

2 **ESB 6230** - H COMM AMD
3 By Committee on Appropriations

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds that consumers of
8 child care services have a legitimate interest in receiving timely
9 information about complaints against child care service providers in
10 order to make meaningful choices regarding the facilities and people
11 who provide care for their children. The legislature further finds
12 that as a result of improvements in information management systems, the
13 state's ability to provide relevant information to child care service
14 consumers has also improved.

15 The legislature intends to utilize the state's improved ability to
16 collect and manage information about complaints against child care
17 service providers by requiring the department of social and health
18 services to report all relevant licensing actions and complaints
19 alleging serious issues affecting the health and safety of children to
20 appropriate individuals and organizations in a timely manner. The
21 legislature further intends to authorize the department to report such
22 information to the general public when necessary and appropriate for
23 the health and safety of children.

24 The legislature further finds that, although new information
25 management systems will make more information available to those using
26 child day-care centers or family day-care homes, this information
27 should not supplant their own inquiry into a child day-care center or
28 family day-care home. To determine if a facility or home is the right
29 place for their child, parents should spend time at the facility or
30 home, they should ask questions about the policies, schedules, and
31 procedures of the facility or home, and they should make inquiries in
32 the community about the facility or home's reputation.

33 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.15 RCW
34 to read as follows:

1 (1) The department shall report any adverse licensing actions
2 against a child day-care center or family day-care provider taken under
3 this chapter as a result of serious issues affecting the health and
4 safety of children as follows: (a) Within two business days of taking
5 the action, by posting for at least two weeks a prominent notice of the
6 licensing action at the facility; and (b) within two business days of
7 taking the action, by notifying the referent and appropriate public or
8 private child care resource and referral agencies. The report shall
9 include a description of the grounds for the adverse licensing action.

10 (2) The department shall report any complaints against a child day-
11 care center or family day-care provider alleging serious issues
12 affecting the health and safety of children that are determined to be
13 founded or valid as follows: (a) Within two business days of making
14 the determination, by posting for at least two weeks a prominent notice
15 of the determination at the facility; and (b) within two business days
16 of making the determination, by notifying the referent and appropriate
17 public or private child care resource and referral agencies. The
18 report shall include a description of the founded or valid allegations
19 and a summary of the resolution of the complaint or the follow-up
20 actions taken by the department and the center or provider in response
21 to the complaint.

22 (3) If a complaint under this section has been determined to be
23 invalid, inconclusive, or unfounded, or an adverse licensing action
24 under this section has been found to be erroneous or without basis the
25 department shall eliminate any account of the complaint or adverse
26 licensing action from the department's records.

27 (4) If the child day-care center or family day-care provider is
28 later found to have not committed the acts or conduct justifying the
29 adverse licensing action or alleged in a complaint reported under
30 subsection (1), (2), or (3) of this section, the department shall
31 forthwith prepare a notice of public exoneration. The department shall
32 report the public exoneration to the same people and entities, and in
33 the same manner, who received a report under subsections (2) and (3) of
34 this section. Such notice shall also be maintained as part of the
35 department's record of the licensing action or complaint.

36 (5) Every public or private child care resource or referral agency
37 shall disclose, upon request, all information received from the
38 department concerning adverse licensing actions or complaints against
39 a child day-care center or family day-care provider.

1 (6) The department shall disclose, upon request, the receipt,
2 general nature, and resolution or current status of all complaints on
3 record with the department after the effective date of this act against
4 a child day-care center or family day-care provider alleging serious
5 issues affecting the health and safety of children.

6 (7) This section shall not be construed to require the reporting of
7 any information that is exempt from public disclosure under chapter
8 42.17 RCW.

9 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.15 RCW
10 to read as follows:

11 At any time during a pending adverse licensing action, a pending
12 investigation of a complaint alleging serious issues affecting the
13 health and safety of children, or an ongoing corrective action plan,
14 the department may, as necessary and appropriate to protect the health
15 or safety of children, (1) place a child day-care center or family day-
16 care provider on nonreferral status, and (2) notify appropriate public
17 and private child care resource and referral agencies of the
18 department's investigation and decision to place the center or provider
19 on nonreferral status. If the department determines, at the conclusion
20 of the investigation of a proceeding under this section, that no
21 adverse licensure action is appropriate, a complaint is not founded or
22 valid, or a corrective action plan has been successfully concluded, the
23 department shall remove the provider from nonreferral status and
24 provide appropriate notice to the public and private child care
25 resource and referral agencies.

26 NEW SECTION. **Sec. 4.** A new section is added to chapter 74.15 RCW
27 to read as follows:

28 (1) The department shall compile an annual report summarizing all
29 investigations for the previous fiscal year relating to serious issues
30 affecting the health or safety of children in the care of child day-
31 care centers and family day-care providers. The report shall be
32 provided to the child care coordinating committee and child care
33 resource and referral agencies by August 1st of each year beginning in
34 1997.

35 (2) The report shall include, at a minimum, (a) an analysis of the
36 volume and general nature of all reports and disclosures made by the
37 department as required or authorized under section 2 of this act; (b)

1 an analysis of the volume and general nature of the pending adverse
2 licensing actions, pending complaint investigations, and ongoing
3 corrective action plans for which the department placed centers and
4 providers on nonreferral status under section 3 of this act; (c) an
5 analysis of the volume and general nature of complaints determined to
6 be invalid, inconclusive, or unfounded; and (d) information about the
7 average length of time required by the department to complete
8 investigations determined to be valid or founded, inconclusive, and
9 invalid or unfounded.

10 **Sec. 5.** RCW 74.15.020 and 1995 c 311 s 18 and 1995 c 302 s 3 are
11 each reenacted and amended to read as follows:

12 For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless
13 otherwise clearly indicated by the context thereof, the following terms
14 shall mean:

15 (1) (~~"Department" means the state department of social and health~~
16 ~~services;~~

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

18 ~~(3))~~ "Adverse licensing action" means action by the department
19 denying, suspending, revoking, or not renewing a license authorized
20 under this chapter.

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

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

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

36 (c) "Maternity service" means an agency which provides or arranges
37 for care or services to expectant mothers, before or during

1 confinement, or which provides care as needed to mothers and their
2 infants after confinement;

3 (d) "Child day-care center" means an agency which regularly
4 provides care for a group of children for periods of less than twenty-
5 four hours;

6 (e) "Family day-care provider" means a child day-care provider who
7 regularly provides child day care for not more than twelve children in
8 the provider's home in the family living quarters;

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

15 (g) "Crisis residential center" means an agency which is a
16 temporary protective residential facility operated to perform the
17 duties specified in chapter 13.32A RCW, in the manner provided in RCW
18 74.13.032 through 74.13.036.

19 (~~(4)~~) (3) "Agency" shall not include the following:

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

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

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

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

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

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

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

3 (c) Persons who care for a neighbor's or friend's child or
4 children, with or without compensation, where: (i) The person
5 providing care for periods of less than twenty-four hours does not
6 conduct such activity on an ongoing, regularly scheduled basis for the
7 purpose of engaging in business, which includes, but is not limited to,
8 advertising such care; or (ii) the parent and person providing care on
9 a twenty-four-hour basis have agreed to the placement in writing and
10 the state is not providing any payment for the care;

11 (d) Parents on a mutually cooperative basis exchange care of one
12 another's children;

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

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

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

24 (h) Seasonal camps of three months' or less duration engaged
25 primarily in recreational or educational activities;

26 (i) Hospitals licensed pursuant to chapter 70.41 RCW when
27 performing functions defined in chapter 70.41 RCW, nursing homes
28 licensed under chapter 18.51 RCW and boarding homes licensed under
29 chapter 18.20 RCW;

30 (j) Licensed physicians or lawyers;

31 (k) Facilities providing care to children for periods of less than
32 twenty-four hours whose parents remain on the premises to participate
33 in activities other than employment;

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

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

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

6 (o) An agency operated by any unit of local, state, or federal
7 government or an agency, located within the boundaries of a federally
8 recognized Indian reservation, licensed by the Indian tribe;

9 (p) An agency located on a federal military reservation, except
10 where the military authorities request that such agency be subject to
11 the licensing requirements of this chapter.

12 (4) "Department" means the state department of social and health
13 services.

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

17 (6) "Referent" means a person or agency who brings to the attention
18 of the department a complaint or information resulting in an
19 investigation or adverse licensing action.

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

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

25 (8) "Secretary" means the secretary of social and health services.

26 (9) "Serious issues affecting the health and safety of children"
27 means allegations, which if true, place children at imminent serious
28 risk of harm. Such allegations may include, but are not limited to,
29 allegations of child abuse or neglect or allegations of licensing
30 violations related to safety or health hazards, supervision problems,
31 or excessive discipline or mistreatment of a child.

32 NEW SECTION. Sec. 6. The department of social and health services
33 shall adopt rules as necessary to implement RCW 74.15.020 and sections
34 2 through 4 of this act.

35 **Sec. 7.** RCW 74.13.090 and 1995 c 399 s 204 are each amended to
36 read as follows:

1 (1) There is established a child care coordinating committee to
2 provide coordination and communication between state agencies
3 responsible for child care and early childhood education services. The
4 child care coordinating committee shall be composed of not less than
5 (~~seventeen~~) twenty-three nor more than thirty-three members who shall
6 include:

7 (a) One representative each from the department of social and
8 health services, the department of community, trade, and economic
9 development, the office of the superintendent of public instruction,
10 and any other agency having responsibility for regulation, provision,
11 or funding of child care services in the state;

12 (b) One representative from the department of labor and industries;

13 (c) One representative from the department of revenue;

14 (d) One representative from the employment security department;

15 (e) One representative from the department of personnel;

16 (f) One representative from the department of health;

17 (g) One representative from the higher education coordinating
18 board;

19 (h) One representative from the state board of education;

20 (i) One representative from the state board for community and
21 technical colleges;

22 (j) At least one representative of family home child care providers
23 and one representative of center care providers;

24 (~~(h)~~) (k) At least one representative of early childhood
25 development experts;

26 (~~(i)~~) (l) At least one representative of school districts and
27 teachers involved in the provision of child care and preschool
28 programs;

29 (~~(j)~~) (m) At least one parent education specialist;

30 (~~(k)~~) (n) At least one representative of resource and referral
31 programs;

32 (~~(l)~~) (o) One pediatric or other health professional;

33 (~~(m)~~) (p) At least one representative of college or university
34 child care providers;

35 (~~(n)~~) (q) At least one representative of a citizen group
36 concerned with child care;

37 (~~(o)~~) (r) At least one representative of a labor organization;

38 (~~(p)~~) (s) At least one representative of a head start - early
39 childhood education assistance program agency;

1 (~~(q)~~) (t) At least one employer who provides child care
2 assistance to employees;

3 (~~(r)~~) (u) Parents of children receiving, or in need of, child
4 care, half of whom shall be parents needing or receiving subsidized
5 child care and half of whom shall be parents who are able to pay for
6 child care.

7 The named state agencies shall select their representative to the
8 child care coordinating committee. The department of social and health
9 services shall select the remaining members, considering
10 recommendations from lists submitted by professional associations and
11 other interest groups until such time as the committee adopts a member
12 selection process. The department shall use any federal funds which
13 may become available to accomplish the purposes of RCW 74.13.085
14 through 74.13.095.

15 The committee shall elect officers from among its membership and
16 shall adopt policies and procedures specifying the lengths of terms,
17 methods for filling vacancies, and other matters necessary to the
18 ongoing functioning of the committee. The secretary of social and
19 health services shall appoint a temporary chair until the committee has
20 adopted policies and elected a chair accordingly. Child care
21 coordinating committee members shall be reimbursed for travel expenses
22 as provided in RCW 43.03.050 and 43.03.060.

23 (2) To the extent possible within available funds, the child care
24 coordinating committee shall:

25 (a) Serve as an advisory coordinator for all state agencies
26 responsible for early childhood or child care programs for the purpose
27 of improving communication and interagency coordination;

28 (b) Annually review state programs and make recommendations to the
29 agencies and the legislature which will maximize funding and promote
30 furtherance of the policies set forth in RCW 74.13.085. Reports shall
31 be provided to all appropriate committees of the legislature by
32 December 1 of each year. At a minimum the committee shall:

33 (i) (~~Review and propose changes to the child care subsidy system~~
34 ~~in its December 1989 report;~~

35 (ii)) Review alternative models for child care service systems, in
36 the context of the policies set forth in RCW 74.13.085, and recommend
37 to the legislature a new child care service structure; and

1 (~~(iii)~~) (ii) Review options and make recommendations on the
2 feasibility of establishing an allocation for day care facilities when
3 constructing state buildings;

4 (c) Review department of social and health services administration
5 of the child care expansion grant program described in RCW 74.13.095;

6 (d) Review rules regarding child care facilities and services for
7 the purpose of identifying those which unnecessarily obstruct the
8 availability and affordability of child care in the state;

9 (e) Advise and assist the office of child care policy in
10 implementing his or her duties under RCW 74.13.0903;

11 (f) Perform other functions to improve the quantity and quality of
12 child care in the state, including compliance with existing and future
13 prerequisites for federal funding; and

14 (g) Advise and assist the department of personnel in its
15 responsibility for establishing policies and procedures that provide
16 for the development of quality child care programs for state employees.

17 NEW SECTION. **Sec. 8.** If specific funding for the purposes of this
18 act, referencing this act by bill or chapter number, is not provided by
19 June 30, 1996, in the supplemental omnibus appropriations act, this act
20 is null and void."

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