
SUBSTITUTE HOUSE BILL 2239

State of Washington

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By House Committee on Children & Family Services (originally sponsored by Representatives Sterk, L. Thomas, Koster, Honeyford, McMahan, Schoesler, Radcliff, Carlson, Thompson, Boldt and Goldsmith)

Read first time 01/24/96.

1 AN ACT Relating to background checks; amending RCW 74.15.030 and
2 13.32A.060; and reenacting and amending RCW 13.34.130.

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

4 **Sec. 1.** RCW 74.15.030 and 1995 c 302 s 4 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, the
11 secretary shall investigate the conviction record or pending charges
12 and dependency record information under chapter 43.43 RCW of each
13 agency and its staff seeking licensure or relicensure. In order to
14 determine the suitability of applicants for an agency license,
15 licensees, their employees, and other persons who have unsupervised
16 access to children in care, and who have not resided in the state of
17 Washington during the three-year period before being authorized to care
18 for children shall be fingerprinted. The fingerprints shall be
19 forwarded to the Washington state patrol and federal bureau of
20 investigation for a criminal history records check. The fingerprint
21 criminal history records checks will be at the expense of the licensee
22 except that in the case of a foster family home, if this expense would
23 work a hardship on the licensee, the department shall pay the expense.
24 The licensee may not pass this cost on to the employee or prospective
25 employee, unless the employee is determined to be unsuitable due to his
26 or her criminal history record. The secretary shall use the
27 information solely for the purpose of determining eligibility for a
28 license and for determining the character, suitability, and competence
29 of those persons or agencies, excluding parents, not required to be
30 licensed who are authorized to care for children, expectant mothers,
31 and developmentally disabled persons. Criminal justice agencies shall
32 provide the secretary such information as they may have and that the
33 secretary may require for such purpose;

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

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

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

4 (f) The financial ability of an agency to comply with minimum
5 requirements established pursuant to chapter 74.15 RCW and RCW
6 74.13.031; and

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

9 (3) To investigate any person, including relatives by blood or
10 marriage except for parents, for character, suitability, and competence
11 in the care and treatment of children, expectant mothers, and
12 developmentally disabled persons prior to authorizing that person to
13 care for children, expectant mothers, and developmentally disabled
14 persons. However, if a child is placed with a relative under RCW
15 13.34.060 or 13.34.130, and if such relative appears otherwise suitable
16 and competent to provide care and treatment the criminal history
17 background check required by this section need not be completed before
18 placement, but shall be completed (~~((as soon as possible after~~
19 ~~placement))~~ within twenty-four hours of placement or within twenty-four
20 hours following the weekend or holiday during which the placement
21 occurred. This subsection shall not alter any statutory or
22 administrative requirements for completing background checks with
23 federal agencies;

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

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

33 (6) To prescribe the procedures and the form and contents of
34 reports necessary for the administration of chapter 74.15 RCW and RCW
35 74.13.031 and to require regular reports from each licensee;

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

1 (8) To review requirements adopted hereunder at least every two
2 years and to adopt appropriate changes after consultation with the
3 child care coordinating committee and other affected groups for child
4 day-care requirements and with the children's services advisory
5 committee for requirements for other agencies; and

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

9 **Sec. 2.** RCW 13.34.130 and 1995 c 313 s 2, 1995 c 311 s 19, and
10 1995 c 53 s 1 are each reenacted and amended to read as follows:

11 If, after a fact-finding hearing pursuant to RCW 13.34.110, it has
12 been proven by a preponderance of the evidence that the child is
13 dependent within the meaning of RCW 13.34.030; after consideration of
14 the predisposition report prepared pursuant to RCW 13.34.110 and after
15 a disposition hearing has been held pursuant to RCW 13.34.110, the
16 court shall enter an order of disposition pursuant to this section.

17 (1) The court shall order one of the following dispositions of the
18 case:

19 (a) Order a disposition other than removal of the child from his or
20 her home, which shall provide a program designed to alleviate the
21 immediate danger to the child, to mitigate or cure any damage the child
22 has already suffered, and to aid the parents so that the child will not
23 be endangered in the future. In selecting a program, the court should
24 choose those services that least interfere with family autonomy,
25 provided that the services are adequate to protect the child.

26 (b) Order that the child be removed from his or her home and
27 ordered into the custody, control, and care of a relative or the
28 department of social and health services or a licensed child placing
29 agency for placement in a foster family home or group care facility
30 licensed pursuant to chapter 74.15 RCW or in a home not required to be
31 licensed pursuant to chapter 74.15 RCW. Unless there is reasonable
32 cause to believe that the safety or welfare of the child would be
33 jeopardized or that efforts to reunite the parent and child will be
34 hindered, such child shall be placed with a person who is related to
35 the child as defined in RCW 74.15.020(4)(a) and with whom the child has
36 a relationship and is comfortable, and who is willing and available to
37 care for the child. Placement of the child with a relative under this
38 subsection shall be given preference by the court. An order for out-

1 of-home placement may be made only if the court finds that reasonable
2 efforts have been made to prevent or eliminate the need for removal of
3 the child from the child's home and to make it possible for the child
4 to return home, specifying the services that have been provided to the
5 child and the child's parent, guardian, or legal custodian, and that
6 preventive services have been offered or provided and have failed to
7 prevent the need for out-of-home placement, unless the health, safety,
8 and welfare of the child cannot be protected adequately in the home,
9 and that:

10 (i) There is no parent or guardian available to care for such
11 child;

12 (ii) The parent, guardian, or legal custodian is not willing to
13 take custody of the child;

14 (iii) A manifest danger exists that the child will suffer serious
15 abuse or neglect if the child is not removed from the home and an order
16 under RCW 26.44.063 would not protect the child from danger; or

17 (iv) The extent of the child's disability is such that the parent,
18 guardian, or legal custodian is unable to provide the necessary care
19 for the child and the parent, guardian, or legal custodian has
20 determined that the child would benefit from placement outside of the
21 home.

22 (2) If the court has ordered a child removed from his or her home
23 pursuant to subsection (1)(b) of this section, the court may order that
24 a petition seeking termination of the parent and child relationship be
25 filed if the court finds it is recommended by the supervising agency,
26 that it is in the best interests of the child and that it is not
27 reasonable to provide further services to reunify the family because
28 the existence of aggravated circumstances make it unlikely that
29 services will effectuate the return of the child to the child's parents
30 in the near future. In determining whether aggravated circumstances
31 exist, the court shall consider one or more of the following:

32 (a) Conviction of the parent of rape of the child in the first,
33 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and
34 9A.44.079;

35 (b) Conviction of the parent of criminal mistreatment of the child
36 in the first or second degree as defined in RCW 9A.42.020 and
37 9A.42.030;

38 (c) Conviction of the parent of one of the following assault
39 crimes, when the child is the victim: Assault in the first or second

1 degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child
2 in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;

3 (d) Conviction of the parent of murder, manslaughter, or homicide
4 by abuse of the child's other parent, sibling, or another child;

5 (e) A finding by a court that a parent is a sexually violent
6 predator as defined in RCW 71.09.020;

7 (f) Failure of the parent to complete available treatment ordered
8 under this chapter or the equivalent laws of another state, where such
9 failure has resulted in a prior termination of parental rights to
10 another child and the parent has failed to effect significant change in
11 the interim.

12 (3) Whenever a child is ordered removed from the child's home, the
13 agency charged with his or her care shall provide the court with:

14 (a) A permanency plan of care that shall identify one of the
15 following outcomes as a primary goal and may identify additional
16 outcomes as alternative goals: Return of the child to the home of the
17 child's parent, guardian, or legal custodian; adoption; guardianship;
18 or long-term relative or foster care, until the child is age eighteen,
19 with a written agreement between the parties and the care provider; and
20 independent living, if appropriate and if the child is age sixteen or
21 older. Whenever a permanency plan identifies independent living as a
22 goal, the plan shall also specifically identify the services that will
23 be provided to assist the child to make a successful transition from
24 foster care to independent living. Before the court approves
25 independent living as a permanency plan of care, the court shall make
26 a finding that the provision of services to assist the child in making
27 a transition from foster care to independent living will allow the
28 child to manage his or her financial affairs and to manage his or her
29 personal, social, educational, and nonfinancial affairs. The
30 department shall not discharge a child to an independent living
31 situation before the child is eighteen years of age unless the child
32 becomes emancipated pursuant to chapter 13.64 RCW.

33 (b) Unless the court has ordered, pursuant to subsection (2) of
34 this section, that a termination petition be filed, a specific plan as
35 to where the child will be placed, what steps will be taken to return
36 the child home, and what actions the agency will take to maintain
37 parent-child ties. All aspects of the plan shall include the goal of
38 achieving permanence for the child.

1 (i) The agency plan shall specify what services the parents will be
2 offered in order to enable them to resume custody, what requirements
3 the parents must meet in order to resume custody, and a time limit for
4 each service plan and parental requirement.

5 (ii) The agency shall be required to encourage the maximum parent-
6 child contact possible, including regular visitation and participation
7 by the parents in the care of the child while the child is in
8 placement. Visitation may be limited or denied only if the court
9 determines that such limitation or denial is necessary to protect the
10 child's health, safety, or welfare.

11 (iii) A child shall be placed as close to the child's home as
12 possible, preferably in the child's own neighborhood, unless the court
13 finds that placement at a greater distance is necessary to promote the
14 child's or parents' well-being.

15 (iv) The agency charged with supervising a child in placement shall
16 provide all reasonable services that are available within the agency,
17 or within the community, or those services which the department of
18 social and health services has existing contracts to purchase. It
19 shall report to the court if it is unable to provide such services.

20 (c) If the court has ordered, pursuant to subsection (2) of this
21 section, that a termination petition be filed, a specific plan as to
22 where the child will be placed, what steps will be taken to achieve
23 permanency for the child, services to be offered or provided to the
24 child, and, if visitation would be in the best interests of the child,
25 a recommendation to the court regarding visitation between parent and
26 child pending a fact-finding hearing on the termination petition. The
27 agency shall not be required to develop a plan of services for the
28 parents or provide services to the parents.

29 (4) If there is insufficient information at the time of the
30 disposition hearing upon which to base a determination regarding the
31 suitability of a proposed placement with a relative, the child shall
32 remain in foster care and the court shall direct the supervising agency
33 to conduct necessary background investigations as provided in chapter
34 74.15 RCW and report the results of such investigation to the court
35 within thirty days. However, if such relative appears otherwise
36 suitable and competent to provide care and treatment, the criminal
37 history background check need not be completed before placement, but
38 ~~((as soon as possible after placement))~~ shall be completed within
39 twenty-four hours of placement or within twenty-four hours following

1 the weekend or holiday during which the placement occurred. This
2 subsection shall not alter any statutory or administrative requirements
3 for completing background checks with federal agencies. Any placements
4 with relatives, pursuant to this section, shall be contingent upon
5 cooperation by the relative with the agency case plan and compliance
6 with court orders related to the care and supervision of the child
7 including, but not limited to, court orders regarding parent-child
8 contacts and any other conditions imposed by the court. Noncompliance
9 with the case plan or court order shall be grounds for removal of the
10 child from the relative's home, subject to review by the court.

11 (5) Except for children whose cases are reviewed by a citizen
12 review board under chapter 13.70 RCW, the status of all children found
13 to be dependent shall be reviewed by the court at least every six
14 months from the beginning date of the placement episode or the date
15 dependency is established, whichever is first, at a hearing in which it
16 shall be determined whether court supervision should continue. The
17 review shall include findings regarding the agency and parental
18 completion of disposition plan requirements, and if necessary, revised
19 permanency time limits.

20 (a) A child shall not be returned home at the review hearing unless
21 the court finds that a reason for removal as set forth in this section
22 no longer exists. The parents, guardian, or legal custodian shall
23 report to the court the efforts they have made to correct the
24 conditions which led to removal. If a child is returned, casework
25 supervision shall continue for a period of six months, at which time
26 there shall be a hearing on the need for continued intervention.

27 (b) If the child is not returned home, the court shall establish in
28 writing:

29 (i) Whether reasonable services have been provided to or offered to
30 the parties to facilitate reunion, specifying the services provided or
31 offered;

32 (ii) Whether the child has been placed in the least-restrictive
33 setting appropriate to the child's needs, including whether
34 consideration and preference has been given to placement with the
35 child's relatives;

36 (iii) Whether there is a continuing need for placement and whether
37 the placement is appropriate;

38 (iv) Whether there has been compliance with the case plan by the
39 child, the child's parents, and the agency supervising the placement;

1 (v) Whether progress has been made toward correcting the problems
2 that necessitated the child's placement in out-of-home care;

3 (vi) Whether the parents have visited the child and any reasons why
4 visitation has not occurred or has been infrequent;

5 (vii) Whether additional services are needed to facilitate the
6 return of the child to the child's parents; if so, the court shall
7 order that reasonable services be offered specifying such services; and

8 (viii) The projected date by which the child will be returned home
9 or other permanent plan of care will be implemented.

10 (c) The court at the review hearing may order that a petition
11 seeking termination of the parent and child relationship be filed.

12 **Sec. 3.** RCW 13.32A.060 and 1995 c 312 s 7 are each amended to read
13 as follows:

14 (1) An officer taking a child into custody under RCW 13.32A.050(1)
15 (a) or (b) shall inform the child of the reason for such custody and
16 shall either:

17 (a) Transport the child to his or her home or to a parent at his or
18 her place of employment, if no parent is at home. The officer
19 releasing a child into the custody of the parent shall inform the
20 parent of the reason for the taking of the child into custody and shall
21 inform the child and the parent of the nature and location of
22 appropriate services available in their community. The parent may
23 direct the officer to take the child to the home of an adult extended
24 family member, responsible adult, or a licensed youth shelter. Prior
25 to placing the child with an adult extended family member or a
26 responsible adult, the officer shall conduct a criminal background
27 check of the adult, including but not limited to a search of the adult
28 and the adult's spouse's name in a local criminal data base, the
29 Washington state crime information center computer data base, and the
30 Washington state identification section computer data base. If the
31 officer has reasonable cause to believe that the safety or welfare of
32 the child would be jeopardized by placing the child with the adult, the
33 officer shall take the child to a designated crisis residential center
34 facility consistent with (b) of this subsection. The officer releasing
35 a child into the custody of an adult extended family member,
36 responsible adult, or a licensed youth shelter shall inform the child
37 and the person receiving the child of the nature and location of
38 appropriate services available in the community; or

1 (b) After attempting to notify the parent, take the child to a
2 designated crisis residential center's secure facility or a center's
3 semi-secure facility if a secure facility is full, not available, or
4 not located within a reasonable distance:

5 (i) If the child expresses fear or distress at the prospect of
6 being returned to his or her home which leads the officer to believe
7 there is a possibility that the child is experiencing some type of
8 child abuse or neglect, as defined in RCW 26.44.020; or

9 (ii) If it is not practical to transport the child to his or her
10 home or place of the parent's employment; or

11 (iii) If there is no parent available to accept custody of the
12 child.

13 (2) An officer taking a child into custody under RCW 13.32A.050(1)
14 (c) or (d) shall inform the child of the reason for custody. An
15 officer taking a child into custody under RCW 13.32A.050(1)(c) shall
16 take the child to a designated crisis residential center's secure
17 facility or, if not available or located within a reasonable distance,
18 to a semi-secure facility within a crisis residential center, licensed
19 by the department and established pursuant to chapter 74.13 RCW. An
20 officer taking a child into custody under RCW 13.32A.050(1)(d) may
21 place the child in a juvenile detention facility as provided in RCW
22 13.32A.065 or a secure facility. The department shall ensure that all
23 law enforcement authorities are informed on a regular basis as to the
24 location of all designated secure and semi-secure facilities within
25 crisis residential center or centers in their jurisdiction, where
26 children taken into custody under RCW 13.32A.050 may be taken.

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