

HOUSE BILL REPORT

HB 1645

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

Title: An act relating to certificates of parental improvement.

Brief Description: Concerning certificates of parental improvement.

Sponsors: Representatives Ortiz-Self, Frame, Gregerson, Valdez, Jinkins, Davis, Santos and Morgan.

Brief History:

Committee Activity:

Human Services & Early Learning: 2/12/19, 2/15/19 [DPS].

Brief Summary of Substitute Bill

- Requires the Department of Children, Youth, and Families (DCYF) to implement a process where an individual who received a founded finding of abuse or neglect, 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 (certificate).
- Creates a process for a person who is denied a certificate to seek review of the Secretary of the DCYF's (Secretary) denial of this certificate.
- Prohibits the DCYF from denying or delaying a foster care license or a license to provide child care and early learning services 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 certificate.
- Prohibits school districts, educational service districts, and other school entities from 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 certificate.
- Prohibits assisted living facility and nursing home providers from automatically denying a request from a prospective volunteer for unsupervised access to vulnerable adults from an individual solely because of a founded finding of child abuse or solely because the individual's child was

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found by a court to be dependent when that finding is accompanied by a certificate related to the same incident.

HOUSE COMMITTEE ON HUMAN SERVICES & EARLY LEARNING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Senn, Chair; Callan, Vice Chair; Frame, Vice Chair; Dent, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Corry, Goodman, Griffey, Kilduff, Klippert, Lovick and Ortiz-Self.

Staff: Jenny Aronson (786-7290) and Luke Wickham (786-7146).

Background:

Child Welfare.

If an individual suspects that a child has been abused or neglected, that abuse or neglect can be reported to the Department of Children, Youth, and Families (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.

Child Protective Services 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, 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.

Following an investigation into a child abuse or neglect allegation, the DCYF will make a determination that the allegation was "founded" or "unfounded." The allegation is "founded" if, based on available information, it is more likely than not that child abuse or neglect did occur. The allegation will be "unfounded" if, more likely than not, child abuse or neglect did not occur, or that there is insufficient evidence for the DCYF to determine whether the alleged child abuse did or did not occur.

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.

Foster Parent Licensure.

When children are removed from the home of a parent or guardian due to allegations of abuse or neglect, those children may be placed with relatives or in foster care. Relatives care for almost half the children placed in out-of-home care and are required to meet certain safety requirements but are not required to be licensed. Foster parents may pursue licensure

by either the DCYF or private child-placing agencies and provide temporary care to children with the goal of reunifying the child with his or her parent or guardian.

Summary of Substitute Bill:

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

The Secretary of the DCYF (Secretary) must respond to a request for a certificate within 60 days.

The Secretary may not issue a certificate if:

- fewer than five years have passed since the applicant's last founded finding of child abuse or neglect; or
- the applicant has any conviction or pending criminal action for:
 - certain felony offenses 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 as defined in chapter;
 - a felony offense against a child; or
 - any felony offenses to include:
 - a 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.

When determining whether to issue a certificate, the Secretary shall consider:

- documentation of any founded finding of child abuse or neglect and the underlying documentation that 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 certificate has the right to seek review of the Secretary's denial of this certificate by first asking the Secretary to review the decision, and if the Secretary does not change the decision, the person may request an administrative hearing to review the decision. The Secretary may designate appropriate staff to conduct the review of decisions to deny an individual's request for a certificate.

Governmental entities, and their officers, agents, employees, and volunteers are not liable in tort for any of their acts or omissions in issuing certificates including any determination to issue the certificate or any later act of an individual who received a certificate.

The DCYF cannot deny or delay a foster care license, not approve unsupervised access to children, or deny or delay a license to provide child care and early learning services 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 certificate.

School districts, educational service districts, and other school entities 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 certificate.

Providers cannot automatically denying a request from a prospective volunteer for unsupervised access to vulnerable adults from an individual solely because of a founded finding of child abuse or neglect involving the individual revealed in the background check process or solely because the individual's child was found by a court to be dependent when that founded finding or court finding is accompanied by a certificate related to the same incident without conducting review to determine the individual's character, suitability, and competency to volunteer with vulnerable adults.

Substitute Bill Compared to Original Bill:

The substitute bill:

- changes the terminology for those seeking a certificate to "requestor;"
- creates a standard by which certificates must be granted (if, on a more probable than not basis, the requestor has the character, suitability, and competence to care for children);
- prohibits requests for a certificate if not more than two years have passed since the DCYF's denial of a request;
- limits liability for acts or omissions in issuing certificates;

- expands criminal background check authority for the DCYF to include responding to certificate requests;
 - prohibits the Department of Social and Health Services from denying a request for unsupervised access to adults solely based on a founded finding of child abuse or neglect involving the individual revealed in the background check process or solely because the individual's child was found by a court to be dependent when that founded finding or court finding is accompanied by a certificate;
 - prohibits the DCYF from denying or delaying a license to provide child care and early learning services to an individual solely because of a founded finding of abuse or neglect involving the individual revealed in the background check process or solely because the individual's child was found by a court to be dependent when that founded finding or court finding is accompanied by a certificate;
 - prohibits providers from automatically denying a request from a prospective volunteer for unsupervised access to vulnerable adults from an individual solely because of a founded finding of child abuse or neglect involving the individual revealed in the background check process or solely because the individual's child was found by a court to be dependent when that founded finding or court finding is accompanied by a certificate related to the same incident without conducting review to determine the individual's character, suitability, and competency to volunteer with vulnerable adults; and
 - requires the Secretary to make determinations in response to requests for certificates and requests to review this determination.
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Appropriation: None.

Fiscal Note: Requested on February 8, 2019.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is about second chances. There are many parents who have made mistakes and lost their children. Some of these parents have turned their lives around and would like to volunteer in schools with their children. The bill does not make anything mandatory; it requires the DCYF to review someone's background to determine whether he or she has improved. Parents do not always know the right answers and make mistakes. Some individuals are unaware of the impact that an administrative finding of abuse or neglect may have on someone's life or livelihood. This bill will remove barriers to relative placement. Relative placement is considered during an initial shelter care hearing. There are times that a proposed relative placement option may have a founded finding of abuse or neglect in the distant past and cannot provide placement because of that finding. Children often achieve better outcomes when placed with relatives. This bill will remove barriers to allow more placement with relatives. This bill recognizes that a previous finding of child maltreatment or involvement in a dependency case should not be a lifetime bar in participating in school activities and other activities. There are lifelong problems that

involvement in a dependency proceeding or a child maltreatment finding has on individuals. There are many individuals who are prevented from working in private agencies based on findings of abuse or neglect.

(Opposed) None.

Persons Testifying: Representative Ortiz-Self, prime sponsor; Karen Monroe; Chris Desmond, Desmond Law Group; Patrick Dowd, Office of the Family and Children's Ombuds; Mary Fisher, Institute for Family Development; and Laurie Lippold, Partners for Our Children.

Persons Signed In To Testify But Not Testifying: None.