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HOUSE BILL 3002

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State of Washington

55th Legislature

1998 Regular Session

By Representatives Cooke, Tokuda, Costa, Cody and Thompson; by request of Department of Social and Health Services

Read first time 01/27/98. Referred to Committee on Children & Family Services.

1 AN ACT Relating to background checks for persons being authorized  
2 to care for children; and amending RCW 74.15.030.

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

4 **Sec. 1.** RCW 74.15.030 and 1997 c 386 s 33 are each amended to read  
5 as follows:

6 The secretary shall have the power and it shall be the secretary's  
7 duty:

8 (1) In consultation with the children's services advisory  
9 committee, and with the advice and assistance of persons representative  
10 of the various type agencies to be licensed, to designate categories of  
11 facilities for which separate or different requirements shall be  
12 developed as may be appropriate whether because of variations in the  
13 ages, sex and other characteristics of persons served, variations in  
14 the purposes and services offered or size or structure of the agencies  
15 to be licensed hereunder, or because of any other factor relevant  
16 thereto;

17 (2) In consultation with the children's services advisory  
18 committee, and with the advice and assistance of persons representative  
19 of the various type agencies to be licensed, to adopt and publish

1 minimum requirements for licensing applicable to each of the various  
2 categories of agencies to be licensed.

3 The minimum requirements shall be limited to:

4 (a) The size and suitability of a facility and the plan of  
5 operation for carrying out the purpose for which an applicant seeks a  
6 license;

7 (b) The character, suitability and competence of an agency and  
8 other persons associated with an agency directly responsible for the  
9 care and treatment of children, expectant mothers or developmentally  
10 disabled persons. ~~((In consultation with law enforcement personnel,  
11 the secretary shall investigate the conviction record or pending  
12 charges and dependency record information under chapter 43.43 RCW of  
13 each agency and its staff seeking licensure or relicensure.))~~

14 (i) In order to determine the character, suitability, and  
15 competence of applicants for an agency license, licensees, their  
16 employees, and other persons who have unsupervised access to children  
17 in care, ~~((and))~~ the department shall:

18 (A) In consultation with law enforcement personnel, investigate the  
19 conviction record or pending charges and dependency record information  
20 under chapter 43.43 RCW of any such person;

21 (B) Have access, under RCW 10.97.050(4), to criminal history record  
22 information, which includes records of arrest, charges, or allegations  
23 of criminal conduct and other nonconviction data; and

24 (C) Require that any such person who ((have)) has not resided in  
25 the state of Washington during the three-year period before being  
26 authorized to care for children ((shall)) be fingerprinted. The  
27 fingerprints shall be forwarded to the Washington state patrol and  
28 federal bureau of investigation for a criminal history records check.  
29 To investigate criminal history information, the department may  
30 reasonably rely on a criminal history records check of the Washington  
31 state patrol criminal identification system and, where a federal bureau  
32 of investigation check is required, a federal bureau of investigation  
33 check by the Washington state patrol or by another governmental agency  
34 or a branch of the United States military if the check is less than one  
35 year old.

36 (ii) The fingerprint criminal history records checks will be at the  
37 expense of the licensee except that ((in the case of a foster family  
38 home, if this expense would work a hardship on the licensee, the  
39 department shall pay the expense)), to the extent of available funding,

1 the department may pay the expense for foster family homes and for low-  
2 income family day care homes. The licensee may not pass this cost on  
3 to the employee or prospective employee, unless the employee is  
4 determined to be unsuitable due to his or her criminal history record.

5 (iii) The (~~secretary~~) department shall use (~~the~~) criminal  
6 history records check information solely for the purpose of determining  
7 eligibility for a license and for determining the character,  
8 suitability, and competence of those persons or agencies, excluding  
9 parents, (~~not required to be~~) licensed (~~who are~~) or authorized by  
10 the department to care for children, expectant mothers, and  
11 developmentally disabled persons. The department shall use  
12 nonconviction data solely as a tool for investigation and shall not  
13 base any decision regarding character, suitability, or competence to  
14 care for children solely on the basis of nonconviction data. The  
15 department shall share the conviction record, pending charges, and  
16 dependency record information with the child-placing agency that is  
17 responsible for certifying the licensee or applicant. Criminal justice  
18 agencies shall provide the secretary such information as they may have  
19 and that the secretary may require for such purposes;

20 (c) The number of qualified persons required to render the type of  
21 care and treatment for which an agency seeks a license;

22 (d) The safety, cleanliness, and general adequacy of the premises  
23 to provide for the comfort, care and well-being of children, expectant  
24 mothers or developmentally disabled persons;

25 (e) The provision of necessary care, including food, clothing,  
26 supervision and discipline; physical, mental and social well-being; and  
27 educational, recreational and spiritual opportunities for those served;

28 (f) The financial ability of an agency to comply with minimum  
29 requirements established pursuant to chapter 74.15 RCW and RCW  
30 74.13.031; and

31 (g) The maintenance of records pertaining to the admission,  
32 progress, health and discharge of persons served;

33 (3) To investigate any person, including relatives by blood or  
34 marriage except for parents, for character, suitability, and competence  
35 in the care and treatment of children, expectant mothers, and  
36 developmentally disabled persons prior to authorizing that person to  
37 care for children, expectant mothers, and developmentally disabled  
38 persons. However, if a child is placed with a relative under RCW  
39 13.34.060 or 13.34.130, and if such relative appears otherwise suitable

1 and competent to provide care and treatment the criminal history  
2 background check required by this section need not be completed before  
3 placement, but shall be completed as soon as possible after placement;

4 (4) On reports of alleged child abuse and neglect, to investigate  
5 agencies in accordance with chapter 26.44 RCW, including child day-care  
6 centers and family day-care homes, to determine whether the alleged  
7 abuse or neglect has occurred, and whether child protective services or  
8 referral to a law enforcement agency is appropriate;

9 (5) To issue, revoke, or deny licenses to agencies pursuant to  
10 chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the  
11 category of care which an agency is authorized to render and the ages,  
12 sex and number of persons to be served;

13 (6) To prescribe the procedures and the form and contents of  
14 reports necessary for the administration of chapter 74.15 RCW and RCW  
15 74.13.031 and to require regular reports from each licensee;

16 (7) To inspect agencies periodically to determine whether or not  
17 there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the  
18 requirements adopted hereunder;

19 (8) To review requirements adopted hereunder at least every two  
20 years and to adopt appropriate changes after consultation with the  
21 child care coordinating committee and other affected groups for child  
22 day-care requirements and with the children's services advisory  
23 committee for requirements for other agencies; and

24 (9) To consult with public and private agencies in order to help  
25 them improve their methods and facilities for the care of children,  
26 expectant mothers and developmentally disabled persons.

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