

HOUSE BILL REPORT

4SSB 5533

As Reported by House Committee On: Human Services & Early Learning

Title: An act relating to certifying a person's documented improvement related to founded findings.

Brief Description: Certifying parental improvement.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Braun, Darneille and Zeiger).

Brief History:

Committee Activity:

Human Services & Early Learning: 2/26/20, 2/27/20 [DP].

Brief Summary of Fourth Substitute Bill

- Requires the Department of Children, Youth, and Families (DCYF) to implement a process where an individual who received a founded finding or court finding of abuse or neglect can petition the DCYF for a certificate of parental improvement (CPI).
- Prohibits the DCYF from denying or delaying a foster care or child care license or approval for unsupervised access solely because of a founded finding of abuse or neglect or court finding that the individual's child is dependent based on abuse or neglect if that finding is accompanied by a CPI.
- Prohibits nursing homes and assisted living facilities from automatically denying a prospective volunteer solely based on a founded finding of abuse or neglect or a dependency court finding when that finding is accompanied by a CPI.

HOUSE COMMITTEE ON HUMAN SERVICES & EARLY LEARNING

Majority Report: Do pass. Signed by 10 members: Representatives Senn, Chair; Callan, Vice Chair; Frame, Vice Chair; Eslick, Assistant Ranking Minority Member; Corry, Goodman, Griffey, Kilduff, Lovick and Ortiz-Self.

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.

Minority Report: Do not pass. Signed by 3 members: Representatives Dent, Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Klippert.

Staff: Luke Wickham (786-7146).

Background:

The Department of Children, Youth, and Families.

The Department of Children, Youth, and Families (DCYF) was created in 2017 and oversees early learning programs, child welfare services, and juvenile justice programs.

Reports of Child Abuse or Neglect.

If an individual suspects that a child has been abused or neglected, that abuse or neglect can be reported to the DCYF Child Protective Services (CPS) office or to law enforcement. There are many individuals who are required by law to report suspected abuse or neglect.

The CPS will then determine whether the report of child abuse or neglect is credible and whether the report meets the sufficiency screening criteria. If the report meets the screening criteria, the CPS will assign either: (1) a 24-hour response that includes an investigation; or (2) a family assessment response for low- to moderate-risk allegations that requires a 72-hour response.

The DCYF, or anyone else, can file a court petition alleging that the child should be a dependent of the state due to abuse, neglect, or because no parent, guardian, or custodian is capable of adequately caring for the child. A court will hold a shelter care hearing following removal of a child from his or her home within 72 hours. At this hearing, the court will determine if the child can return home safely.

If a report of child abuse or neglect is investigated by the DCYF, the DCYF must complete the investigation within at least 90 days, unless law enforcement or the prosecuting attorney has determined that a longer investigation is necessary. At the completion of the investigation, the DCYF must make a finding that the report of child abuse or neglect is founded or unfounded. A "founded" determination means that it is more likely than not that child abuse or neglect did occur. An "unfounded" determination means that available information indicates that it is more likely than not that child abuse or neglect did not occur, or that there is insufficient evidence for the DCYF to determine that it did or did not occur.

If a court in a civil or criminal proceeding, considering the same facts as contained in the report investigated by the DCYF, makes a finding by a preponderance of the evidence or higher that the subject of the investigation abused or neglect the child, the DCYF must adopt that finding.

Foster Parent Licensure.

When a child is placed in out-of-home care pursuant to a dependency court process, the child may be placed with relatives or in foster care. Foster parents are licensed by the DCYF to provide 24-hour temporary care to children placed in out-of-home care.

Individuals can apply for a foster parent license directly to the DCYF or through a child-placing agency (CPA). The CPAs are licensed by the DCYF and can certify that an individual meets the foster licensing requirements before the application is sent to the DCYF. The CPAs also provide ongoing case management to foster families.

To receive a foster parent license, an individual must:

- be age 21 or older;
- complete the following training, along with individuals age 18 or older in the household:
 - first aid;
 - age-appropriate adult and/or infant cardiopulmonary resuscitation;
 - human immunodeficiency virus/acquired immunodeficiency syndrome; and
 - blood borne pathogens;
- pass, along with certain household members, a background check;
- submit, along with individuals age 18 or older in the household, a negative tuberculosis test or an X-ray;
- submit proof of current immunization status for any children living on the premises, not in out-of-home care;
- provide proof of pertussis and influenza immunizations for all people living in the home when serving foster children under age 2;
- pass a home assessment and demonstrate the ability to provide the quality of care needed by children placed in the home; and
- complete training requirements.

Summary of Bill:

The DCYF must implement a process where an individual who received a founded finding of neglect, maltreatment, or physical abuse, or a court finding that the individual's child was dependent based on abuse or neglect can petition the DCYF for a certificate of parental improvement (CPI).

The DCYF must respond to a request for a CPI within 60 days.

The DCYF may not issue a CPI if:

- fewer than five years have passed since the applicant's last founded finding of child abuse or neglect;
- fewer than two years have passed since the Secretary of the DCYF's denial of an individual's request for a CPI;
- the requestor has a final founded finding for sexual abuse, sexual exploitation, or physical abuse if the conduct involved cutting, burning, interfering with a child's breathing, shaking a child under age 3, or threatening a child with a deadly weapon;
- the individual has already received one CPI and is the alleged perpetrator of a subsequent, final 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 felony offense involving a physical injury or death of a child;

- any felony domestic violence offense committed against a family or household member;
- a felony offense against a child; or
- any of the following felony offenses:
 - class A felony or an attempt to commit a class A felony;
 - criminal solicitation of or criminal conspiracy to commit a class A felony;
 - Manslaughter in the first or second degree;
 - Indecent Liberties Committed by Forcible Compulsion;
 - Kidnapping in the second degree;
 - Arson in the second degree;
 - Extortion in the first degree;
 - Robbery in the second degree;
 - Drive-by Shooting; and
 - Vehicular Homicide.

The DCYF shall 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 DCYF relied upon to make that finding;
- findings from any civil adjudication proceeding;
- referral history alleging child abuse or neglect against the applicant;
- the length of time that has elapsed since the founded finding of child abuse or neglect;
- whether a court made a finding that the applicant's child was dependent, the length of 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 applicant's care;
- any documentation that the applicant successfully addressed the circumstances that led to an administrative finding of child abuse or neglect, including, but not limited to, a declaration by the applicant; 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 applicant;
- 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 applicant's current character; and
- any education, volunteer work, employment history, or community involvement of the applicant.

A person who is denied a CPI has the right to seek review of the DCYF's denial of this CPI by first asking the DCYF to review the decision, and if the DCYF does not change its decision, the person may request an administrative hearing to review the decision.

The DCYF cannot deny or delay a foster care or child care license or approval or unsupervised access solely because of a founded finding of abuse or neglect or court finding that the individual's child is dependent based on abuse or neglect if that finding is accompanied by a CPI.

The Department of Social and Health Services may not consider founded findings of child abuse or negligent treatment when evaluating an applicant or employee's character if the finding is accompanied by a CPI.

A long-term care worker may not be employed with or have unsupervised access to vulnerable adults if the provider:

- is on the vulnerable adult abuse registry or equivalent;
- has a finding of child abuse or neglect, unless accompanied by a CPI;
- has received a finding of abuse, abandonment, neglect, or financial exploitation of a minor or vulnerable adult; or
- has issued a court order that includes a finding of fact or conclusion of law that the provider has committed abuse, abandonment, neglect, financial exploitation of a minor or vulnerable adult unless accompanied by a CPI.

Nursing homes and assisted living facilities cannot deny a prospective volunteer solely based on a founded finding of abuse or neglect or a court finding that the individual's child was dependent based on abuse or neglect when that finding is accompanied by a CPI.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2021.

Staff Summary of Public Testimony:

(In support) The CPI process will increase the pool of candidates in the child welfare field. There is a shortage of suitable foster homes right now, and increasing the pool of available homes is sorely needed. The bill will also increase the diversity of individuals providing child welfare services. Finally, the bill will allow the child welfare workforce to include individuals who have successfully navigated the child welfare process, using their experience to help support others.

The CPI provides an avenue to individuals with a founded finding to secure gainful employment without additional barriers and to engage more holistically in their community. From 2010 to 2018, 40,000 individuals were assigned a founded finding. Over 70 percent of these findings were based on allegations of neglect, which can be a byproduct of living in poverty and a lack of resources to treat substance use and mental health issues. Many of these individuals would not have received that finding if the Family Assessment Response (FAR) existed at the time of the child abuse or neglect report.

This bill recognizes that past findings of abuse or neglect should not pose a lifetime ban on working or volunteering with kids or vulnerable adults.

There are family members, including grandparents, that want to care for other relatives who are currently prohibited from providing that care and do not currently have an avenue to overcome the barriers preventing approval for their unsupervised care of children. There is an avenue for contesting findings of child abuse or neglect, but that process is time-limited and focused on the evidentiary basis for determining whether a report of child abuse or neglect was founded. The DCYF can provide a waiver for individuals that would ordinarily be prevented from providing care for children, but that process can only be initiated by the DCYF and not the individual. Individuals now can participate in the FAR.

(Opposed) None.

Persons Testifying: Mary Fischer, Institute for Family Development; Lianna Kressin, Partners for Our Children; and Patrick Dowd, Washington State Office of the Family and Children's Ombuds.

Persons Signed In To Testify But Not Testifying: None.