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**SUBSTITUTE SENATE BILL 5221**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Winsley, Hargrove, Long, Costa and McAuliffe)

READ FIRST TIME 02/16/01.

1 AN ACT Relating to increasing public and parental access to  
2 information regarding child care service; amending RCW 74.15.130 and  
3 74.15.020; adding new sections to chapter 74.15 RCW; creating new  
4 sections; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that consumers of  
7 child care services have a legitimate interest in receiving timely  
8 information about child care service providers in order to make  
9 meaningful choices regarding the facilities and people who provide care  
10 for their children.

11 The legislature finds that parents often do not receive timely  
12 information about enforcement actions when complaints are made alleging  
13 serious issues affecting the health or safety of children. The  
14 legislature intends to utilize the state's improved ability to collect  
15 and manage information about child care service providers by requiring  
16 that all relevant licensing actions and enforcement actions be reported  
17 to appropriate individuals and organizations in a timely manner.

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

3        (1) Every child day-care center and family day-care provider shall  
4 prominently post the following items, clearly visible to parents and  
5 staff:

6        (a) The license issued under this chapter; and

7        (b) A notice that inspection reports and any notices of enforcement  
8 actions for the previous three years are available from the licensee  
9 and the department.

10       (2) The department shall disclose, upon request, the receipt,  
11 general nature, and resolution or current status of all complaints on  
12 record with the department after the effective date of this act against  
13 a child day-care center or family day-care provider that result in an  
14 enforcement action.

15       This section shall not be construed to require the disclosure of  
16 any information that is exempt from public disclosure under chapter  
17 42.17 RCW.

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

20       (1) Every child day-care center and family day-care provider shall  
21 have readily available for review by the department, parents, and the  
22 public a copy of each inspection report and notice of enforcement  
23 action received by the center or provider from the department for the  
24 past three years. This subsection only applies to reports and notices  
25 received on or after the effective date of this act.

26       (2) The department shall make available to the public during  
27 business hours all inspection reports and notices of enforcement  
28 actions involving child day-care centers and family day-care providers  
29 consistent with chapter 42.17 RCW. The department shall include in the  
30 inspection report a statement of the corrective measures taken by the  
31 center or provider.

32       **Sec. 4.**    RCW 74.15.130 and 1998 c 314 s 6 are each amended to read  
33 as follows:

34       (1) An agency may be denied a license, or any license issued  
35 pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended,  
36 revoked, modified, or not renewed by the secretary upon proof (a) that  
37 the agency has failed or refused to comply with the provisions of

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

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

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

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

19 (c) The conditions required for issuance of a license under chapter  
20 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such  
21 licenses.

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

27 (4) The department may assess civil monetary penalties upon proof  
28 that an agency has failed or refused to comply with the rules adopted  
29 under the provisions of this chapter and RCW 74.13.031 or that an  
30 agency subject to licensing under this chapter and RCW 74.13.031 is  
31 operating without a license except that civil monetary penalties shall  
32 not be levied against a licensed foster home. Monetary penalties  
33 levied against unlicensed agencies that submit an application for  
34 licensure within thirty days of notification and subsequently become  
35 licensed will be forgiven. These penalties may be assessed in addition  
36 to or in lieu of other disciplinary actions. Civil monetary penalties,  
37 if imposed, may be assessed and collected, with interest, for each day  
38 an agency is or was out of compliance. Civil monetary penalties shall  
39 not exceed seventy-five dollars per violation for a family day-care

1 home and two hundred fifty dollars per violation for group homes, child  
2 day-care centers, and child-placing agencies. Each day upon which the  
3 same or substantially similar action occurs is a separate violation  
4 subject to the assessment of a separate penalty. The department shall  
5 provide a notification period before a monetary penalty is effective  
6 and may forgive the penalty levied if the agency comes into compliance  
7 during this period. The department may suspend, revoke, or not renew  
8 a license for failure to pay a civil monetary penalty it has assessed  
9 pursuant to this chapter within ten days after such assessment becomes  
10 final. Chapter 43.20A RCW governs notice of a civil monetary penalty  
11 and provides the right of an adjudicative proceeding. The  
12 preponderance of evidence standard shall apply in adjudicative  
13 proceedings related to assessment of civil monetary penalties.

14 (5)(a) The department may place a child day-care center or family  
15 day-care provider on nonreferral status or stop placement status if the  
16 center or provider has failed or refused to comply with this chapter or  
17 rules adopted under this chapter or an enforcement action has been  
18 taken. The nonreferral status or stop placement status may continue  
19 until the department determines that: (i) No enforcement action is  
20 appropriate; (ii) a complaint is not founded or valid; or (iii) a  
21 corrective action plan has been successfully concluded. The department  
22 shall then remove the center or provider from nonreferral status and  
23 provide appropriate notice to the public and private child care  
24 resource and referral agencies.

25 (b) The department shall notify appropriate public and private  
26 child care resource and referral agencies of the department's decision  
27 to take an enforcement action against the center or provider.

28 (6) Whenever an enforcement action is taken, the department shall  
29 notify the child care agency subject to the action in writing by  
30 personal service within ten business days.

31 NEW SECTION. Sec. 5. A new section is added to chapter 74.15 RCW  
32 to read as follows:

33 (1) The department shall compile an annual report summarizing all  
34 enforcement actions for the previous fiscal year relating to children  
35 in the care of child day-care centers and family day-care providers.  
36 The report must be provided to the legislature, the child care  
37 coordinating committee, and child care resource and referral agencies  
38 by August 1st of each year beginning in 2002.

1 (2) The report must include, at a minimum: (a) An analysis of the  
2 volume and general nature of all reports and disclosures made by the  
3 department as required or authorized under section 2 of this act; (b)  
4 an analysis of the volume and general nature of the enforcement  
5 actions, pending complaint investigations, and ongoing corrective  
6 action plans for which the department placed centers and providers on  
7 nonreferral or stop placement status under section 3 of this act; (c)  
8 an analysis of the volume and general nature of complaints determined  
9 to be invalid, inconclusive, or unfounded; and (d) information about  
10 the average length of time required by the department to complete  
11 investigations determined to be (i) founded or valid, (ii)  
12 inconclusive, and (iii) invalid or unfounded.

13 **Sec. 6.** RCW 74.15.020 and 1999 c 267 s 11 are each amended to read  
14 as follows:

15 For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless  
16 otherwise clearly indicated by the context thereof, the following terms  
17 shall mean:

18 (1) "Adverse licensing action" means a denial, suspension,  
19 revocation, modification, or nonrenewal of a license pursuant to RCW  
20 74.15.130, or issuance of a probationary license pursuant to RCW  
21 74.15.125.

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

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

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

37 (c) "Community facility" means a group care facility operated for  
38 the care of juveniles committed to the department under RCW 13.40.185.

1 A county detention facility that houses juveniles committed to the  
2 department under RCW 13.40.185 pursuant to a contract with the  
3 department is not a community facility;

4 (d) "Crisis residential center" means an agency which is a  
5 temporary protective residential facility operated to perform the  
6 duties specified in chapter 13.32A RCW, in the manner provided in RCW  
7 74.13.032 through 74.13.036;

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

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

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

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

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

35 (j) "Responsible living skills program" means an agency licensed by  
36 the secretary that provides residential and transitional living  
37 services to persons ages sixteen to eighteen who are dependent under  
38 chapter 13.34 RCW and who have been unable to live in his or her  
39 legally authorized residence and, as a result, the minor lived outdoors

1 or in another unsafe location not intended for occupancy by the minor.  
2 Dependent minors ages fourteen and fifteen may be eligible if no other  
3 placement alternative is available and the department approves the  
4 placement;

5 (k) "Service provider" means the entity that operates a community  
6 facility.

7 (~~(2)~~) (3) "Agency" shall not include the following:

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

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

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

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

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

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

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

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

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

1 (e) 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 (f) Nursery schools or kindergartens which are engaged primarily in  
6 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 (g) 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 (h) Seasonal camps of three months' or less duration engaged  
13 primarily in recreational or educational activities;

14 (i) 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 (j) Licensed physicians or lawyers;

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

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

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

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

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

38 ((+3+)) (4) "Department" means the state department of social and  
39 health services.



1        ~~((4))~~ (5) "Enforcement action" means any disciplinary action  
2 taken by the department including:  
3        (a) An adverse licensing action;  
4        (b) Issuance of a deficiency statement, notification of a  
5 violation, or licensing compliance plan;  
6        (c) A protective action including removal of a child or initiation  
7 of court proceedings; or  
8        (d) Imposition of a civil penalty.  
9        (6) "Probationary license" means a license issued as a disciplinary  
10 measure to an agency that has previously been issued a full license but  
11 is out of compliance with licensing standards.  
12        (7) "Referent" means a person or agency who brings to the attention  
13 of the department a complaint or information resulting in an  
14 investigation or enforcement action.  
15        (8) "Juvenile" means a person under the age of twenty-one who has  
16 been sentenced to a term of confinement under the supervision of the  
17 department under RCW 13.40.185.  
18        ~~((5) "Probationary license" means a license issued as a~~  
19 ~~disciplinary measure to an agency that has previously been issued a~~  
20 ~~full license but is out of compliance with licensing standards.~~  
21        ~~(6))~~ (9) "Requirement" means any rule, regulation, or standard of  
22 care to be maintained by an agency.  
23        ~~((7))~~ (10) "Secretary" means the secretary of social and health  
24 services.  
25        ~~((8))~~ (11) "Street youth" means a person under the age of  
26 eighteen who lives outdoors or in another unsafe location not intended  
27 for occupancy by the minor and who is not residing with his or her  
28 parent or at his or her legally authorized residence.  
29        ~~((9))~~ (12) "Transitional living services" means at a minimum, to  
30 the extent funds are available, the following:  
31        (a) Educational services, including basic literacy and  
32 computational skills training, either in local alternative or public  
33 high schools or in a high school equivalency program that leads to  
34 obtaining a high school equivalency degree;  
35        (b) Assistance and counseling related to obtaining vocational  
36 training or higher education, job readiness, job search assistance, and  
37 placement programs;

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

4 (d) Individual and group counseling; and

5 (e) Establishing networks with federal agencies and state and local  
6 organizations such as the United States department of labor, employment  
7 and training administration programs including the job training  
8 partnership act which administers private industry councils and the job  
9 corps; vocational rehabilitation; and volunteer programs.

10 NEW SECTION. **Sec. 7.** The department of social and health services  
11 shall adopt rules as necessary to implement sections 2 through 5 of  
12 this act.

13 NEW SECTION. **Sec. 8.** A new section is added to chapter 74.15 RCW  
14 to read as follows:

15 (1) The department shall establish and maintain a toll-free  
16 telephone number, and an electronic on-line system for communication of  
17 information regarding child day-care centers and family day-care  
18 providers. This number shall be available during standard business  
19 hours and during nonbusiness hours callers shall be able to leave  
20 messages. The number shall be published in reasonably available  
21 printed and electronic media. The number shall be easily identifiable  
22 as a number for communication of information as set forth in this  
23 section.

24 (2) All licensed child day-care centers and family day-care  
25 providers shall post in a place and manner clearly visible to patrons  
26 and visitors the department's toll-free telephone number. Parents or  
27 guardians must be given the department's toll-free telephone number by  
28 employees or operators of the child day-care centers and family day-  
29 care providers.

30 (3) For the purposes of this section, "communication of  
31 information" means callers may: (a) Determine whether a day care is  
32 licensed; (b) determine whether a day care is in good standing  
33 regarding licensing requirements; (c) determine the general nature of  
34 enforcement against the providers; (d) obtain information on how to  
35 report suspected or observed noncompliance with licensing requirements;  
36 (e) obtain information on how to report alleged abuse or neglect in a  
37 day care; (f) obtain information on how to report health, safety, and

1 welfare concerns in a day care; (g) receive follow-up assistance,  
2 including information on the office of the family and children's  
3 ombudsman; and (h) receive referral information on other agencies or  
4 entities that may be of further assistance to the caller.

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

7 If a family day-care provider does not have day care insurance as  
8 defined in RCW 48.88.020, the provider shall maintain a file of  
9 affidavits or declarations signed by each parent with a child enrolled  
10 in family day care. The affidavit or declaration shall state that the  
11 parent has been informed that the family day-care provider does not  
12 carry day-care insurance and that the parent has been informed that the  
13 day-care insurance, if any, of the owner of the property or the  
14 homeowners' association, as appropriate, may not provide coverage for  
15 losses arising out of, or in connection with, the operation of the  
16 family day-care provider, except to the extent that the losses are  
17 caused by, or result from, an action or omission by the owner of the  
18 property or the homeowners' association, for which the owner of the  
19 property or the homeowners' association would otherwise be liable under  
20 the law.

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