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**ESSB 6479** - H COMM AMD

By Committee on Early Learning & Human Services

**ADOPTED 03/05/2014**

 Strike everything after the enacting clause and insert the following:

 "NEW SECTION. **Sec.** A new section is added to chapter 74.13 RCW to read as follows:

 (1) For the purposes of this section, "caregiver" means a person with whom a child is placed in out-of-home care, or a designated official for a group care facility licensed by the department.

 (2) This section applies to all caregivers providing for children in out-of-home care.

 (3) Caregivers have the authority to provide or withhold permission without prior approval of the caseworker, department, or court to allow a child in their care to participate in normal childhood activities based on a reasonable and prudent parent standard.

 (a) Normal childhood activities include, but are not limited to, extracurricular, enrichment, and social activities, and may include overnight activities outside the direct supervision of the caregiver for periods of over twenty-four hours and up to seventy-two hours.

 (b) The reasonable and prudent parent standard means the standard of care used by a caregiver in determining whether to allow a child in his or her care to participate in extracurricular, enrichment, and social activities. This standard is characterized by careful and thoughtful parental decision-making that is intended to maintain a child's health, safety, and best interest while encouraging the child's emotional and developmental growth.

 (4) Any authorization provided under this section must comply with provisions included in an existing safety plan established by the department or court order.

 (5) (a) Caseworkers shall discuss the child's interest in and pursuit of normal childhood activities in their monthly health and safety visits and describe the child's participation in normal childhood activities in the individual service and safety plan.

 (b) Caseworkers shall also review a child's interest in and pursuit of normal childhood activities during monthly meetings with parents. Caseworkers shall communicate the opinions of parents regarding their child's participation in normal childhood activities so that the parents' wishes may be appropriately considered.

 (6) Neither the caregiver nor the department may be held liable for injuries to the child that occur as a result of authority granted in this section unless the action or inaction of the caregiver or the department resulting in injury constitutes willful or wanton misconduct.

 (7) This section does not remove or limit any existing liability protection afforded by law.

**Sec.** RCW 74.15.030 and 2007 c 387 s 5 and 2007 c 17 s 14 are each reenacted and amended to read as follows:

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

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

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

 The minimum requirements shall be limited to:

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

 (b) Obtaining background information and any out-of-state equivalent, to determine whether the applicant or service provider is disqualified and to determine the character, competence, and suitability of an agency, the agency's employees, volunteers, and other persons associated with an agency;

 (c) Conducting background checks for those who will or may have unsupervised access to children, expectant mothers, or individuals with a developmental disability; however, a background check is not required if a caregiver approves an activity pursuant to the prudent parent standard contained in section 1 of this act;

 (d) Obtaining child protective services information or records maintained in the department case management information system. No unfounded allegation of child abuse or neglect as defined in RCW 26.44.020 may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under this chapter;

 (e) Submitting a fingerprint-based background check through the Washington state patrol under chapter 10.97 RCW and through the federal bureau of investigation for:

 (i) Agencies and their staff, volunteers, students, and interns when the agency is seeking license or relicense;

 (ii) Foster care and adoption placements; and

 (iii) Any adult living in a home where a child may be placed;

 (f) If any adult living in the home has not resided in the state of Washington for the preceding five years, the department shall review any child abuse and neglect registries maintained by any state where the adult has resided over the preceding five years;

 (g) The cost of fingerprint background check fees will be paid as required in RCW 43.43.837;

 (h) National and state background information must be used solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children or expectant mothers;

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

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

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

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

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

 (3) To investigate any person, including relatives by blood or marriage except for parents, for character, suitability, and competence in the care and treatment of children, expectant mothers, and developmentally disabled persons prior to authorizing that person to care for children, expectant mothers, and developmentally disabled persons. However, if a child is placed with a relative under RCW 13.34.065 or 13.34.130, and if such relative appears otherwise suitable and competent to provide care and treatment the criminal history background check required by this section need not be completed before placement, but shall be completed as soon as possible after placement;

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

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

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

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

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

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

Correct the title.

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|  |  EFFECT:   The striking amendment does the following:* Expands the authority for caregivers to allow children in their care to participate in normal childhood activities to apply to all children, not just those twelve years or older.
* Removes the requirement that caregiver authority to provide permission for normal childhood activities comply with specific direction provided by DSHS.
* Removes the requirement that caseworkers discuss normal childhood activities with parents during family team decision meetings.
* Specifies that after communicating a parent's opinions to a foster parent regarding a child's participation in normal childhood activities, those wishes must be appropriately considered.
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