding, regarding any incidents of alleged child abuse or neglect to the agency administration of the facility in which the incident occurred and to the state agency which provides licensure, oversight, or accreditation to the program at the facility in which the incident occurred.

Starting July 1, 2025, living accommodations provided by residential private schools must be licensed by DCYF, unless they are exempted. Accommodations include all areas and school operations intended to allow students who are enrolled in the school's program of basic education to eat, sleep, bathe, recreate, or otherwise reside. DCYF is to adopt minimum health and safety rules, in consultation with the state Board of Education. Rules are to address the needs of children and youth during noninstructional hours, including but not limited to space allotted to each child or youth for sleeping, developmentally appropriate privacy requirements, personal storage, nutritional needs, cleanliness and hygiene of living quarters, social-emotional well-being during noninstructional hours, health and wellness accommodations, compliance with the Americans with Disabilities Act, and physical safety.

Residential private schools are exempt from DCYF's licensing requirements if SBE determines that the school is accredited through a body approved by SBE, and that accreditation covers student living accommodations comparable to DCYF's licensing requirements, in consultation with DCYF.

DCYF is to engage in negotiated rule making with the SBE and other affected interests to adopt minimum health and safety rules to implement the licensing requirements of this bill.

Effective July 1, 2025, the definition of agency includes residential private schools and does not include nonresidential schools. Residential private school means a nonpublic school or nonpublic school district, subject to approval by the state Board of Education, that provides sleeping and living facilities or residential accommodations for enrolled students.

By July 1, 2025, DCYF is to submit a preliminary progress report on licensing and oversight of residential private schools to the Legislature and a final report no later than July 1, 2026.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Proposed Substitute (Human Services): *The committee recommended a different version of the bill than what was heard.* PRO: Over the years there have been stories of child abuse at certain types of facilities, but unless it's reported to the police and DCYF is responding to a criminal complaint, DCYF does not have the legal authority to investigate such a complaint. When children are away from their families seeking recovery or getting an education, this is a vulnerable time. When students live at private schools, there appears to be no eyes on the children. This bill addresses this loophole. The State Board of Education does not provide approval for the residential part of private schools so this bill closes that loophole. Happy to work with existing private boarding schools.

CON: Private boarding schools are accredited by the Northwest Association of Independent Schools, which set appropriate inspection criteria. When children board at school, the schools take their in loco parentis responsibilities seriously and often the schools meet or exceed accreditation requirements.

OTHER: This bill gives DCYF the needed authority to investigate allegations of child abuse and neglect. Last year HB 1920 would have given this authority and there was no concern about DCYF's expanded scope. There is a current gap in authority for private schools that provide living accommodations. DCYF has extensive expertise in this area of licensing, as do they in other facilities. There are 12 private schools that have boarding options and they already go through an extensive accreditation that includes the living quarters.

Persons Testifying (Human Services): PRO: Senator Manka Dhingra, Prime Sponsor; Linda Drake, Washington State Board of Education.

CON: Jeffrey Barber, Annie Wright Schools; Peter Fackenthal, Auburn Adventist

Academy.

OTHER: Suzanne Hanson, Washington Federation of Independent Schools; Julie Watts, Dept of Children, Youth, and Families.

Persons Signed In To Testify But Not Testifying (Human Services): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: Thank you for adding money for negotiated rule-making. Testifier is yet to see DCYF accept accreditation as an alternative to licensing. These boarding schools have been around for a long time and are experts on safety. This bill is not the end-result of any particular event, but instead potential future events. The goal is to take the expertise of boarding schools into DCYF's licensing capacity. People should feel safe at private schools.

Persons Testifying (Ways & Means): PRO: Senator Manka Dhingra, Prime Sponsor; Suzanne Hanson, Washington Federation of Independent Schools.

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

EFFECT OF HOUSE AMENDMENT(S):

The amended bill makes changes to the requirement that DCYF investigate all referrals of alleged child abuse or neglect occurring at certain facilities, including specifying that the requirement to investigate incidents occurring at substance use disorder treatment facilities and entities that provide behavioral health services pertains to facilities and entities that provide services on a residential basis; including host homes in the list of facilities in which DCYF must investigate; and making a technical amendment to apply the bill's current definition of residential private school on the effective date of the section.