
SENATE BILL 5221

State of Washington

57th Legislature

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By Senators Kohl-Welles, Winsley, Hargrove, Long and Costa

Read first time 01/16/2001. Referred to Committee on Human Services & Corrections.

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;

7 (b) The notice of any pending enforcement action. The notice must
8 be posted immediately upon receipt. The notice must be posted for at
9 least two weeks or until the violation causing the enforcement action
10 is corrected, whichever is longer;

11 (c) A notice that inspection reports and any notices of enforcement
12 actions for the previous three years are available from the licensee
13 and the department; and

14 (d) Any other information required by the department.

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

20 This section shall not be construed to require the disclosure of
21 any information that is exempt from public disclosure under chapter
22 42.17 RCW.

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

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

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

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

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

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

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

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

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

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

33 (4) The department may assess civil monetary penalties upon proof
34 that an agency has failed or refused to comply with the rules adopted
35 under the provisions of this chapter and RCW 74.13.031 or that an
36 agency subject to licensing under this chapter and RCW 74.13.031 is
37 operating without a license except that civil monetary penalties shall
38 not be levied against a licensed foster home. Monetary penalties
39 levied against unlicensed agencies that submit an application for

1 licensure within thirty days of notification and subsequently become
2 licensed will be forgiven. These penalties may be assessed in addition
3 to or in lieu of other disciplinary actions. Civil monetary penalties,
4 if imposed, may be assessed and collected, with interest, for each day
5 an agency is or was out of compliance. Civil monetary penalties shall
6 not exceed seventy-five dollars per violation for a family day-care
7 home and two hundred fifty dollars per violation for group homes, child
8 day-care centers, and child-placing agencies. Each day upon which the
9 same or substantially similar action occurs is a separate violation
10 subject to the assessment of a separate penalty. The department shall
11 provide a notification period before a monetary penalty is effective
12 and may forgive the penalty levied if the agency comes into compliance
13 during this period. The department may suspend, revoke, or not renew
14 a license for failure to pay a civil monetary penalty it has assessed
15 pursuant to this chapter within ten days after such assessment becomes
16 final. Chapter 43.20A RCW governs notice of a civil monetary penalty
17 and provides the right of an adjudicative proceeding. The
18 preponderance of evidence standard shall apply in adjudicative
19 proceedings related to assessment of civil monetary penalties.

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

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

34 (6) Whenever an enforcement action is taken, the department shall
35 notify the agency subject to the action in writing by certified mail
36 within two business days.

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

1 (1) The department shall compile an annual report summarizing all
2 enforcement actions for the previous fiscal year relating to children
3 in the care of child day-care centers and family day-care providers.
4 The report must be provided to the legislature, the child care
5 coordinating committee, and child care resource and referral agencies
6 by August 1st of each year beginning in 2000.

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

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

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

24 (1) "Adverse licensing action" means a denial, suspension,
25 revocation, modification, or nonrenewal of a license pursuant to RCW
26 74.15.130, or issuance of a probationary license pursuant to RCW
27 74.15.125.

28 (2) "Agency" means any person, firm, partnership, association,
29 corporation, or facility which receives children, expectant mothers, or
30 persons with developmental disabilities for control, care, or
31 maintenance outside their own homes, or which places, arranges the
32 placement of, or assists in the placement of children, expectant
33 mothers, or persons with developmental disabilities for foster care or
34 placement of children for adoption, and shall include the following
35 irrespective of whether there is compensation to the agency or to the
36 children, expectant mothers or persons with developmental disabilities
37 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 who
16 regularly provides child day care for not more than twelve children in
17 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) "Group-care facility" means an agency, other than a foster-
25 family home, which is maintained and operated for the care of a group
26 of children on a twenty-four hour basis;

27 (h) "HOPE center" means an agency licensed by the secretary to
28 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) "Maternity service" means an agency which provides or arranges
39 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) "Responsible living skills program" means an agency licensed by
4 the secretary that provides residential and transitional living
5 services to persons ages sixteen to eighteen who are dependent under
6 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) "Service provider" means the entity that operates a community
13 facility.

14 (~~((2))~~) (3) "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) Persons who are legal guardians of the child, expectant mother,
35 or persons with developmental disabilities;

36 (c) Persons who care for a neighbor's or friend's child or
37 children, with or without compensation, where: (i) The person
38 providing care for periods of less than twenty-four hours does not
39 conduct such activity on an ongoing, regularly scheduled basis for the

1 purpose of engaging in business, which includes, but is not limited to,
2 advertising such care; or (ii) the parent and person providing care on
3 a twenty-four-hour basis have agreed to the placement in writing and
4 the state is not providing any payment for the care;

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

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

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

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

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

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

24 (j) Licensed physicians or lawyers;

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

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

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

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

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

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

7 ~~((3))~~ (4) "Department" means the state department of social and
8 health services.

9 ~~((4))~~ (5) "Enforcement action" means any disciplinary action
10 taken by the department including:

11 (a) An adverse licensing action;

12 (b) Issuance of a deficiency statement, notification of a
13 violation, or licensing compliance plan;

14 (c) A protective action including removal of a child or initiation
15 of court proceedings; or

16 (d) Imposition of a civil penalty.

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

20 (7) "Referent" means a person or agency who brings to the attention
21 of the department a complaint or information resulting in an
22 investigation or enforcement action.

23 (8) "Juvenile" means a person under the age of twenty-one who has
24 been sentenced to a term of confinement under the supervision of the
25 department under RCW 13.40.185.

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

29 (6)) (9) "Requirement" means any rule, regulation, or standard of
30 care to be maintained by an agency.

31 ~~((7))~~ (10) "Secretary" means the secretary of social and health
32 services.

33 ~~((8))~~ (11) "Street youth" means a person under the age of
34 eighteen who lives outdoors or in another unsafe location not intended
35 for occupancy by the minor and who is not residing with his or her
36 parent or at his or her legally authorized residence.

37 ~~((9))~~ (12) "Transitional living services" means at a minimum, to
38 the extent funds are available, the following:

1 (a) Educational services, including basic literacy and
2 computational skills training, either in local alternative or public
3 high schools or in a high school equivalency program that leads to
4 obtaining a high school equivalency degree;

5 (b) Assistance and counseling related to obtaining vocational
6 training or higher education, job readiness, job search assistance, and
7 placement programs;

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

11 (d) Individual and group counseling; and

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

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

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

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

31 (2) All licensed child day-care centers and family day-care
32 providers shall post in a place and manner clearly visible to patrons
33 and visitors the department's toll-free telephone number. Parents or
34 guardians must be given the department's toll-free telephone number by
35 employees or operators of the child day-care centers and family day-
36 care providers.

1 (3)(a) The department shall make a preliminary review of the
2 complaint and investigate any complaint within its authority unless the
3 department determines that: (i) The complaint is intended to willfully
4 harass a licensee or employee of a licensee; or (ii) there is no
5 reasonable basis for investigation; or (iii) corrective action has been
6 taken as determined by the department.

7 (b) The department shall refer complaints to the appropriate state
8 agencies, law enforcement agencies, the attorney general, or other
9 entities if the department lacks authority to investigate or if its
10 investigation reveals that a follow-up referral to one or more of these
11 entities is appropriate.

12 (4) For the purposes of this section, "communication of
13 information" means callers may: (a) Determine whether a day care is
14 licensed; (b) determine whether a day care is in good standing
15 regarding licensing requirements; (c) determine the general nature of
16 enforcement against the providers; (d) obtain information on how to
17 report suspected or observed noncompliance with licensing requirements;
18 (e) obtain information on how to report alleged abuse or neglect in a
19 day care; (f) obtain information on how to report health, safety, and
20 welfare concerns in a day care; (g) receive follow-up assistance,
21 including information on the office of the family and children's
22 ombudsman; and (h) receive referral information on other agencies or
23 entities that may be of further assistance to the caller.

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

26 If a family day-care provider does not have day care insurance as
27 defined in RCW 48.88.020, the provider shall maintain a file of
28 affidavits or declarations signed by each parent with a child enrolled
29 in family day care. The affidavit or declaration shall state that the
30 parent has been informed that the family day-care provider does not
31 carry day-care insurance and that the parent has been informed that the
32 day-care insurance, if any, of the owner of the property or the
33 homeowners' association, as appropriate, may not provide coverage for
34 losses arising out of, or in connection with, the operation of the
35 family day-care provider, except to the extent that the losses are
36 caused by, or result from, an action or omission by the owner of the
37 property or the homeowners' association, for which the owner of the

1 property or the homeowners' association would otherwise be liable under
2 the law.

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