

2 **SHB 1906** - S COMM AMD  
3 By Committee on Human Services & Corrections

4 ADOPTED 4/12/95

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

7 "NEW SECTION. **Sec. 1.** The legislature declares that the state of  
8 Washington has a compelling interest in protecting and promoting the  
9 health, welfare, and safety of children, including those who receive  
10 care away from their own homes. The legislature further declares that  
11 no person or agency has a right to be licensed under this chapter to  
12 provide care for children. The health, safety, and well-being of  
13 children must be the paramount concern in determining whether to issue  
14 a license to an applicant, whether to suspend or revoke a license, and  
15 whether to take other licensing action. The legislature intends,  
16 through the provisions of this act, to provide the department of social  
17 and health services with additional enforcement authority to carry out  
18 the purpose and provisions of this act. Furthermore, administrative  
19 law judges should receive specialized training so that they have the  
20 specialized expertise required to appropriately review licensing  
21 decisions of the department.

22 Children placed in foster care are particularly vulnerable and have  
23 a special need for placement in an environment that is stable, safe,  
24 and nurturing. For this reason, foster homes should be held to a high  
25 standard of care, and department decisions regarding denial,  
26 suspension, or revocation of foster care licenses should be upheld on  
27 review if there are reasonable grounds for such action.

28 **Sec. 2.** RCW 74.15.010 and 1983 c 3 s 192 are each amended to read  
29 as follows:

30 The purpose of chapter 74.15 RCW and RCW 74.13.031 is:

31 (1) To safeguard the health, safety, and well-being of children,  
32 expectant mothers and developmentally disabled persons receiving care  
33 away from their own homes, which is paramount over the right of any  
34 person to provide care;

1 (2) To strengthen and encourage family unity and to sustain  
2 parental rights and responsibilities to the end that foster care is  
3 provided only when a child's family, through the use of all available  
4 resources, is unable to provide necessary care;

5 (3) To promote the development of a sufficient number and variety  
6 of adequate child-care and maternity-care facilities, both public and  
7 private, through the cooperative efforts of public and voluntary  
8 agencies and related groups((-));

9 (4) To provide consultation to agencies caring for children,  
10 expectant mothers or developmentally disabled persons in order to help  
11 them to improve their methods of and facilities for care;

12 (5) To license agencies as defined in RCW 74.15.020 and to assure  
13 the users of such agencies, their parents, the community at large and  
14 the agencies themselves that adequate minimum standards are maintained  
15 by all agencies caring for children, expectant mothers and  
16 developmentally disabled persons.

17 **Sec. 3.** RCW 74.15.020 and 1994 c 273 s 21 are each amended to read  
18 as follows:

19 For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless  
20 otherwise clearly indicated by the context thereof, the following terms  
21 shall mean:

22 (1) "Department" means the state department of social and health  
23 services;

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

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

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

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

3 (c) "Maternity service" means an agency which provides or arranges  
4 for care or services to expectant mothers, before or during  
5 confinement, or which provides care as needed to mothers and their  
6 infants after confinement;

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

10 (e) "Family day-care provider" means a (~~licensed~~) child day-care  
11 provider who regularly provides child day care for not more than twelve  
12 children in the provider's home in the family living quarters;

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

19 (g) "Crisis residential center" means an agency which is a  
20 temporary protective residential facility operated to perform the  
21 duties specified in chapter 13.32A RCW, in the manner provided in RCW  
22 74.13.032 through 74.13.036.

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

24 (a) Persons related (~~by blood or marriage to the child, expectant~~  
25 ~~mother, or persons with developmental disabilities in the following~~  
26 ~~degrees:— Parent, — grandparent, — brother, — sister, — stepparent,~~  
27 ~~stepbrother, — stepsister, — uncle, — aunt, — and/or first cousin)) to the  
28 child, expectant mother, or person with developmental disability in the  
29 following ways:~~

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

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

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

38 (iv) Spouses of any persons named in (i), (ii), or (iii) of this  
39 subsection (4)(a), even after the marriage is terminated; or

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

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

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

19 (d) Parents on a mutually cooperative basis exchange care of one  
20 another's children(~~(, or persons who have the care of an exchange~~  
21 ~~student in their own home));~~

22 ~~((d))~~ (e) A person, partnership, corporation, or other entity  
23 that provides placement or similar services to exchange students or  
24 international student exchange visitors or persons who have the care of  
25 an exchange student in their home;

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

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

35 ~~((h))~~ (i) 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))~~ (j) Licensed physicians or lawyers;

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

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

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

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

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

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

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

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

26       **Sec. 4.** RCW 74.15.030 and 1988 c 189 s 3 are each amended to read  
27 as follows:

28       The secretary shall have the power and it shall be the secretary's  
29 duty:

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

1 (2) 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 adopt and publish  
4 minimum requirements for licensing applicable to each of the various  
5 categories of agencies to be licensed.

6 The minimum requirements shall be limited to:

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

10 (b) The character, suitability and competence of an agency and  
11 other persons associated with an agency directly responsible for the  
12 care and treatment of children, expectant mothers or developmentally  
13 disabled persons. In consultation with law enforcement personnel, the  
14 secretary shall investigate the conviction record or pending charges  
15 and dependency record information under chapter 43.43 RCW of each  
16 agency and its staff seeking licensure or relicensure. In order to  
17 determine the suitability of applicants for an agency license,  
18 licensees, their employees, and other persons who have unsupervised  
19 access to children in care, and who have not resided in the state of  
20 Washington during the three-year period before being authorized to care  
21 for children shall be fingerprinted. The fingerprints shall be  
22 forwarded to the Washington state patrol and federal bureau of  
23 investigation for a criminal history records check. The fingerprint  
24 criminal history records checks will be at the expense of the licensee  
25 except that in the case of a foster family home, if this expense would  
26 work a hardship on the licensee, the department shall pay the expense.  
27 The licensee may not pass this cost on to the employee or prospective  
28 employee, unless the employee is determined to be unsuitable due to his  
29 or her criminal history record. The secretary shall use the  
30 information solely for the purpose of determining eligibility for a  
31 license and for determining the character, suitability, and competence  
32 of those persons or agencies, excluding parents, not required to be  
33 licensed who are authorized to care for children, expectant mothers,  
34 and developmentally disabled persons. Criminal justice agencies shall  
35 provide the secretary such information as they may have and that the  
36 secretary may require for such purpose;

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

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

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

7 (f) The financial ability of an agency to comply with minimum  
8 requirements established pursuant to chapter 74.15 RCW and RCW  
9 74.13.031; and

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

12 (3) To investigate any person, including relatives by blood or  
13 marriage except for parents, for character, suitability, and competence  
14 in the care and treatment of children, expectant mothers, and  
15 developmentally disabled persons prior to authorizing that person to  
16 care for children, expectant mothers, and developmentally disabled  
17 persons. However, if a child is placed with a relative under RCW  
18 13.34.060 or 13.34.130, and if such relative appears otherwise suitable  
19 and competent to provide care and treatment the criminal history  
20 background check required by this section need not be completed before  
21 placement, but shall be completed as soon as possible after placement;

22 (4) On reports of child abuse and neglect, to investigate agencies  
23 in accordance with chapter 26.44 RCW, including child day-care centers  
24 and family day-care homes, to determine whether the abuse or neglect  
25 has occurred, and whether child protective services or referral to a  
26 law enforcement agency is appropriate;

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

31 (6) To prescribe the procedures and the form and contents of  
32 reports necessary for the administration of chapter 74.15 RCW and RCW  
33 74.13.031 and to require regular reports from each licensee;

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

37 (8) To review requirements adopted hereunder at least every two  
38 years and to adopt appropriate changes after consultation with the  
39 child care coordinating committee and other affected groups for child

1 day-care requirements and with the children's services advisory  
2 committee for requirements for other agencies; and

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

6 **Sec. 5.** RCW 74.15.130 and 1989 c 175 s 149 are each amended to  
7 read as follows:

8 (1) An agency may be denied a license, or any license issued  
9 pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended,  
10 revoked, modified, or not renewed by the secretary upon proof (a) that  
11 the agency has failed or refused to comply with the provisions of  
12 chapter 74.15 RCW and RCW 74.13.031 or the requirements promulgated  
13 pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031; or  
14 (b) that the conditions required for the issuance of a license under  
15 chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect  
16 to such licenses. RCW 43.20A.205 governs notice of a license denial,  
17 revocation, suspension, or modification and provides the right to an  
18 adjudicative proceeding.

19 (2) In any adjudicative proceeding regarding the denial,  
20 modification, suspension, or revocation of a foster family home  
21 license, the department's decision shall be upheld if there is  
22 reasonable cause to believe that:

23 (a) The applicant or licensee lacks the character, suitability, or  
24 competence to care for children placed in out-of-home care;

25 (b) The applicant or licensee has failed or refused to comply with  
26 any provision of chapter 74.15 RCW, RCW 74.13.031, or the requirements  
27 adopted pursuant to such provisions; or

28 (c) The conditions required for issuance of a license under chapter  
29 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such  
30 licenses.

31 (3) In any adjudicative proceeding regarding the denial,  
32 modification, suspension, or revocation of any license under this  
33 chapter, other than a foster family home license, the department's  
34 decision shall be upheld if it is supported by a preponderance of the  
35 evidence.

36 (4) The department may assess civil monetary penalties upon proof  
37 that an agency has failed or refused to comply with the rules adopted  
38 under the provisions of this chapter and RCW 74.13.031 or that an



1 agency subject to licensing under this chapter and RCW 74.13.031 is  
2 operating without a license except that civil monetary penalties shall  
3 not be levied against a licensed foster home. Monetary penalties  
4 levied against unlicensed agencies that submit an application for  
5 licensure within thirty days of notification and subsequently become  
6 licensed will be forgiven. These penalties may be assessed in addition  
7 to or in lieu of other disciplinary actions. Civil monetary penalties,  
8 if imposed, may be assessed and collected, with interest, for each day  
9 an agency is or was out of compliance. Civil monetary penalties shall  
10 not exceed seventy-five dollars per violation for a family day-care  
11 home and two hundred fifty dollars per violation for group homes, child  
12 day-care centers, and child-placing agencies. Each day upon which the  
13 same or substantially similar action occurs is a separate violation  
14 subject to the assessment of a separate penalty. The department shall  
15 provide a notification period before a monetary penalty is effective  
16 and may forgive the penalty levied if the agency comes into compliance  
17 during this period. The department may suspend, revoke, or not renew  
18 a license for failure to pay a civil monetary penalty it has assessed  
19 pursuant to this chapter within ten days after such assessment becomes  
20 final. Chapter 43.20A RCW governs notice of a civil monetary penalty  
21 and provides the right of an adjudicative proceeding. The  
22 preponderance of evidence standard shall apply in adjudicative  
23 proceedings related to assessment of civil monetary penalties.

24 NEW SECTION. Sec. 6. A new section is added to chapter 74.15 RCW  
25 to read as follows:

26 (1) The office of administrative hearings shall not assign nor  
27 allow an administrative law judge to preside over an adjudicative  
28 hearing regarding denial, modification, suspension, or revocation of  
29 any license to provide child care, including foster care, under this  
30 chapter, unless such judge has received training related to state and  
31 federal laws and department policies and procedures regarding:

- 32 (a) Child abuse, neglect, and maltreatment;
- 33 (b) Child protective services investigations and standards;
- 34 (c) Licensing activities and standards;
- 35 (d) Child development; and
- 36 (e) Parenting skills.

37 (2) The office of administrative hearings shall develop and  
38 implement a training program that carries out the requirements of this

1 section. The office of administrative hearings shall consult and  
2 coordinate with the department in developing the training program. The  
3 department may assist the office of administrative hearings in  
4 developing and providing training to administrative law judges.

5 NEW SECTION. **Sec. 7.** 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 temporarily unable to comply with a rule  
9 or has been the subject of multiple complaints or concerns about  
10 noncompliance 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 area 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. The department shall immediately terminate the  
19 probationary license, if at any time the noncompliance for which the  
20 probationary license was issued presents an immediate threat to the  
21 health or well-being of the children.

22 (3) The department may, at any time, issue a probationary license  
23 for due cause that states the conditions of probation.

24 (4) An existing license is invalidated when a probationary license  
25 is issued.

26 (5) At the expiration of the probationary license, the department  
27 shall reinstate the original license for the remainder of its term,  
28 issue a new license, or revoke the original license.

29 (6) A right to an adjudicative proceeding shall not accrue to the  
30 licensee whose license has been placed on probationary status unless  
31 the licensee does not agree with the placement on probationary status  
32 and the department then suspends, revokes, or modifies the license.

33 **Sec. 8.** RCW 74.15.100 and 1982 c 118 s 11 are each amended to read  
34 as follows:

35 Each agency shall make application for a license or renewal of  
36 license to the department of social and health services on forms  
37 prescribed by the department. A licensed agency having foster-family

1 homes under its supervision may make application for a license on  
2 behalf of any such foster-family home. Such a foster home license  
3 shall cease to be valid when the home is no longer under the  
4 supervision of that agency. Upon receipt of such application, the  
5 department shall either grant or deny a license within ninety days  
6 unless the application is for licensure as a foster-family home, in  
7 which case RCW 74.15.040 shall govern. A license shall be granted if  
8 the agency meets the minimum requirements set forth in chapter 74.15  
9 RCW and RCW 74.13.031 and the departmental requirements consistent  
10 herewith, except that (~~a provisional~~) an initial license may be  
11 issued as provided in RCW 74.15.120. Licenses provided for in chapter  
12 74.15 RCW and RCW 74.13.031 shall be issued for a period of three  
13 years. The licensee, however, shall advise the secretary of any  
14 material change in circumstances which might constitute grounds for  
15 reclassification of license as to category. The license issued under  
16 this chapter is not transferable and applies only to the licensee and  
17 the location stated in the application. For licensed foster-family and  
18 family day-care homes having an acceptable history of child care, the  
19 license may remain in effect for two weeks after a move, except that  
20 for the foster-family home this will apply only if the family remains  
21 intact.

22 **Sec. 9.** RCW 74.15.120 and 1979 c 141 s 361 are each amended to  
23 read as follows:

24 The secretary of social and health services may, at his or her  
25 discretion, issue (~~a provisional~~) an initial license instead of a  
26 full license to an agency or facility for a period not to exceed six  
27 months, renewable for a period not to exceed two years, to allow such  
28 agency or facility reasonable time to become eligible for full  
29 license(~~, except that a provisional~~). An initial license shall not  
30 be granted to any foster-family home except as provided in rules  
31 adopted by the department."

32 **SHB 1906** - S COMM AMD

33 By Committee on Human Services & Corrections

34 ADOPTED 4/12/95

35 On page 1, line 1 of the title, after "licensing;" strike the  
36 remainder of the title and insert "amending RCW 74.15.010, 74.15.020,

1 74.15.030, 74.15.130, 74.15.100, and 74.15.120; adding new sections to  
2 chapter 74.15 RCW; creating a new section; and prescribing penalties."

--- **END** ---