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**SUBSTITUTE SENATE BILL 6479**

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**State of Washington**

**63rd Legislature**

**2014 Regular Session**

**By** Senate Human Services & Corrections (originally sponsored by Senators Frockt, Fain, Darneille, Kohl-Welles, Rivers, and Kline)

READ FIRST TIME 02/07/14.

1 AN ACT Relating to providing caregivers authority to allow children  
2 placed in their care to participate in normal childhood activities  
3 based on a reasonable and prudent parent standard; reenacting and  
4 amending RCW 74.15.030; and adding a new section to chapter 74.13 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 74.13 RCW  
7 to read as follows:

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

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

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

17 (a) Normal childhood activities include, but are not limited to,  
18 extracurricular, enrichment, and social activities, and may include

1 overnight activities outside the direct supervision of the caregiver  
2 for periods of over twenty-four hours, and up to seventy-two hours.

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

10 (4) Any authorization provided under this section must comply with  
11 provisions included in an existing safety plan established by the  
12 department or court order and not be in conflict with specific  
13 direction provided by the department.

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

18 (b) Parents' interest in the normal childhood activities of their  
19 children in care shall be a subject of discussion during family team  
20 decision meetings and meetings between caseworkers and parents.  
21 Caseworkers shall communicate the expressed wishes of parents  
22 respecting their children's participation in normal childhood  
23 activities that are not related to the abuse or neglect issues that  
24 caused the children to be taken into care to foster parents so that the  
25 parents' wishes may be appropriately respected.

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

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

33 **Sec. 2.** RCW 74.15.030 and 2007 c 387 s 5 and 2007 c 17 s 14 are  
34 each reenacted and amended to read as follows:

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

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

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

15 The minimum requirements shall be limited to:

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

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

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

29 (d) Obtaining child protective services information or records  
30 maintained in the department case management information system. No  
31 unfounded allegation of child abuse or neglect as defined in RCW  
32 26.44.020 may be disclosed to a child-placing agency, private adoption  
33 agency, or any other provider licensed under this chapter;

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

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

- 1 (ii) Foster care and adoption placements; and
- 2 (iii) Any adult living in a home where a child may be placed;
- 3 (f) If any adult living in the home has not resided in the state of
- 4 Washington for the preceding five years, the department shall review
- 5 any child abuse and neglect registries maintained by any state where
- 6 the adult has resided over the preceding five years;
- 7 (g) The cost of fingerprint background check fees will be paid as
- 8 required in RCW 43.43.837;
- 9 (h) National and state background information must be used solely
- 10 for the purpose of determining eligibility for a license and for
- 11 determining the character, suitability, and competence of those persons
- 12 or agencies, excluding parents, not required to be licensed who are
- 13 authorized to care for children or expectant mothers;
- 14 (i) The number of qualified persons required to render the type of
- 15 care and treatment for which an agency seeks a license;
- 16 (j) The safety, cleanliness, and general adequacy of the premises
- 17 to provide for the comfort, care and well-being of children, expectant
- 18 mothers or developmentally disabled persons;
- 19 (k) The provision of necessary care, including food, clothing,
- 20 supervision and discipline; physical, mental and social well-being; and
- 21 educational, recreational and spiritual opportunities for those served;
- 22 (l) The financial ability of an agency to comply with minimum
- 23 requirements established pursuant to chapter 74.15 RCW and RCW
- 24 74.13.031; and
- 25 (m) The maintenance of records pertaining to the admission,
- 26 progress, health and discharge of persons served;
- 27 (3) To investigate any person, including relatives by blood or
- 28 marriage except for parents, for character, suitability, and competence
- 29 in the care and treatment of children, expectant mothers, and
- 30 developmentally disabled persons prior to authorizing that person to
- 31 care for children, expectant mothers, and developmentally disabled
- 32 persons. However, if a child is placed with a relative under RCW
- 33 13.34.065 or 13.34.130, and if such relative appears otherwise suitable
- 34 and competent to provide care and treatment the criminal history
- 35 background check required by this section need not be completed before
- 36 placement, but shall be completed as soon as possible after placement;
- 37 (4) On reports of alleged child abuse and neglect, to investigate
- 38 agencies in accordance with chapter 26.44 RCW, including child day-care

1 centers and family day-care homes, to determine whether the alleged  
2 abuse or neglect has occurred, and whether child protective services or  
3 referral to a law enforcement agency is appropriate;

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

8 (6) To prescribe the procedures and the form and contents of  
9 reports necessary for the administration of chapter 74.15 RCW and RCW  
10 74.13.031 and to require regular reports from each licensee;

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

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

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

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