
HOUSE BILL 1705

State of Washington

55th Legislature

1997 Regular Session

By Representative McMorris

Read first time 02/05/97. Referred to Committee on Children & Family Services.

1 AN ACT Relating to child abuse and neglect information; amending
2 RCW 26.44.100 and 74.15.030; and adding a new section to chapter 26.44
3 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 26.44 RCW
6 to read as follows:

7 To protect the privacy in reporting and the maintenance of reports
8 of nonaccidental injury, neglect, death, sexual abuse, and cruelty to
9 children by their parents, and to safeguard against arbitrary,
10 malicious, or erroneous information or actions, the department shall
11 only maintain files of reports if child abuse or neglect has been found
12 by clear and convincing evidence. The department shall purge any
13 reports and files that contain allegations that do not meet this
14 standard.

15 **Sec. 2.** RCW 26.44.100 and 1993 c 412 s 17 are each amended to read
16 as follows:

17 The legislature finds parents and children often are not aware of
18 their due process rights when agencies are investigating allegations of

1 child abuse and neglect. The legislature reaffirms that all citizens,
2 including parents, shall be afforded due process, that protection of
3 children remains the priority of the legislature, and that this
4 protection includes protecting the family unit from unnecessary
5 disruption. To facilitate this goal, the legislature wishes to ensure
6 that parents and children be advised in writing and orally, if
7 feasible, of their basic rights and other specific information as set
8 forth in this chapter, provided that nothing contained in this chapter
9 shall cause any delay in protective custody action. The department
10 shall notify any person in writing if his or her name is maintained in
11 any filing system related to allegations of child abuse or neglect and
12 the person's right to appeal the inclusion of his or her name in any
13 such system.

14 **Sec. 3.** RCW 74.15.030 and 1995 c 302 s 4 are each amended to read
15 as follows:

16 The secretary shall have the power and it shall be the secretary's
17 duty:

18 (1) In consultation with the children's services advisory
19 committee, and with the advice and assistance of persons representative
20 of the various type agencies to be licensed, to designate categories of
21 facilities for which separate or different requirements shall be
22 developed as may be appropriate whether because of variations in the
23 ages, sex and other characteristics of persons served, variations in
24 the purposes and services offered or size or structure of the agencies
25 to be licensed hereunder, or because of any other factor relevant
26 thereto;

27 (2) In consultation with the children's services advisory
28 committee, and with the advice and assistance of persons representative
29 of the various type agencies to be licensed, to adopt and publish
30 minimum requirements for licensing applicable to each of the various
31 categories of agencies to be licensed.

32 The minimum requirements shall be limited to:

33 (a) The size and suitability of a facility and the plan of
34 operation for carrying out the purpose for which an applicant seeks a
35 license;

36 (b) The character, suitability, and competence of an agency and
37 other persons associated with an agency directly responsible for the
38 care and treatment of children, expectant mothers or developmentally

1 disabled persons. In consultation with law enforcement personnel, the
2 secretary shall investigate the conviction record or pending charges
3 and dependency record information under chapter 43.43 RCW of each
4 agency and its staff seeking licensure or relicensure. In determining
5 the character, suitability, and competence of an agency and other
6 persons associated with an agency directly responsible for the care and
7 treatment of children, the department shall make a determination based
8 solely on the information available under chapter 43.43 RCW. In order
9 to determine the suitability of applicants for an agency license,
10 licensees, their employees, and other persons who have unsupervised
11 access to children in care, and who have not resided in the state of
12 Washington during the three-year period before being authorized to care
13 for children shall be fingerprinted. The fingerprints shall be
14 forwarded to the Washington state patrol and federal bureau of
15 investigation for a criminal history records check. The fingerprint
16 criminal history records checks will be at the expense of the licensee
17 except that in the case of a foster family home, if this expense would
18 work a hardship on the licensee, the department shall pay the expense.
19 The licensee may not pass this cost on to the employee or prospective
20 employee, unless the employee is determined to be unsuitable due to his
21 or her criminal history record. The secretary shall use the
22 information solely for the purpose of determining eligibility for a
23 license and for determining the character, suitability, and competence
24 of those persons or agencies, excluding parents, not required to be
25 licensed who are authorized to care for children, expectant mothers,
26 and developmentally disabled persons. Criminal justice agencies shall
27 provide the secretary such information as they may have and that the
28 secretary may require for such purpose;

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

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

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

37 (f) The financial ability of an agency to comply with minimum
38 requirements established pursuant to chapter 74.15 RCW and RCW
39 74.13.031; and

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

3 (3) To investigate any person, including relatives by blood or
4 marriage except for parents, for character, suitability, and competence
5 in the care and treatment of children, expectant mothers, and
6 developmentally disabled persons prior to authorizing that person to
7 care for children, expectant mothers, and developmentally disabled
8 persons. However, if a child is placed with a relative under RCW
9 13.34.060 or 13.34.130, and if such relative appears otherwise suitable
10 and competent to provide care and treatment the criminal history
11 background check required by this section need not be completed before
12 placement, but shall be completed as soon as possible after placement;

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

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

22 (6) To prescribe the procedures and the form and contents of
23 reports necessary for the administration of chapter 74.15 RCW and RCW
24 74.13.031 and to require regular reports from each licensee;

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

28 (8) To review requirements adopted hereunder at least every two
29 years and to adopt appropriate changes after consultation with the
30 child care coordinating committee and other affected groups for child
31 day-care requirements and with the children's services advisory
32 committee for requirements for other agencies; and

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

--- END ---