
HOUSE BILL 2077

State of Washington

53rd Legislature

1993 Regular Session

By Representative Riley

Read first time 02/26/93. Referred to Committee on Human Services.

1 AN ACT Relating to the enforcement of child care agency licensing;
2 amending RCW 74.15.020, 74.15.030, 74.15.130, and 74.15.100; adding a
3 new section to chapter 74.15 RCW; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 74.15 RCW
6 to read as follows:

7 (1) The department may issue a probationary license to a licensee
8 who has had a license but is out of compliance with licensing standards
9 and has failed to come into compliance in response to less formal
10 actions by the department if:

11 (a) The noncompliance does not present an immediate threat to the
12 health and well-being of the children but would be likely to do so if
13 allowed to continue; and

14 (b) The licensee has a plan approved by the department to correct
15 the areas of noncompliance within the probationary period.

16 (2) A probationary license may be issued for up to six months, and
17 at the discretion of the department it may be extended for an
18 additional six months.

1 (3) At any time the department may issue a probationary license for
2 due cause that states the conditions of probation. Any existing
3 license is invalidated when a probationary license is issued.

4 (4) At the expiration of the probationary license, the department
5 shall reinstate the original license to the end of its term, issue a
6 new license, or revoke the license.

7 **Sec. 2.** RCW 74.15.020 and 1991 c 128 s 14 are each amended to read
8 as follows:

9 For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless
10 otherwise clearly indicated by the context thereof, the following terms
11 shall mean:

12 (1) "Department" means the state department of social and health
13 services;

14 (2) "Secretary" means the secretary of social and health services;

15 (3) "Agency" means any person, firm, partnership, association,
16 corporation, or facility which receives children, expectant mothers, or
17 persons with developmental disabilities for control, care, or
18 maintenance outside their own homes, or which places, arranges the
19 placement of, or assists in the placement of children, expectant
20 mothers, or persons with developmental disabilities for foster care or
21 placement of children for adoption, and shall include the following
22 irrespective of whether there is compensation to the agency or to the
23 children, expectant mothers or persons with developmental disabilities
24 for services rendered:

25 (a) "Group-care facility" means an agency, other than a foster-
26 family home, which is maintained and operated for the care of a group
27 of children on a twenty-four hour basis;

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

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

34 (d) "Day-care center" means an agency which regularly provides care
35 for a group of children for periods of less than twenty-four hours;

36 (e) "Child day care home" means a facility in the family residence
37 of the licensee providing regularly scheduled care for twelve or fewer
38 children for periods less than twenty-four hours;

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

7 ~~((f))~~ (g) "Crisis residential center" means an agency which is a
8 temporary protective residential facility operated to perform the
9 duties specified in chapter 13.32A RCW, in the manner provided in RCW
10 74.13.032 through 74.13.036.

11 (4) "Agency" shall not include the following:

12 (a) Persons related by blood or marriage to the child, expectant
13 mother, or persons with developmental disabilities in the following
14 degrees: Parent, grandparent, brother, sister, stepparent,
15 stepbrother, stepsister, uncle, aunt, and/or first cousin;

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

18 (c) Persons who care for a neighbor's or friend's child or
19 children, with or without compensation, where the person does not
20 engage in such activity on a regular basis, or where parents on a
21 mutually cooperative basis exchange care of one another's children, or
22 persons who have the care of an exchange student in their own home;

23 (d) A person, partnership, corporation, or other entity that
24 provides placement or similar services to exchange students or
25 international student exchange visitors;

26 (e) Nursery schools or kindergartens which are engaged primarily in
27 educational work with preschool children and in which no child is
28 enrolled on a regular basis for more than four hours per day;

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

33 (g) Seasonal camps of three months' or less duration engaged
34 primarily in recreational or educational activities;

35 (h) Hospitals licensed pursuant to chapter 70.41 RCW when
36 performing functions defined in chapter 70.41 RCW, nursing homes
37 licensed under chapter 18.51 RCW and boarding homes licensed under
38 chapter 18.20 RCW;

39 (i) Licensed physicians or lawyers;

1 (j) Facilities providing care to children for periods of less than
2 twenty-four hours whose parents remain on the premises to participate
3 in activities other than employment;

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

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

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

14 (n) An agency operated by any unit of local, state, or federal
15 government or an agency, located within the boundaries of a federally
16 recognized Indian reservation, licensed by the Indian tribe;

17 (o) An agency located on a federal military reservation, except
18 where the military authorities request that such agency be subject to
19 the licensing requirements of this chapter.

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

22 (6) "Probationary license" means a license issued as a disciplinary
23 measure to an agency that has previously been issued a full license,
24 but is out of compliance with licensing standards and has failed to
25 come into compliance in response to less formal actions by the
26 department or is out of compliance with a rule or rules where this
27 noncompliance would jeopardize children if permitted to continue.

28 **Sec. 3.** RCW 74.15.030 and 1988 c 189 s 3 are each amended to read
29 as follows:

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

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

1 to be licensed hereunder, or because of any other factor relevant
2 thereto;

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

8 The minimum requirements shall be limited to:

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

12 (b) The character, suitability and competence of an agency and
13 other persons associated with an agency directly responsible for the
14 care and treatment of children, expectant mothers or developmentally
15 disabled persons. In consultation with law enforcement personnel, the
16 secretary shall investigate the conviction record or pending charges
17 and dependency record information under chapter 43.43 RCW of each
18 agency and its staff seeking licensure or relicensure. The secretary
19 shall use the information solely for the purpose of determining
20 eligibility for a license and for determining the character,
21 suitability, and competence of those persons or agencies, excluding
22 parents, not required to be licensed who are authorized to care for
23 children, expectant mothers, and developmentally disabled persons.
24 Criminal justice agencies shall provide the secretary such information
25 as they may have and that the secretary may require for such purpose;

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

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

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

34 (f) The financial ability of an agency to comply with minimum
35 requirements established pursuant to chapter 74.15 RCW and RCW
36 74.13.031; and

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

1 (3) To investigate any person, including relatives by blood or
2 marriage except for parents, for character, suitability, and competence
3 in the care and treatment of children, expectant mothers, and
4 developmentally disabled persons prior to authorizing that person to
5 care for children, expectant mothers, and developmentally disabled
6 persons. However, if a child is placed with a relative under RCW
7 13.34.060 or 13.34.130, and if such relative appears otherwise suitable
8 and competent to provide care and treatment the criminal history
9 background check required by this section need not be completed before
10 placement, but shall be completed as soon as possible after placement;

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

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

20 (6) To prescribe the procedures and the form and contents of
21 reports necessary for the administration of chapter 74.15 RCW and RCW
22 74.13.031 and to require regular reports from each licensee;

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

26 (8) To review requirements adopted hereunder at least every two
27 years and to adopt appropriate changes after consultation with the
28 child care coordinating committee for child care requirements and with
29 the children's services advisory committee for requirements for other
30 agencies; and

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

34 **Sec. 4.** RCW 74.15.130 and 1989 c 175 s 149 are each amended to
35 read as follows:

36 (1) An agency may be denied a license, or any license issued
37 pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended,
38 revoked, modified, or not renewed by the secretary upon proof (a) that

1 the agency has failed or refused to comply with the provisions of
2 chapter 74.15 RCW and RCW 74.13.031 or the requirements promulgated
3 pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031; or
4 (b) that the conditions required for the issuance of a license under
5 chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect
6 to such licenses. RCW 43.20A.205 governs notice of a license denial,
7 revocation, suspension, or modification and provides the right to an
8 adjudicative proceeding.

9 (2) The department may assess civil monetary penalties upon proof
10 that a group home, day care center, or child day care home has failed
11 or refused to comply with the requirements adopted under the provisions
12 of this chapter and RCW 74.13.031 or that an agency subject to
13 licensing under this chapter is operating without a license. Fines
14 levied against unlicensed agencies that submit an application for
15 licensure within thirty days of notification and subsequently become
16 licensed will be forgiven. These penalties may be assessed in addition
17 to or in lieu of other disciplinary actions.

18 Civil monetary penalties, if imposed, may be assessed and
19 collected, with interest, for each day an agency is or was out of
20 compliance. Civil monetary penalties shall not exceed seventy-five
21 dollars per violation for a child day care home and two hundred fifty
22 dollars per violation for group homes and day care centers irrespective
23 of the length of time that the facility is not in compliance.

24 The department may suspend, revoke, or not renew a license for
25 failure to pay any civil monetary penalty it has assessed pursuant to
26 this chapter within ten days after such assessment becomes final. RCW
27 43.20A.215 governs notice of a civil fine and provides the right of an
28 adjudicative proceeding.

29 **Sec. 5.** RCW 74.15.100 and 1982 c 118 s 11 are each amended to read
30 as follows:

31 Each agency shall make application for a license or renewal of
32 license to the department of social and health services on forms
33 prescribed by the department. A licensed agency having foster-family
34 homes under its supervision may make application for a license on
35 behalf of any such foster-family home. Upon receipt of such
36 application, the department shall either grant or deny a license within
37 ninety days unless the application is for licensure as a foster-family
38 home, in which case RCW 74.15.040 shall govern. A license shall be

1 granted if the agency meets the minimum requirements set forth in
2 chapter 74.15 RCW and RCW 74.13.031 and the departmental requirements
3 consistent herewith, except that a provisional license may be issued as
4 provided in RCW 74.15.120. Licenses provided for in chapter 74.15 RCW
5 and RCW 74.13.031 shall be issued for a period of three years. The
6 licensee, however, shall advise the secretary of any material change in
7 circumstances which might constitute grounds for reclassification of
8 license as to category. The license issued under this chapter is not
9 transferable and applies only to the license and the location stated in
10 the application except that for a licensed foster family home having an
11 acceptable history of child care, the license may remain in effect for
12 three weeks after a move where the family remains intact.

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