
OLR Bill Analysis

sHB 5332

AN ACT CONCERNING THE RECOMMENDATIONS OF THE DEPARTMENT OF CHILDREN AND FAMILIES.

SUMMARY

This bill makes several changes in laws related to the Department of Children and Families (DCF). It requires the department to:

1. take certain steps to identify and address racial and ethnic disparities within child welfare practices (§§ 1 - 3),
2. provide records without the subject's consent to the chief state's attorney's office to investigate benefits fraud (§ 4),
3. develop guidelines for the care of high-risk newborns who are born with signs indicating prenatal substance exposure or fetal alcohol syndrome (§ 5), and
4. perform child abuse and neglect registry checks on a foster care provider seeking to renew his or her license or approval and anyone age 16 or older living in the home (§ 6).

The bill also:

1. requires health care providers to notify DCF when a child is born with symptoms indicating prenatal substance exposure or fetal alcohol spectrum disorder, and include a copy of the newborn's safe care plan (§ 5);
2. eliminates a provision that permits the commissioner, when someone applies for, or seeks to renew, a license or approval to provide foster care, to run state and national criminal history record checks on anyone over age 16 who does not live in the applicant's house but who has regular unsupervised access to children in the home (§ 6);

3. establishes notice and hearing requirements that DCF may follow before imposing a fine for failure to comply with certain licensing requirements to care for, board, or place a child (§ 7); and
4. makes other minor and technical changes.

EFFECTIVE DATE: July 1, 2018, except the provision that makes changes to foster care criminal background and child abuse and neglect registry check requirements is effective upon passage.

§§ 1-3 — ADDRESSING RACIAL AND ETHNIC DISPARITIES IN CHILD WELFARE PRACTICE

The bill requires DCF to take steps to address racial and ethnic disparities within child welfare practices by adopting strategies, establishing a data reporting system, working to eliminate disparities, and annually reporting to the Children’s Committee.

Strategies to Address Disparities

Existing law requires DCF, with the assistance of the State Advisory Council on Children and Families and in consultation with certain other stakeholders, to develop and regularly update a strategic plan to meet the needs of children and families the department serves. Under the bill, the plan must include strategies DCF must use to identify racial and ethnic disparities within child welfare practices and work to eliminate those disparities. The strategies must be informed by data on referrals, abuse and neglect substantiations, removals, placements, and retention.

Commissioner Responsibilities and Reporting Requirement

The bill adds to the DCF commissioner’s existing responsibilities requirements that she:

1. establish a standardized data reporting system to support data collection regarding (a) the race and ethnicity of children and families referred to the department at key decision points, including referral, substantiation, removal, and placement and (b) retention rates of children and families by race and ethnicity;

and

2. work to eliminate disparities in referral rates, substantiations, placements, and retention among (a) racial and ethnic groups and (b) groups known to experience higher rates of adverse child welfare, health, and service outcomes because of religion, age, sex, sexual orientation, national origin, socioeconomic and immigration status, language, ancestry, intellectual or physical disability, mental health status, prior criminal convictions, homelessness, gender identity or expression, or geographic residential area.

The bill also requires the commissioner, by February 15, 2019, to begin annually reporting to the Children's Committee data illustrating DCF service use by race and ethnicity, an assessment of usage trends, and recommendations for results-based accountability measures to ensure parity in access to such services.

§ 4 — DCF RECORDS DISCLOSURES

The bill expands the existing list of circumstances under which DCF must disclose its records to the chief state's attorney's office without a subject's consent. Under the bill, the department must make such disclosures for purposes of investigating or prosecuting alleged benefits fraud, provided no information identifying the subject of the record is disclosed unless the information is essential to the investigation or prosecution. The law additionally requires DCF to make such disclosures to the chief state's attorney's office in order to investigate or prosecute allegations (1) related to child abuse or neglect, (2) that an individual falsely reported suspected child abuse or neglect, or (3) that a mandated reporter failed to report child abuse or neglect.

Generally, DCF records are confidential but can be disclosed (1) with the consent of the subject or (2) without such consent and for certain purposes to a guardian ad litem or attorney representing a child or youth in litigation affecting the child's or youth's best interests, certain foster or prospective adoptive parents, and various agencies

officials, and other persons for certain purposes.

§ 5 — SAFE CARE OF SUBSTANCE EXPOSED NEWBORNS

By January 1, 2019, the bill requires the DCF commissioner, in consultation with other departments, agencies, or entities concerned with the health and well-being of children, to develop guidelines for the safe care of newborns who exhibit (1) physical, neurological, or behavioral symptoms consistent with prenatal substance exposure; (2) withdrawal symptoms from prenatal substance exposure; or (3) fetal alcohol syndrome. The guidelines must include instructions to providers regarding the providers' participation in the discharge planning process, including the creation of written plans of safe care, which must be developed between the providers and mothers of the newborns as part of that process.

Under the bill, a provider involved in the delivery or care of a newborn who, in the provider's estimation, exhibits physical, neurological, or behavioral symptoms consistent with prenatal substance exposure, associated withdrawal symptoms, or fetal alcohol spectrum disorder must notify DCF of these conditions in the newborn. The notice must be made in a form and manner the commissioner prescribes and in addition to any applicable reporting requirements under the state's child welfare laws. Starting January 15, 2019, the notice must include a copy of the plan of safe care created pursuant to the above guidelines.

Under the bill, providers include the following licensed health professionals: physicians, surgeons, homeopathic physicians, physician assistants, nurse-midwives, practical nurses, registered nurses, and advanced practice registered nurses.

§ 6 — CHILD ABUSE AND NEGLECT REGISTRY CHECK

Under existing law, before issuing a license or approval to provide foster care, DCF has to run state and national criminal history and state child abuse registry records checks on the applicant and anyone living in the applicant's household who is age 16 or older. Once licensed or approved, the foster care provider and anyone age 16 or older living in

the household must again submit to a criminal history check at the time of renewal. For license and approval renewal purposes, the bill requires DCF to once again check the child abuse and neglect registry for those individuals.

Additionally, the bill eliminates provisions that permit the commissioner to (1) run criminal history and child abuse registry checks, when someone applies for a license or approval to provide foster care, on anyone over age 16 who does not live in the applicant's house but who has regular unsupervised access to children in the home and (2) conduct criminal background checks on such individuals at the time of license or approval renewal.

§ 7 — LICENSE VIOLATIONS FOR CHILD CARE, BOARDING, AND PLACEMENT

By law, certain persons and entities must be licensed by DCF in order to care for or board a child, place a child in a foster or adoptive home, or bring or send a child into the state for placement or care in a home or institution. Under current law, any person or corporation that violates these licensing requirements may be fined up to \$100. The bill broadens the violators subject to the fine to include persons and entities, instead of persons and corporations as under current law. Under the bill, DCF may provide the violator with notice and the notice must include information about the violator's right to a hearing before DCF imposes such a penalty.

Additionally, the bill authorizes DCF, on the advice of the attorney general and in the manner provided by law, to (1) investigate any reported violation of these licensing requirements and (2) in the state's name, seek an injunction or other civil process against any person or governmental unit to restrain or prevent them from caring for, boarding, or placing a child while in violation of those requirements.

Notice Requirement

If the commissioner has reason to believe that a person or entity has committed a violation of the licensing requirements punishable by a \$100 fine, she may notify the alleged violator by certified mail, return

receipt requested, or by personal service. (Since the commissioner is permitted, but not required, to send the notice, it is unclear what happens if she does not send it.) The notice must include:

1. a reference to the laws allegedly violated,
2. a short and plain statement of the matter asserted or charged,
3. a statement of the prescribed \$100 civil penalty for the violations, and
4. a statement of the alleged violator's right to request a hearing and requirement that the request be submitted in writing to the commissioner within 30 days after the notice is mailed or given by personal service.

Hearing Requirement and Penalty Order

Within 30 days after receiving a request for a hearing, the commissioner must hold one in accordance with the Uniform Administrative Procedures Act. The commissioner may order the \$100 civil penalty if (1) after holding the hearing, the commissioner finds that a violation of the licensing requirements occurred, or (2) the alleged violator does not request a hearing or requests one but does not appear at it. The commissioner must send a copy of any such order by certified mail, return receipt requested, to the person or entity named in the order.

COMMITTEE ACTION

Committee on Children

Joint Favorable Substitute

Yea 12 Nay 0 (03/15/2018)