
HOUSE BILL 2942

State of Washington

56th Legislature

2000 Regular Session

By Representatives Lambert and Benson

Read first time 01/24/2000. Referred to Committee on Children & Family Services.

1 AN ACT Relating to simplifying laws related to family day-care
2 providers; amending RCW 74.15.020, 74.15.030, 74.15.100, and 74.15.130;
3 adding a new chapter to Title 74 RCW; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** (1) It is the intent of the legislature that
6 families have choices in child day-care settings. To promote the
7 availability of family day-care providers and protect the fundamental
8 rights of parents to autonomy in childrearing decisions, it is the
9 intent of the legislature that family day-care providers shall be
10 regulated only to the extent necessary to protect the health and safety
11 of day-care children and through the narrowest means possible. To
12 clarify the authority under which the secretary shall regulate family
13 day-care providers, a new chapter is created.

14 (2) The purpose of this chapter is:

15 (a) To safeguard the health and safety of children receiving care
16 away from their own homes;

17 (b) To safeguard the fundamental rights of parents to determine
18 care, custody, upbringing, and education of their children;

1 (c) To provide family day-care providers and prospective providers
2 with resources and information;

3 (d) To license family day-care providers to protect children from
4 harm.

5 (3) This chapter, and regulations issued pursuant to this chapter,
6 shall be narrowly construed.

7 NEW SECTION. **Sec. 2.** The definitions in this section apply
8 throughout this chapter unless the context clearly requires otherwise.

9 (1)(a) "Family day-care provider" or "provider" means a child day-
10 care provider who regularly provides child day care for not more than
11 twelve children in the provider's home in the family living quarters.

12 (b) "Family day-care provider" shall not include the following:

13 (i) Persons related to the child in the following ways:

14 (A) Any blood relative, including those of half-blood, and
15 including first cousins, nephews or nieces, and persons of preceding
16 generations as denoted by prefixes of grand, great, or great-great;

17 (B) Stepfather, stepmother, stepbrother, and stepsister;

18 (C) A person who legally adopts a child or the child's parent as
19 well as the natural and other legally adopted children of such persons,
20 and other relatives of the adoptive parents in accordance with state
21 law;

22 (D) Spouses of any persons named in (b)(i)(A), (B), or (C) of this
23 subsection, even after the marriage is terminated; or

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

31 (ii) Persons who are legal guardians of the child;

32 (iii) Persons who care for a neighbor's or friend's child or
33 children, with or without compensation, where the parent and person
34 providing care have agreed to the placement in writing and the state is
35 not providing any payment for the care;

36 (iv) Parents on a mutually cooperative basis exchange care of one
37 another's children;

1 (v) A person, partnership, corporation, or other entity that
2 provides placement or similar services to exchange students or
3 international student exchange visitors or persons who have the care of
4 an exchange student in their home;

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

8 (vii) Schools, including boarding schools, which are engaged
9 primarily in education, operate on a definite school year schedule,
10 follow a stated academic curriculum, accept only school-age children,
11 and do not accept custody of children;

12 (viii) Seasonal camps of three months' or less duration engaged
13 primarily in recreational or educational activities;

14 (ix) Hospitals licensed pursuant to chapter 70.41 RCW when
15 performing functions defined in chapter 70.41 RCW, nursing homes
16 licensed under chapter 18.51 RCW, and boarding homes licensed under
17 chapter 18.20 RCW;

18 (x) Licensed physicians or lawyers;

19 (xi) Facilities providing care to children for periods of less than
20 twenty-four hours whose parents remain on the premises to participate
21 in activities other than employment;

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

23 (xiii) Persons who have a child in their home for purposes of
24 adoption, if the child was placed in such home by a licensed child-
25 placing agency, an authorized public or tribal agency, or court or if
26 a replacement report has been filed under chapter 26.33 RCW and the
27 placement has been approved by the court;

28 (xiv) An agency operated by any unit of local, state, or federal
29 government or an agency, located within the boundaries of a federally
30 recognized Indian reservation, licensed by the Indian tribe;

31 (xv) An agency located on a federal military reservation, except
32 where the military authorities request that such agency be subject to
33 the licensing requirements of this chapter.

34 (2) "Department" means the state department of social and health
35 services.

36 (3) "Probationary license" means a license issued as a disciplinary
37 measure to a family day-care provider that has previously been issued
38 a full license but is out of compliance with licensing standards.

1 (4) "Requirement" means any rule, regulation, or standard of care
2 to be maintained by a family day-care provider.

3 (5) "Secretary" means the secretary of social and health services.

4 NEW SECTION. **Sec. 3.** The secretary has the power and it is the
5 secretary's duty, after public hearings:

6 (1) To adopt and publish narrowly tailored minimum requirements for
7 licensing applicable to family day-care providers.

8 The minimum requirements are limited to:

9 (a) The size of the facility;

10 (b) Investigating and establishing the police records or court
11 proceedings including but not limited to crimes of violence, crimes
12 against children, and drug abuse of a family day-care provider and
13 other persons associated with a provider directly responsible for the
14 care and treatment of children. In consultation with law enforcement
15 personnel, the secretary shall investigate the conviction record or
16 pending charges and dependency record information under chapter 43.43
17 RCW of each provider and its staff seeking licensure or relicensure.
18 In order to determine the suitability of applicants for a license,
19 licensees, their employees, and other persons who have unsupervised
20 access to children in care, and who have not resided in the state of
21 Washington during the three-year period before being authorized to care
22 for children, shall be fingerprinted. The fingerprints shall be
23 forwarded to the Washington state patrol and federal bureau of
24 investigation for a criminal history record check. The fingerprint
25 criminal history record checks will be at the expense of the licensee.
26 The licensee may not pass this cost on to the employee or prospective
27 employee, unless the employee is determined to be unsuitable due to his
28 or her criminal history record.

29 The secretary shall use the information solely for the purpose of
30 determining: (i) Eligibility for a license; and (ii) the competence of
31 those persons or providers, excluding parents, not required to be
32 licensed who are authorized to care for children. Criminal justice
33 agencies shall provide the secretary such information as they may have
34 and that the secretary may require for such purpose;

35 (c) The number of qualified persons required to protect against
36 harm;

37 (d) The safety of the premises to prevent harm to children;

1 (e) The provision of necessary care for food, clothing,
2 supervision, and physical well-being; and

3 (f) The maintenance of records pertaining to the admission, health,
4 and discharge of persons served;

5 (2) To investigate any person seeking a day-care license, or their
6 prospective employee, for eligibility under this chapter prior to
7 authorizing that person to care for children;

8 (3) On reports of alleged child abuse and neglect, to immediately
9 advise law enforcement agencies as defined in RCW 26.44.030(4). In
10 accordance with chapter 26.44 RCW, a law enforcement agency shall
11 investigate to determine whether the alleged abuse or neglect has
12 occurred, and whether child protective services or referral to a
13 prosecuting agency is necessary;

14 (4) To issue, revoke, or deny licenses to providers under this
15 chapter;

16 (5) To inspect providers periodically to determine whether or not
17 there is compliance with this chapter and the requirements adopted
18 under this chapter;

19 (6) To review requirements adopted under this chapter at least
20 every two years and to bring suggested changes to the legislature.

21 NEW SECTION. **Sec. 4.** The chief of the Washington state patrol,
22 through the director of fire protection, has the power and it is his or
23 her duty:

24 (1) To adopt recognized minimum standard requirements necessary to
25 protect all persons residing therein from fire hazards;

26 (2) To make or cause to be made such inspections and investigations
27 of family day-care providers as he or she deems necessary;

28 (3) To make a periodic review of requirements under section 3(6) of
29 this act and to adopt necessary changes;

30 (4) To issue to applicants for licenses under this chapter, a
31 certificate of compliance, a copy of which shall be presented to the
32 department before a license is issued, except that an initial license
33 may be issued as provided in section 9 of this act.

34 NEW SECTION. **Sec. 5.** The secretary of health has the power and it
35 is his or her duty to develop, after holding public hearings, narrowly
36 tailored minimum requirements under this chapter necessary to protect
37 the health of children attending day care.

1 The secretary of health or the city, county, or district health
2 department designated by the secretary of health shall have the power
3 and the duty:

4 (1) To make or cause to be made such inspections and investigations
5 of providers as may be deemed necessary; and

6 (2) To issue to applicants for licenses under this chapter who
7 comply with the requirements adopted under this chapter, a certificate
8 of compliance, a copy of which shall be presented to the department
9 before a license is issued, except that an initial license may be
10 issued as provided in section 9 of this act.

11 NEW SECTION. **Sec. 6.** All family day-care providers subject to
12 this chapter shall accord the department, the secretary of health, the
13 chief of the Washington state patrol, and the director of fire
14 protection, or their designees, during hours of providing day-care
15 services, the right of access to and inspection of the premises for the
16 purpose of determining whether or not there is compliance with the
17 provisions of this chapter and the requirements adopted under this
18 chapter.

19 NEW SECTION. **Sec. 7.** Each family day-care provider shall make
20 application for a license or renewal of license to the department.
21 Upon receipt of such application, the department shall either grant or
22 deny a license within ninety days. A license shall be granted if the
23 provider meets the minimum requirements set forth in this chapter and
24 the departmental requirements consistent herewith, except that an
25 initial license may be issued as provided in section 9 of this act.
26 Licenses provided for in this chapter shall be issued for a period of
27 three years. The licensee, however, shall advise the secretary of any
28 material change in circumstances which may affect the licensee's
29 ability to comply with requirements as provided by this chapter. The
30 license issued under this chapter is not transferable and applies only
31 to the licensee and the location stated in the application. For family
32 day-care providers having an acceptable history of child care, the
33 license may remain in effect for thirty days after a move.

34 NEW SECTION. **Sec. 8.** If a licensee desires to apply for a renewal
35 of its license, a request for a renewal shall be filed ninety days
36 prior to the expiration date of the license. Licenses shall be

1 automatically renewed unless the department establishes, by a
2 preponderance of evidence, that the licensee cannot protect day-care
3 children from harm.

4 NEW SECTION. **Sec. 9.** The secretary may, at his or her discretion,
5 issue an initial license instead of a full license, to a family day-
6 care provider for a period not to exceed six months, renewable for a
7 period not to exceed two years, to allow such provider reasonable time
8 to become eligible for full license.

9 NEW SECTION. **Sec. 10.** (1) The department may issue a probationary
10 license to a licensee who has had a license but is temporarily unable
11 to comply with a rule or has been the subject of multiple complaints or
12 concerns about noncompliance if:

13 (a) The noncompliance does not present an immediate threat to the
14 safety of the children but would be likely to do so if allowed to
15 continue; and

16 (b) The licensee has a plan approved by the department to correct
17 the area of noncompliance within the probationary period.

18 (2) A probationary license may be issued for up to six months, and
19 at the discretion of the department it may be extended for an
20 additional six months. The department shall immediately terminate the
21 probationary license, if at any time the noncompliance for which the
22 probationary license was issued presents an immediate threat to the
23 safety of the children.

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

26 (4) If the licensee has come into compliance by the expiration of
27 the probationary license period, the department shall reinstate the
28 original license for the remainder of its term.

29 (5) If the licensee has not come into compliance by the expiration
30 of the probationary license period, the department shall revoke the
31 original license, unless the licensee can establish good cause for
32 noncompliance and there is no direct threat of harm to the children.

33 (6) A licensee or license applicant has the right to an
34 adjudicative proceeding if the department restricts, limits, or revokes
35 the day-care license.

1 NEW SECTION. **Sec. 11.** (1) A family day-care provider may be
2 denied a license, or any license issued under this chapter may be
3 suspended, revoked, modified, or not renewed by the secretary upon
4 proof: (a) Of a threat of harm to the day-care children; or (b) that
5 the conditions required for the issuance of a license under this
6 chapter have ceased to exist with respect to such licenses. RCW
7 43.20A.205 governs notice of a license denial, revocation, suspension,
8 or modification and provides the right to an adjudicative proceeding.

9 (2) In any adjudicative proceeding regarding the denial,
10 modification, suspension, or revocation of any license under this
11 chapter, the department's decision shall not be upheld unless the
12 department proves that its action was necessary to protect children
13 from harm and was the least intrusive means to ensure safety. The
14 parents of children at the day care at issue shall be accorded full
15 rights to testify, and their opinions shall be given substantial
16 weight.

17 NEW SECTION. **Sec. 12.** (1) The office of administrative hearings
18 shall not assign nor allow an administrative law judge to preside over
19 an adjudicative hearing regarding denial, modification, suspension, or
20 revocation of any license to provide child care under this chapter,
21 unless such judge has received training related to state and federal
22 laws and department policies and procedures regarding:

- 23 (a) Child abuse, neglect, and maltreatment;
24 (b) Child protective services investigations and standards;
25 (c) Licensing activities and standards; and
26 (d) The fundamental rights of parents to autonomy in childrearing
27 decisions.

28 (2) The office of administrative hearings shall develop and
29 implement a training program that carries out the requirements of this
30 section.

31 NEW SECTION. **Sec. 13.** The secretary shall immediately suspend the
32 license or certificate of a person who has been certified pursuant to
33 RCW 74.20A.320 by the department as a person who is not in compliance
34 with a support order or a residential or visitation order. If the
35 person has continued to meet all other requirements for reinstatement
36 during the suspension, reissuance of the license or certificate shall

1 be automatic upon the secretary's receipt of a release issued by the
2 department stating that the licensee is in compliance with the order.

3 NEW SECTION. **Sec. 14.** Notwithstanding the existence or pursuit of
4 any other remedy, the secretary may, in the manner provided by law,
5 upon the advice of the attorney general, who shall represent the
6 department in the proceeding, maintain an action in the name of the
7 state for injunction or such other relief as he or she may deem
8 advisable against any family day-care provider subject to licensing
9 under the provisions of this chapter or against any such provider not
10 having a license as provided in this chapter.

11 NEW SECTION. **Sec. 15.** Any family day-care provider operating
12 without a license is guilty of a misdemeanor if the provider has been
13 served with a written notice and has failed after thirty days to cease
14 and desist or to apply for licensing under this chapter. If the family
15 day-care provider applies for a license which is subsequently denied,
16 the provider shall not be guilty of a misdemeanor unless the provider
17 fails to cease and desist within thirty days of denial of the license.

18 NEW SECTION. **Sec. 16.** (1) Existing rules for licensing family
19 day-care providers adopted under chapter 74.15 RCW that are consistent
20 with this chapter shall remain in force and effect until new rules are
21 adopted under this chapter, but not thereafter.

22 (2)(a) In licensing individuals to provide family home child care,
23 the department shall adopt rules that are narrowly tailored to minimize
24 government intrusion into the family home day-care setting. The
25 department shall propose rules that include reasonable safety
26 requirements as may be found in the child's family residence.

27 (b) The department shall not propose rules under this section that
28 set a higher standard of safety than may be reasonably expected in a
29 private residence.

30 (c) The department shall submit the rules adopted under this
31 section to the appropriate committees of the legislature for their
32 review prior to the effective date of the rules.

33 (d) The secretary shall adopt rules that explicitly state their
34 applicability to family day-care providers. Adopted rules pertaining
35 to family day-care providers shall appear in a separate chapter of the
36 Washington Administrative Code.

1 NEW SECTION. **Sec. 17.** Nothing in this chapter or the rules
2 adopted under this chapter shall be construed as authorizing the
3 supervision, regulation, or control of any family day-care provider
4 conducted for or by members of a recognized religious sect,
5 denomination or organization which in accordance with its creed,
6 tenets, or principles depends for healing upon prayer in the practice
7 of religion, nor shall the existence of any of the above conditions
8 militate against the licensing of such a provider.

9 NEW SECTION. **Sec. 18.** The state of Washington recognizes the
10 authority of Indian tribes within the state to license providers,
11 located within the boundaries of a federally recognized Indian
12 reservation, to receive children for control, care, and maintenance
13 outside their own homes.

14 NEW SECTION. **Sec. 19.** The department has primary responsibility
15 for providing child abuse and neglect prevention training to parents
16 and licensed child day-care providers of preschool age children
17 participating in day-care programs meeting the requirements of this
18 chapter. The department may limit training under this section to
19 trainers' workshops and curriculum development using existing
20 resources.

21 **Sec. 20.** RCW 74.15.020 and 1999 c 267 s 11 are each amended to
22 read as follows:

23 For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless
24 otherwise clearly indicated by the context thereof, the following terms
25 shall mean:

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

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

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

6 (c) "Community facility" means a group care facility operated for
7 the care of juveniles committed to the department under RCW 13.40.185.
8 A county detention facility that houses juveniles committed to the
9 department under RCW 13.40.185 pursuant to a contract with the
10 department is not a community facility;

11 (d) "Crisis residential center" means an agency which is a
12 temporary protective residential facility operated to perform the
13 duties specified in chapter 13.32A RCW, in the manner provided in RCW
14 74.13.032 through 74.13.036;

15 (~~(e)~~) (~~"Family day care provider" means a child day care provider~~
16 ~~who regularly provides child day care for not more than twelve children~~
17 ~~in the provider's home in the family living quarters;~~

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

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

27 (~~((h))~~) (g) "HOPE center" means an agency licensed by the secretary
28 to provide temporary residential placement and other services to street
29 youth. A street youth may remain in a HOPE center for thirty days
30 while services are arranged and permanent placement is coordinated. No
31 street youth may stay longer than thirty days unless approved by the
32 department and any additional days approved by the department must be
33 based on the unavailability of a long-term placement option. A street
34 youth whose parent wants him or her returned to home may remain in a
35 HOPE center until his or her parent arranges return of the youth, not
36 longer. All other street youth must have court approval under chapter
37 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

38 (~~((i))~~) (h) "Maternity service" means an agency which provides or
39 arranges 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 ~~((+j))~~ (i) "Responsible living skills program" means an agency
4 licensed by the secretary that provides residential and transitional
5 living services to persons ages sixteen to eighteen who are dependent
6 under chapter 13.34 RCW and who have been unable to live in his or her
7 legally authorized residence and, as a result, the minor lived outdoors
8 or in another unsafe location not intended for occupancy by the minor.
9 Dependent minors ages fourteen and fifteen may be eligible if no other
10 placement alternative is available and the department approves the
11 placement;

12 ~~((+k))~~ (j) "Service provider" means the entity that operates a
13 community facility.

14 (2) "Agency" shall not include the following:

15 (a) Persons related to the child, expectant mother, or person with
16 developmental disability in the following ways:

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

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

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

25 (iv) Spouses of any persons named in (i), (ii), or (iii) of this
26 subsection (2)(a), even after the marriage is terminated; or

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

34 (b) Family day-care providers, as defined and regulated under
35 chapter 74.-- RCW (sections 1 through 19 of this act);

36 (c) Persons who are legal guardians of the child, expectant mother,
37 or persons with developmental disabilities;

38 ~~((+e))~~ (d) Persons who care for a neighbor's or friend's child or
39 children, with or without compensation, where: (i) The person

1 providing care for periods of less than twenty-four hours does not
2 conduct such activity on an ongoing, regularly scheduled basis for the
3 purpose of engaging in business, which includes, but is not limited to,
4 advertising such care; or (ii) the parent and person providing care on
5 a twenty-four-hour basis have agreed to the placement in writing and
6 the state is not providing any payment for the care;

7 ~~((d))~~ (e) Parents on a mutually cooperative basis exchange care
8 of one another's children;

9 ~~((e))~~ (f) A person, partnership, corporation, or other entity
10 that provides placement or similar services to exchange students or
11 international student exchange visitors or persons who have the care of
12 an exchange student in their home;

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

16 ~~((g))~~ (h) Schools, including boarding schools, which are engaged
17 primarily in education, operate on a definite school year schedule,
18 follow a stated academic curriculum, accept only school-age children
19 and do not accept custody of children;

20 ~~((h))~~ (i) Seasonal camps of three months' or less duration
21 engaged primarily in recreational or educational activities;

22 ~~((i))~~ (j) Hospitals licensed pursuant to chapter 70.41 RCW when
23 performing functions defined in chapter 70.41 RCW, nursing homes
24 licensed under chapter 18.51 RCW and boarding homes licensed under
25 chapter 18.20 RCW;

26 ~~((j))~~ (k) Licensed physicians or lawyers;

27 ~~((k))~~ (l) Facilities providing care to children for periods of
28 less than twenty-four hours whose parents remain on the premises to
29 participate in activities other than employment;

30 ~~((l))~~ (m) Facilities approved and certified under chapter 71A.22
31 RCW;

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

36 ~~((n))~~ (o) Persons who have a child in their home for purposes of
37 adoption, if the child was placed in such home by a licensed child-
38 placing agency, an authorized public or tribal agency or court or if a

1 replacement report has been filed under chapter 26.33 RCW and the
2 placement has been approved by the court;

3 ~~((o))~~ (p) An agency operated by any unit of local, state, or
4 federal government or an agency, located within the boundaries of a
5 federally recognized Indian reservation, licensed by the Indian tribe;

6 ~~((p))~~ (q) An agency located on a federal military reservation,
7 except where the military authorities request that such agency be
8 subject to the licensing requirements of this chapter.

9 (3) "Department" means the state department of social and health
10 services.

11 (4) "Juvenile" means a person under the age of twenty-one who has
12 been sentenced to a term of confinement under the supervision of the
13 department under RCW 13.40.185.

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) "Requirement" means any rule, regulation, or standard of care
18 to be maintained by an agency.

19 (7) "Secretary" means the secretary of social and health services.

20 (8) "Street youth" means a person under the age of eighteen who
21 lives outdoors or in another unsafe location not intended for occupancy
22 by the minor and who is not residing with his or her parent or at his
23 or her legally authorized residence.

24 (9) "Transitional living services" means at a minimum, to the
25 extent funds are available, the following:

26 (a) Educational services, including basic literacy and
27 computational skills training, either in local alternative or public
28 high schools or in a high school equivalency program that leads to
29 obtaining a high school equivalency degree;

30 (b) Assistance and counseling related to obtaining vocational
31 training or higher education, job readiness, job search assistance, and
32 placement programs;

33 (c) Counseling and instruction in life skills such as money
34 management, home management, consumer skills, parenting, health care,
35 access to community resources, and transportation and housing options;

36 (d) Individual and group counseling; and

37 (e) Establishing networks with federal agencies and state and local
38 organizations such as the United States department of labor, employment
39 and training administration programs including the job training

1 partnership act which administers private industry councils and the job
2 corps; vocational rehabilitation; and volunteer programs.

3 **Sec. 21.** RCW 74.15.030 and 1997 c 386 s 33 are each amended to
4 read as follows:

5 The secretary shall have the power and it shall be the secretary's
6 duty:

7 (1) In consultation with the children's services advisory
8 committee, and with the advice and assistance of persons representative
9 of the various type agencies to be licensed, to designate categories of
10 facilities for which separate or different requirements shall be
11 developed as may be appropriate whether because of variations in the
12 ages, sex and other characteristics of persons served, variations in
13 the purposes and services offered or size or structure of the agencies
14 to be licensed hereunder, or because of any other factor relevant
15 thereto;

16 (2) In consultation with the children's services advisory
17 committee, and with the advice and assistance of persons representative
18 of the various type agencies to be licensed, to adopt and publish
19 minimum requirements for licensing applicable to each of the various
20 categories of agencies to be licensed.

21 The minimum requirements shall be limited to:

22 (a) The size and suitability of a facility and the plan of
23 operation for carrying out the purpose for which an applicant seeks a
24 license;

25 (b) The character, suitability and competence of an agency and
26 other persons associated with an agency directly responsible for the
27 care and treatment of children, expectant mothers or developmentally
28 disabled persons. In consultation with law enforcement personnel, the
29 secretary shall investigate the conviction record or pending charges
30 and dependency record information under chapter 43.43 RCW of each
31 agency and its staff seeking licensure or relicensure. In order to
32 determine the suitability of applicants for an agency license,
33 licensees, their employees, and other persons who have unsupervised
34 access to children in care, and who have not resided in the state of
35 Washington during the three-year period before being authorized to care
36 for children shall be fingerprinted. The fingerprints shall be
37 forwarded to the Washington state patrol and federal bureau of
38 investigation for a criminal history records check. The fingerprint

1 criminal history records checks will be at the expense of the licensee
2 except that in the case of a foster family home, if this expense would
3 work a hardship on the licensee, the department shall pay the expense.
4 The licensee may not pass this cost on to the employee or prospective
5 employee, unless the employee is determined to be unsuitable due to his
6 or her criminal history record. The secretary shall use the
7 information solely for the purpose of determining eligibility for a
8 license and for determining the character, suitability, and competence
9 of those persons or agencies, excluding parents, not required to be
10 licensed who are authorized to care for children, expectant mothers,
11 and developmentally disabled persons. Criminal justice agencies shall
12 provide the secretary such information as they may have and that the
13 secretary may require for such purpose;

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

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

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

22 (f) The financial ability of an agency to comply with minimum
23 requirements established pursuant to chapter 74.15 RCW and RCW
24 74.13.031; and

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

27 (3) To investigate any person, including relatives by blood or
28 marriage except for parents, for character, suitability, and competence
29 in the care and treatment of children, expectant mothers, and
30 developmentally disabled persons prior to authorizing that person to
31 care for children, expectant mothers, and developmentally disabled
32 persons. However, if a child is placed with a relative under RCW
33 13.34.060 or 13.34.130, and if such relative appears otherwise suitable
34 and competent to provide care and treatment the criminal history
35 background check required by this section need not be completed before
36 placement, but shall be completed as soon as possible after placement;

37 (4) On reports of alleged child abuse and neglect, to investigate
38 agencies in accordance with chapter 26.44 RCW, including child day-care
39 centers ((and family day-care homes)), to determine whether the alleged

1 abuse or neglect has occurred, and whether child protective services or
2 referral to a law enforcement agency is appropriate;

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

7 (6) To prescribe the procedures and the form and contents of
8 reports necessary for the administration of chapter 74.15 RCW and RCW
9 74.13.031 and to require regular reports from each licensee;

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

13 (8) To review requirements adopted hereunder at least every two
14 years and to adopt appropriate changes after consultation with the
15 child care coordinating committee and other affected groups for child
16 day-care requirements and with the children's services advisory
17 committee for requirements for other agencies; and

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

21 **Sec. 22.** RCW 74.15.100 and 1995 c 302 s 8 are each amended to read
22 as follows:

23 Each agency shall make application for a license or renewal of
24 license to the department of social and health services on forms
25 prescribed by the department. A licensed agency having foster-family
26 homes under its supervision may make application for a license on
27 behalf of any such foster-family home. Such a foster home license
28 shall cease to be valid when the home is no longer under the
29 supervision of that agency. Upon receipt of such application, the
30 department shall either grant or deny a license within ninety days
31 unless the application is for licensure as a foster-family home, in
32 which case RCW 74.15.040 shall govern. A license shall be granted if
33 the agency meets the minimum requirements set forth in chapter 74.15
34 RCW and RCW 74.13.031 and the departmental requirements consistent
35 herewith, except that an initial license may be issued as provided in
36 RCW 74.15.120. Licenses provided for in chapter 74.15 RCW and RCW
37 74.13.031 shall be issued for a period of three years. The licensee,
38 however, shall advise the secretary of any material change in

1 circumstances which might constitute grounds for reclassification of
2 license as to category. The license issued under this chapter is not
3 transferable and applies only to the licensee and the location stated
4 in the application. For licensed foster-family (~~and family day care~~)
5 homes having an acceptable history of child care, the license may
6 remain in effect for two weeks after a move, except that for the
7 foster-family home this will apply only if the family remains intact.

8 **Sec. 23.** RCW 74.15.130 and 1998 c 314 s 6 are each amended to read
9 as follows:

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

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

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

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

32 (c) The conditions required for issuance of a license under chapter
33 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such
34 licenses.

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

1 decision shall be upheld if it is supported by a preponderance of the
2 evidence.

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

30 NEW SECTION. **Sec. 24.** Sections 1 through 19 of this act
31 constitute a new chapter in Title 74 RCW.

--- END ---