
HOUSE BILL 2239

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By Representatives Sterk, L. Thomas, Koster, Honeyford, McMahan, Schoesler, Radcliff, Carlson, Thompson, Boldt and Goldsmith

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1 AN ACT Relating to background checks; amending RCW 74.15.030; and
2 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))~~);

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

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

29 (6) To prescribe the procedures and the form and contents of
30 reports necessary for the administration of chapter 74.15 RCW and RCW
31 74.13.031 and to require regular reports from each licensee;

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

35 (8) To review requirements adopted hereunder at least every two
36 years and to adopt appropriate changes after consultation with the
37 child care coordinating committee and other affected groups for child
38 day-care requirements and with the children's services advisory
39 committee for requirements for other agencies; and

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

4 **Sec. 2.** RCW 13.34.130 and 1995 c 313 s 2, 1995 c 311 s 19, and
5 1995 c 53 s 1 are each reenacted and amended to read as follows:

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

12 (1) The court shall order one of the following dispositions of the
13 case:

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

21 (b) Order that the child be removed from his or her home and
22 ordered into the custody, control, and care of a relative or the
23 department of social and health services or a licensed child placing
24 agency for placement in a foster family home or group care facility
25 licensed pursuant to chapter 74.15 RCW or in a home not required to be
26 licensed pursuant to chapter 74.15 RCW. Unless there is reasonable
27 cause to believe that the safety or welfare of the child would be
28 jeopardized or that efforts to reunite the parent and child will be
29 hindered, such child shall be placed with a person who is related to
30 the child as defined in RCW 74.15.020(4)(a) and with whom the child has
31 a relationship and is comfortable, and who is willing and available to
32 care for the child. Placement of the child with a relative under this
33 subsection shall be given preference by the court. An order for out-
34 of-home placement may be made only if the court finds that reasonable
35 efforts have been made to prevent or eliminate the need for removal of
36 the child from the child's home and to make it possible for the child
37 to return home, specifying the services that have been provided to the
38 child and the child's parent, guardian, or legal custodian, and that

1 preventive services have been offered or provided and have failed to
2 prevent the need for out-of-home placement, unless the health, safety,
3 and welfare of the child cannot be protected adequately in the home,
4 and that:

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

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

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

12 (iv) The extent of the child's disability is such that the parent,
13 guardian, or legal custodian is unable to provide the necessary care
14 for the child and the parent, guardian, or legal custodian has
15 determined that the child would benefit from placement outside of the
16 home.

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

27 (a) Conviction of the parent of rape of the child in the first,
28 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and
29 9A.44.079;

30 (b) Conviction of the parent of criminal mistreatment of the child
31 in the first or second degree as defined in RCW 9A.42.020 and
32 9A.42.030;

33 (c) Conviction of the parent of one of the following assault
34 crimes, when the child is the victim: Assault in the first or second
35 degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child
36 in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;

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

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

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

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

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

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

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

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

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

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

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

25 (4) If there is insufficient information at the time of the
26 disposition hearing upon which to base a determination regarding the
27 suitability of a proposed placement with a relative, the child shall
28 remain in foster care and the court shall direct the supervising agency
29 to conduct necessary background investigations as provided in chapter
30 74.15 RCW and report the results of such investigation to the court
31 within thirty days. ~~((However, if such relative appears otherwise
32 suitable and competent to provide care and treatment, the criminal
33 history background check need not be completed before placement, but as
34 soon as possible after placement.))~~ Any placements with relatives,
35 pursuant to this section, shall be contingent upon cooperation by the
36 relative with the agency case plan and compliance with court orders
37 related to the care and supervision of the child including, but not
38 limited to, court orders regarding parent-child contacts and any other
39 conditions imposed by the court. Noncompliance with the case plan or

1 court order shall be grounds for removal of the child from the
2 relative's home, subject to review by the court.

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

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

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

21 (i) Whether reasonable services have been provided to or offered to
22 the parties to facilitate reunion, specifying the services provided or
23 offered;

24 (ii) Whether the child has been placed in the least-restrictive
25 setting appropriate to the child's needs, including whether
26 consideration and preference has been given to placement with the
27 child's relatives;

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

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

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

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

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

1 (viii) The projected date by which the child will be returned home
2 or other permanent plan of care will be implemented.
3 (c) The court at the review hearing may order that a petition
4 seeking termination of the parent and child relationship be filed.

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