

SSB 5806 - S AMD 314

By Senators Kohl-Welles, Hargrove, Stevens

ADOPTED 03/16/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature recognizes that child care
4 providers provide valuable services for the families of Washington
5 state and are an important part of ensuring the healthy growth and
6 development of young children. It also recognizes the importance of
7 ensuring that operators of child day-care centers and family day-care
8 providers are providing safe and quality care and operating in
9 compliance with minimal standards.

10 The legislature further recognizes that parents, as consumers, have
11 an interest in obtaining access to information that is relevant to
12 making informed decisions about the persons with whom they entrust the
13 care of their children. The purpose of this act is to establish a
14 system, consistent throughout the state, through which parents,
15 guardians, and other persons acting in loco parentis can obtain certain
16 information about child care providers.

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

19 (1) The department shall establish and maintain a toll-free
20 telephone number, and an interactive web-based system through which
21 persons may obtain information regarding child day-care centers and
22 family day-care providers. This number shall be available twenty-four
23 hours a day for persons to request information. The department shall
24 respond to recorded messages left at the number within two business
25 days. The number shall be published in reasonably available printed
26 and electronic media. The number shall be easily identifiable as a
27 number through which persons may obtain information regarding child
28 day-care centers and family day-care providers as set forth in this
29 section.

1 (2) Through the toll-free telephone line established by this
2 section, the department shall provide information to callers about:
3 (a) Whether a day-care provider is licensed; (b) whether a day-care
4 provider's license is current; (c) the general nature of any
5 enforcement against the providers; (d) how to report suspected or
6 observed noncompliance with licensing requirements; (e) how to report
7 alleged abuse or neglect in a day care; (f) how to report health,
8 safety, and welfare concerns in a day care; (g) how to receive follow-
9 up assistance, including information on the office of the family and
10 children's ombudsman; and (h) how to receive referral information on
11 other agencies or entities that may be of further assistance to the
12 caller.

13 (3) Beginning in January 2006, the department shall print the toll-
14 free number established by this section on the face of new licenses
15 issued to child day-care centers and family day-care providers.

16 (4) This section shall not be construed to require the disclosure
17 of any information that is exempt from public disclosure under chapter
18 42.17 RCW.

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

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

24 (a) The license issued under this chapter;

25 (b) The department's toll-free telephone number established by
26 section 2 of this act;

27 (c) The notice of any pending enforcement action. The notice must
28 be posted immediately upon receipt. The notice must be posted for at
29 least two weeks or until the violation causing the enforcement action
30 is corrected, whichever is longer;

31 (d) A notice that inspection reports and any notices of enforcement
32 actions for the previous three years are available from the licensee
33 and the department; and

34 (e) Any other information required by the department.

35 (2) The department shall disclose, upon request, the receipt,
36 general nature, and resolution or current status of all complaints on

1 record with the department after the effective date of this act against
2 a child day-care center or family day-care provider that result in an
3 enforcement action.

4 This section shall not be construed to require the disclosure of
5 any information that is exempt from public disclosure under chapter
6 42.17 RCW.

7 NEW SECTION. **Sec. 4.** A new section is added to chapter 74.15 RCW
8 to read as follows:

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

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

21 **Sec. 5.** RCW 74.15.130 and 1998 c 314 s 6 are each amended to read
22 as follows:

23 (1) An agency may be denied a license, or any license issued
24 pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended,
25 revoked, modified, or not renewed by the secretary upon proof (a) that
26 the agency has failed or refused to comply with the provisions of
27 chapter 74.15 RCW and RCW 74.13.031 or the requirements promulgated
28 pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031; or
29 (b) that the conditions required for the issuance of a license under
30 chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect
31 to such licenses. RCW 43.20A.205 governs notice of a license denial,
32 revocation, suspension, or modification and provides the right to an
33 adjudicative proceeding.

34 (2) In any adjudicative proceeding regarding the denial,
35 modification, suspension, or revocation of a foster family home

1 license, the department's decision shall be upheld if there is
2 reasonable cause to believe that:

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

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

10 (c) The conditions required for issuance of a license under chapter
11 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such
12 licenses.

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

18 (4) The department may assess civil monetary penalties upon proof
19 that an agency has failed or refused to comply with the rules adopted
20 under the provisions of this chapter and RCW 74.13.031 or that an
21 agency subject to licensing under this chapter and RCW 74.13.031 is
22 operating without a license except that civil monetary penalties shall
23 not be levied against a licensed foster home. Monetary penalties
24 levied against unlicensed agencies that submit an application for
25 licensure within thirty days of notification and subsequently become
26 licensed will be forgiven. These penalties may be assessed in addition
27 to or in lieu of other disciplinary actions. Civil monetary penalties,
28 if imposed, may be assessed and collected, with interest, for each day
29 an agency is or was out of compliance. Civil monetary penalties shall
30 not exceed seventy-five dollars per violation for a family day-care
31 home and two hundred fifty dollars per violation for group homes, child
32 day-care centers, and child-placing agencies. Each day upon which the
33 same or substantially similar action occurs is a separate violation
34 subject to the assessment of a separate penalty. An agency that
35 continues to operate following a license revocation is subject to the
36 maximum penalty for each day of operation following the revocation.
37 The department shall provide a notification period before a monetary
38 penalty is effective and may forgive the penalty levied if the agency

1 comes into compliance during this period. The department may suspend,
2 revoke, or not renew a license for failure to pay a civil monetary
3 penalty it has assessed pursuant to this chapter within ten days after
4 such assessment becomes final. Chapter 43.20A RCW governs notice of a
5 civil monetary penalty and provides the right of an adjudicative
6 proceeding. The preponderance of evidence standard shall apply in
7 adjudicative proceedings related to assessment of civil monetary
8 penalties.

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

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

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

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

28 (1) Every licensed child day-care center shall, at the time of
29 licensure or renewal and at any inspection, provide to the department
30 proof that the licensee has day-care insurance as defined in RCW
31 48.88.020, or is self-insured pursuant to chapter 48.90 RCW.

32 (a) Every licensed child day-care center shall comply with the
33 following requirements:

- 34 (i) Notify the department when coverage has been terminated;
- 35 (ii) Post at the day-care center, in a manner likely to be observed
36 by patrons, notice that coverage has lapsed or been terminated;

1 (iii) Provide written notice to parents that coverage has lapsed or
2 terminated within thirty days of lapse or termination.

3 (b) Liability limits under this subsection shall be the same as set
4 forth in RCW 48.88.050.

5 (c) The department may take action as provided in RCW 74.15.130 if
6 the licensee fails to maintain in full force and effect the insurance
7 required by this subsection.

8 (d) This subsection applies to child day-care centers holding
9 licenses, initial licenses, and probationary licenses under this
10 chapter.

11 (e) A child day-care center holding a license under this chapter on
12 the effective date of this act, is not required to be in compliance
13 with this subsection until the time of renewal of the license or until
14 January 1, 2006, whichever is sooner.

15 (2)(a) Every licensed family day-care provider shall, at the time
16 of licensure or renewal either:

17 (i) Provide to the department proof that the licensee has day-care
18 insurance as defined in RCW 48.88.020, or other applicable insurance;
19 or

20 (ii) Provide written notice of their insurance status to parents
21 with a child enrolled in family day care.

22 (b) Any licensed family day-care provider that provides to the
23 department proof that the licensee has insurance as provided under
24 (a)(i) of this subsection shall comply with the following requirements:

25 (i) Notify the department when coverage has been terminated;

26 (ii) Post at the day-care home, in a manner likely to be observed
27 by patrons, notice that coverage has lapsed or been terminated;

28 (iii) Provide written notice to parents that coverage has lapsed or
29 terminated within thirty days of lapse or termination.

30 (c) Liability limits under (a)(i) of this subsection shall be the
31 same as set forth in RCW 48.88.050.

32 (d) The department may take action as provided in RCW 74.15.130 if
33 the licensee fails to notify the department when coverage has been
34 terminated as required under (b) of this subsection.

35 (e) A family day-care provider holding a license under this chapter
36 on the effective date of this act is not required to be in compliance
37 with this subsection until the time of renewal of the license or until
38 January 1, 2006, whichever is sooner.

1 (3) Noncompliance or compliance with the provisions of this section
2 shall not constitute evidence of liability or nonliability in any
3 injury litigation."

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4 On page 1, line 1 of the title, after "services;" strike the
5 remainder of the title and insert "amending RCW 74.15.130; adding new
6 sections to chapter 74.15 RCW; creating a new section; and prescribing
7 penalties."

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