
HOUSE BILL 1567

State of Washington

56th Legislature

1999 Regular Session

By Representative Benson

Read first time 01/28/1999. Referred to Committee on Children & Family Services.

1 AN ACT Relating to protecting children and others from persons
2 convicted of felonies or sex offenses; and amending RCW 26.10.100 and
3 74.15.130.

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

5 **Sec. 1.** RCW 26.10.100 and 1987 c 460 s 38 are each amended to read
6 as follows:

7 The court shall determine custody in accordance with the best
8 interests of the child, except that custody shall not be granted to any
9 individual who is not a relative of the child and has been convicted of
10 a felony within five years of the filing date of the petition for
11 custody or convicted of a sex offense as defined in RCW 9.94A.030(33).

12 **Sec. 2.** RCW 74.15.130 and 1998 c 314 s 6 are each amended to read
13 as follows:

14 (1) An agency may be denied a license, or any license issued
15 pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended,
16 revoked, modified, or not renewed by the secretary upon proof (a) that
17 the agency has failed or refused to comply with the provisions of
18 chapter 74.15 RCW and RCW 74.13.031 or the requirements promulgated

1 pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031;
2 ((or)) (b) that the conditions required for the issuance of a license
3 under chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with
4 respect to such licenses; or (c) that the agency, or any person
5 associated with the agency, who is directly responsible for the care
6 and treatment of children, expectant mothers, or developmentally
7 disabled persons, has been convicted, within five years of the date of
8 application for licensure or relicensure, of a felony that is
9 reasonably related to the competency of the person to care and treat
10 children, expectant mothers, or developmentally disabled persons, or to
11 operate an agency, or has been convicted of a sex offense as defined in
12 RCW 9.94A.030(33). RCW 43.20A.205 governs notice of a license denial,
13 revocation, suspension, or modification and provides the right to an
14 adjudicative proceeding.

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

19 (a) The applicant or licensee lacks the character, suitability, or
20 competence to care for children placed in out-of-home care, however, no
21 unfounded report of child abuse or neglect may be used to deny
22 employment or a license;

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

26 (c) The conditions required for issuance of a license under chapter
27 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such
28 licenses; or

29 (d) The applicant or licensee has been convicted, within five years
30 of the date of application for licensure or relicensure, of a felony
31 that is reasonably related to the competency of the person to care and
32 treat children, expectant mothers, or developmentally disabled persons,
33 or to operate an agency, or has been convicted of a sex offense as
34 defined in RCW 9.94A.030(33).

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

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

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