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**ENGROSSED SUBSTITUTE SENATE BILL 5515**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senate Human Services (originally sponsored by Senators Dhingra, Conway, Hunt, Kauffman, Kuderer, Lovelett, Nguyen, Nobles, Saldaña, Stanford, Valdez, Wellman, and C. Wilson)

AN ACT Relating to protecting children from child abuse and neglect at residential facilities and residential private schools; amending RCW 26.44.210 and 74.15.020; adding a new section to chapter 74.15 RCW; adding a new section to chapter 71.24 RCW; creating new sections; and providing effective dates.

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

NEW SECTION. **Sec.**  The legislature finds that there is a lack of oversight of certain residential facilities and residential private schools charged with the care of children. It is the intent of the legislature to ensure that the health, safety, and well-being of children who are served in residential facilities and residential private schools are protected against child abuse and neglect and have their basic health and safety needs met. The legislature intends for greater state oversight of such facilities that otherwise lack nationally recognized accreditation and intends for the department of children, youth, and families and the department of health to work collaboratively to coordinate oversight and monitoring processes to ensure state resources are used efficiently and effectively. Therefore, the legislature resolves to conduct investigations of certain residential facilities and residential private schools when allegations of child abuse or neglect are made at those facilities.

NEW SECTION. **Sec.**  A new section is added to chapter 74.15 RCW to read as follows:

(1)(a) The department shall license the living accommodations provided by residential private schools as defined in RCW 74.15.020. Accommodations include all areas and school operations that are intended to allow enrolled students to eat, sleep, bathe, recreate, or otherwise reside.

(b) A residential private school is exempt from the licensing requirements of (a) of this subsection if:

(i) The residential private school is accredited by an accrediting body approved by the state board of education in accordance with accreditation standards and procedures established by the state board of education under RCW 28A.305.130; and

(ii) The accreditation covers the student living accommodations including examination of comparable criteria as listed in subsection (2) of this section as determined by the state board of education in consultation with the department.

(2) The department shall engage in negotiated rule making pursuant to RCW 34.05.310(2)(a) with the state board of education and other affected interests to adopt minimum health and safety rules to implement this section. Rules must address the needs of children and youth during noninstructional hours, including but not limited to space allotted to each child or youth for sleeping, developmentally appropriate privacy requirements, personal storage, nutritional needs, cleanliness and hygiene of living quarters, social-emotional well-being during noninstructional hours, health and wellness accommodations, compliance with the Americans with disabilities act, and physical safety.

**Sec.**  RCW 26.44.210 and 2019 c 266 s 13 are each amended to read as follows:

(1)(a) The department ((~~must~~)) shall investigate all referrals of alleged child abuse or neglect occurring at the ((~~state school for the deaf, including alleged incidents involving students abusing other students;~~)) Washington center for deaf and hard of hearing youth, substance use disorder treatment facilities licensed under chapter 71.24 RCW, entities that provide behavioral health services as defined in RCW 71.24.025, and residential private schools as defined in RCW 74.15.020.

(b) After investigating an allegation of child abuse or neglect under this section, the department shall determine whether there is a finding of abuse or neglect((~~;~~)), and determine whether a referral to law enforcement is appropriate under this chapter.

(c) The department must adopt rules to implement this section.

(d) Any facilities referenced under (a) of this subsection where the department is investigating child abuse or neglect shall share records and any other information that is relevant to the department's investigation. Any records or information shared with the department retains any otherwise existing confidentiality protections under state or federal law.

(2) The department must send a copy of the investigation report, including the finding, regarding any incidents of alleged child abuse or neglect ((~~at the state school for the deaf~~)) to the ((~~director of the Washington center for deaf and hard of hearing youth, or the director's designee. The department may include recommendations to the director and the board of trustees or its successor board for increasing the safety of the school's students.~~)) administration of the facility in which the incident occurred and to the state agency which provides licensure, oversight, or accreditation to the program at the facility in which the incident occurred.

**Sec.**  RCW 74.15.020 and 2021 c 176 s 5239 are each amended to read as follows:

The definitions in this section apply throughout this chapter and RCW 74.13.031 unless the context clearly requires otherwise.

(1) "Agency" means any person, firm, partnership, association, corporation, ((~~or~~)) facility, or residential private school which receives children, expectant mothers, or persons with developmental disabilities for control, care, or maintenance outside their own homes, or which places, arranges the placement of, or assists in the placement of children, expectant mothers, or persons with developmental disabilities for foster care or placement of children for adoption, and shall include the following irrespective of whether there is compensation to the agency or to the children, expectant mothers, or persons with developmental disabilities for services rendered:

(a) "Child-placing agency" means an agency which places a child or children for temporary care, continued care, or for adoption;

(b) "Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185. A county detention facility that houses juveniles committed to the department under RCW 13.40.185 pursuant to a contract with the department is not a community facility;

(c) "Crisis residential center" means an agency which is a temporary protective residential facility operated to perform the duties specified in chapter 13.32A RCW, in the manner provided in RCW 43.185C.295 through 43.185C.310;

(d) "Emergency respite center" is an agency that may be commonly known as a crisis nursery, that provides emergency and crisis care for up to seventy-two hours to children who have been admitted by their parents or guardians to prevent abuse or neglect. Emergency respite centers may operate for up to twenty-four hours a day, and for up to seven days a week. Emergency respite centers may provide care for children ages birth through seventeen, and for persons eighteen through twenty with developmental disabilities who are admitted with a sibling or siblings through age seventeen. Emergency respite centers may not substitute for crisis residential centers or HOPE centers, or any other services defined under this section, and may not substitute for services which are required under chapter 13.32A or 13.34 RCW;

(e) "Foster family home" means an agency which regularly provides care on a twenty-four hour basis to one or more children, expectant mothers, or persons with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or person with a developmental disability is placed;

(f) "Group-care facility" means an agency, other than a foster family home, which is maintained and operated for the care of a group of children on a twenty-four hour basis. "Group care facility" includes but is not limited to:

(i) Qualified residential treatment programs as defined in RCW 13.34.030;

(ii) Facilities specializing in providing prenatal, postpartum, or parenting supports for youth; and

(iii) Facilities providing high quality residential care and supportive services to children who are, or who are at risk of becoming, victims of sex trafficking;

(g) "HOPE center" means an agency licensed by the secretary to provide temporary residential placement and other services to street youth. A street youth may remain in a HOPE center for thirty days while services are arranged and permanent placement is coordinated. No street youth may stay longer than thirty days unless approved by the department and any additional days approved by the department must be based on the unavailability of a long-term placement option. A street youth whose parent wants him or her returned to home may remain in a HOPE center until his or her parent arranges return of the youth, not longer. All other street youth must have court approval under chapter 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

(h) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers, before or during confinement, or which provides care as needed to mothers and their infants after confinement;

(i) "Residential private school" means a nonpublic school or nonpublic school district subject to approval by the state board of education pursuant to RCW 28A.305.130 and chapter 28A.195 RCW that provides sleeping and living facilities or residential accommodations for enrolled students;

(j) "Resource and assessment center" means an agency that provides short-term emergency and crisis care for a period up to seventy-two hours, excluding Saturdays, Sundays, and holidays to children who have been removed from their parent's or guardian's care by child protective services or law enforcement;

((~~(j)~~)) (k) "Responsible living skills program" means an agency licensed by the secretary that provides residential and transitional living services to persons ages sixteen to eighteen who are dependent under chapter 13.34 RCW and who have been unable to live in his or her legally authorized residence and, as a result, the minor lived outdoors or in another unsafe location not intended for occupancy by the minor. Dependent minors ages fourteen and fifteen may be eligible if no other placement alternative is available and the department approves the placement;

((~~(k)~~)) (l) "Service provider" means the entity that operates a community facility.

(2) "Agency" shall not include the following:

(a) Persons related to the child, expectant mother, or person with developmental disability in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;

(iv) Spouses of any persons named in (a)(i), (ii), or (iii) of this subsection (2), even after the marriage is terminated;

(v) Relatives, as named in (a)(i), (ii), (iii), or (iv) of this subsection (2), of any half sibling of the child; or

(vi) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four-hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

(b) Persons who are legal guardians of the child, expectant mother, or persons with developmental disabilities;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the parent and person providing care on a twenty-four-hour basis have agreed to the placement in writing and the state is not providing any payment for the care;

(d) A person, partnership, corporation, or other entity that provides placement or similar services to exchange students or international student exchange visitors or persons who have the care of an exchange student in their home;

(e) A person, partnership, corporation, or other entity that provides placement or similar services to international children who have entered the country by obtaining visas that meet the criteria for medical care as established by the United States citizenship and immigration services, or persons who have the care of such an international child in their home;

(f) ((~~Schools, including boarding~~)) Nonresidential schools, which are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children and do not accept custody of children;

(g) Hospitals licensed pursuant to chapter 70.41 RCW when performing functions defined in chapter 70.41 RCW, nursing homes licensed under chapter 18.51 RCW and assisted living facilities licensed under chapter 18.20 RCW;

(h) Licensed physicians or lawyers;

(i) Facilities approved and certified under chapter 71A.22 RCW;

(j) Any agency having been in operation in this state ten years prior to June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;

(k) Persons who have a child in their home for purposes of adoption, if the child was placed in such home by a licensed child-placing agency, an authorized public or tribal agency or court or if a replacement report has been filed under chapter 26.33 RCW and the placement has been approved by the court;

(l) An agency operated by any unit of local, state, or federal government or an agency licensed by an Indian tribe pursuant to RCW 74.15.190;

(m) A maximum or medium security program for juvenile offenders operated by or under contract with the department;

(n) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter;

(o)(i) A host home program, and host home, operated by a tax exempt organization for youth not in the care of or receiving services from the department, if that program: (A) Recruits and screens potential homes in the program, including performing background checks on individuals over the age of eighteen residing in the home through the Washington state patrol or equivalent law enforcement agency and performing physical inspections of the home; (B) screens and provides case management services to youth in the program; (C) obtains a notarized permission slip or limited power of attorney from the parent or legal guardian of the youth authorizing the youth to participate in the program and the authorization is updated every six months when a youth remains in a host home longer than six months; (D) obtains insurance for the program through an insurance provider authorized under Title 48 RCW; (E) provides mandatory reporter and confidentiality training; and (F) registers with the secretary of state under RCW 74.15.315.

(ii) For purposes of this section, a "host home" is a private home that volunteers to host youth in need of temporary placement that is associated with a host home program.

(iii) For purposes of this section, a "host home program" is a program that provides support to individual host homes and meets the requirements of (o)(i) of this subsection.

(iv) Any host home program that receives local, state, or government funding shall report the following information to the office of homeless youth prevention and protection programs annually by December 1st of each year: The number of children the program served, why the child was placed with a host home, and where the child went after leaving the host home, including but not limited to returning to the parents, running away, reaching the age of majority, or becoming a dependent of the state;

(p) Receiving centers as defined in RCW 7.68.380.

(3) "Department" means the department of children, youth, and families.

(4) "Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.

(5) "Performance-based contracts" or "contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts may also include provisions that link the performance of the contractor to the level and timing of the reimbursement.

(6) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

(7) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

(8) "Secretary" means the secretary of the department.

(9) "Street youth" means a person under the age of eighteen who lives outdoors or in another unsafe location not intended for occupancy by the minor and who is not residing with his or her parent or at his or her legally authorized residence.

(10) "Transitional living services" means at a minimum, to the extent funds are available, the following:

(a) Educational services, including basic literacy and computational skills training, either in local alternative or public high schools or in a high school equivalency program that leads to obtaining a high school equivalency degree;

(b) Assistance and counseling related to obtaining vocational training or higher education, job readiness, job search assistance, and placement programs;

(c) Counseling and instruction in life skills such as money management, home management, consumer skills, parenting, health care, access to community resources, and transportation and housing options;

(d) Individual and group counseling; and

(e) Establishing networks with federal agencies and state and local organizations such as the United States department of labor, employment and training administration programs including the workforce innovation and opportunity act which administers private industry councils and the job corps; vocational rehabilitation; and volunteer programs.

NEW SECTION. **Sec.**  A new section is added to chapter 71.24 RCW to read as follows:

Any substance use disorder treatment facilities and entities that provide behavioral health services where the department of children, youth, and families is investigating child abuse or neglect, as provided for under RCW 26.44.210, shall share records and any other information that is relevant to the department of children, youth, and families' investigation. Any records or information shared with the department of children, youth, and families retains any confidentiality protections under state or federal law.

NEW SECTION. **Sec.**  The department of children, youth, and families shall submit to the appropriate committees of the legislature, in compliance with RCW 43.01.036, a preliminary progress report on licensing and oversight of residential private schools no later than July 1, 2025, and final report no later than July 1, 2026.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  Sections 2 and 4 of this act take effect July 1, 2025.

NEW SECTION. **Sec.**  Section 3 of this act takes effect January 1, 2024.

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