

HOUSE BILL REPORT

ESSB 5515

As Passed House - Amended:

April 7, 2023

Title: An act relating to protecting children from child abuse and neglect.

Brief Description: Protecting children from child abuse and neglect at residential facilities and residential private schools.

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

Brief History:

Committee Activity:

Human Services, Youth, & Early Learning: 3/15/23, 3/24/23 [DPA];
Appropriations: 4/1/23, 4/4/23 [DPA(HSEL)].

Floor Activity:

Passed House: 4/7/23, 93-4.

Brief Summary of Engrossed Substitute Bill (As Amended by House)

- Requires the Department of Children, Youth, and Families (DCYF) to license the living accommodations provided by residential private schools, with certain exceptions.
- Requires the DCYF to investigate allegations of child abuse and neglect occurring at substance use disorder treatment facilities, entities that provide behavioral health services, host homes, and residential private schools.

HOUSE COMMITTEE ON HUMAN SERVICES, YOUTH, & EARLY LEARNING

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass as amended. Signed by 10 members: Representatives Senn, Chair; Cortes, Vice Chair; Taylor, Vice Chair; Eslick, Ranking Minority Member; Couture, Assistant Ranking Minority Member; Callan, Dent, Goodman, Rule and Walsh.

Staff: Omeara Harrington (786-7136).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Human Services, Youth, & Early Learning. Signed by 31 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg, Chandler, Chopp, Connors, Couture, Davis, Dye, Fitzgibbon, Hansen, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Steele, Stonier and Tharinger.

Staff: Jackie Wheeler (786-7125).

Background:

Licensure by the Department of Children, Youth, and Families.

It is unlawful for any agency to receive children for supervision or care, or arrange for their placement in foster care or with adoptive families, unless licensed by the Department of Children, Youth, and Families (DCYF). Agencies include placing agencies, foster homes, group care facilities, resource and assessment centers, and numerous other types of entities. Certain persons and facilities are excluded from the definition of agency, including boarding schools that are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-aged children, and do not accept custody of children.

The rules for licensure of agencies must designate categories of facilities with requirements appropriate to the ages and other characteristics of persons served and services offered in those facilities, and must include requirements for suitability of facilities and operations, background checks, staffing, safety and provision of necessary care, and record keeping, among other requirements. In addition, the Department of Health (DOH) must develop minimum requirements pertaining to each category of agency that are necessary to promote the health of all residents and has the authority and duty to investigate, inspect, and when appropriate, issue certificates of compliance to agencies.

The DCYF may take enforcement action against agencies that are noncompliant with licensing requirements. Enforcement action may include denial, suspension, revocation, or modification of a license when an agency has failed or refused to comply with licensing requirement, or assessment of monetary penalties for noncompliance with requirements or for operating without a license.

Reports of Child Abuse or Neglect.

If an individual suspects that a child has been abused or neglected, that abuse or neglect may be reported to the DCYF Child Protective Services (CPS) office or to law enforcement. Many categories of individuals are required by law to report suspected abuse or neglect.

Upon receiving a report, CPS 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.

If a report of child abuse or neglect is investigated by the DCYF, the DCYF must complete the investigation within at least 90 days, unless law enforcement or the prosecuting attorney has determined that a longer investigation is necessary. At the completion of the investigation, the DCYF must make a finding that the report of child abuse or neglect is founded or unfounded. A "founded" determination means that it is more likely than not that child abuse or neglect did occur. An "unfounded" determination means that available information indicates that, more likely than not, child abuse or neglect did not occur, or that there is insufficient evidence for the DCYF to determine that it did or did not occur.

The DCYF must investigate referrals of alleged child abuse or neglect occurring at the Washington Center for Deaf and Hard of Hearing Youth, including alleged incidents of students abusing other students, to determine whether abuse or neglect is founded and whether a referral to law enforcement is appropriate. The DCYF must send a copy of the investigation report and finding to the center's director, and may recommend safety measures.

Private Schools.

A private school is a nonpublic school that conducts a program of education and related activities for any portion of kindergarten through grade 12. Private schools are approved annually by the State Board of Education (SBE). Approval indicates the school has met the minimum requirements to ensure the health and safety of students, and that the school offers a sufficient program of basic education to meet usual graduation requirements. To be approved, a private school must: (1) undergo health and safety inspections of school buildings; (2) have student instruction by certified teachers or qualified teachers who are under supervision by certified teachers; (3) meet certain educational offering and instruction time requirements; and (4) report enrollment.

Additionally, the SBE must accredit private schools that apply for accreditation pursuant to standards and procedures established by the SBE. Schools are not required to be accredited, but may voluntarily seek accreditation by demonstrating to an external accrediting organization that the school has achieved certain quality standards.

Host Homes.

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, and is not subject to licensure by the DCYF.

To qualify for exemption from licensure, the host home program must:

- recruit and screen potential homes in the program, including performing background checks on the individuals living in the home who are over age 18;
- screen and provide case management to youth in the program;
- obtain 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;
- obtain insurance;
- provide mandatory reporter and confidentiality training; and
- register as a nonprofit organization with the Office of the Secretary of State.

Substance Use Disorder Treatment Facilities and Behavioral Health Services Agencies.

Behavioral health services include mental health services and substance use disorder treatment services that, depending on the type of service, are provided by licensed or certified behavioral health agencies, behavioral health providers, or integrated into other health care providers. Residential treatment facilities, including residential substance use disorder facilities, are community-based facilities that provide 24-hour on-site care for evaluation, stabilization, and treatment of residents in a residential treatment setting. They are regulated and licensed by the DOH.

Summary of Amended Bill:

Licensing of Private Residential School Living Accommodations.

Beginning July 1, 2025, residential private schools are considered "agencies" subject to the DCYF licensure provisions, and the DCYF must license the living accommodations provided by residential private schools. Residential private schools are defined to include nonpublic schools or nonpublic school districts subject to the SBE that provide sleeping and living facilities or residential accommodations to enrolled students.

The DCYF must engage in negotiated rulemaking with the SBE and other affected interests to adopt minimum health and safety rules to implement the licensing requirement. The rules must address the needs of children and youth during noninstructional hours, including but not limited to allotted sleeping space for each child, 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.

A residential private school is exempt from the DCYF licensing requirements if accredited by an accrediting body approved by the SBE in accordance with the SBE's accreditation standards and procedures, and the accreditation covers the student living accommodations.

The DCYF must submit to the Legislature by July 1, 2025, a preliminary progress report on licensing and oversight of residential private schools. A final report is due no later than July 1, 2026.

Investigations of Child Abuse and Neglect Allegations.

Beginning January 1, 2024, the DCYF must investigate all referrals of alleged child abuse or neglect occurring at licensed substance use disorder treatment facilities and behavioral health services entities that treat patients on a residential basis, host homes, and residential private schools. Following investigation, the DCYF must determine whether the allegation is founded and whether referral to law enforcement is appropriate. An involved facility must share with the DCYF records and other information relevant to the investigation. The DCYF must send a copy of the investigation report and finding to the administration of the facility in which the incident occurred and to the state agency that provides the program's licensure, oversight, or accreditation.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains multiple effective dates. Please see the bill.

Staff Summary of Public Testimony (Human Services, Youth, & Early Learning):

(In support) This bill addresses a hole in the system of accountability in residential schools where children are living, and where currently there is no investigation or oversight authority for the DCYF to investigate child abuse or neglect. The State Board of Education currently requires minimum standards for private schools, but does not address residential programs. This bill will help with oversight and coordination. Because schools with national accreditation are excluded from the requirements in the bill, the bill is focused on schools where there is nobody watching rather than adding oversight where it already exists. Schools are experts at safety and some have been practicing school safety for over a hundred years. Though the components calling for negotiated rulemaking and exempting accredited schools are appreciated, some concerns remain as to how the details will be implemented.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) None.

(Opposed) None.

(Other) While licensing may be important to the Department of Children, Youth, and

Families (DCYF), licensing boarding schools is unnecessary, as those in Washington are safe without it. The amount of time, money, and expertise to keep children safe in schools is a lot. As those impacted by the bill, schools expect to be at the table during negotiated rulemaking and not just have the negotiations be between the State Board of Education and the DCYF.

Persons Testifying (Human Services, Youth, & Early Learning): Senator Manka Dhingra, prime sponsor; J. Lee Schultz, Washington State Board of Education; and Suzie Hanson, Washington Federation of Independent Schools.

Persons Testifying (Appropriations): Suzie Hanson, Washington Federation of Independent Schools.

Persons Signed In To Testify But Not Testifying (Human Services, Youth, & Early Learning): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.