
ENGROSSED SUBSTITUTE SENATE BILL 5806

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Hargrove, Rasmussen and Jacobsen)

READ FIRST TIME 02/28/05.

1 AN ACT Relating to child care services; amending RCW 74.15.130;
2 adding new sections to chapter 74.15 RCW; creating a new section; and
3 prescribing penalties.

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

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

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

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

3 (1) The department shall establish and maintain a toll-free
4 telephone number, and an interactive web-based system through which
5 persons may obtain information regarding child day-care centers and
6 family day-care providers. This number shall be available twenty-four
7 hours a day for persons to request information. The department shall
8 respond to recorded messages left at the number within two business
9 days. The number shall be published in reasonably available printed
10 and electronic media. The number shall be easily identifiable as a
11 number through which persons may obtain information regarding child
12 day-care centers and family day-care providers as set forth in this
13 section.

14 (2) Through the toll-free telephone line established by this
15 section, the department shall provide information to callers about:
16 (a) Whether a day-care provider is licensed; (b) whether a day-care
17 provider's license is current; (c) the general nature of any
18 enforcement against the providers; (d) how to report suspected or
19 observed noncompliance with licensing requirements; (e) how to report
20 alleged abuse or neglect in a day care; (f) how to report health,
21 safety, and welfare concerns in a day care; (g) how to receive follow-
22 up assistance, including information on the office of the family and
23 children's ombudsman; and (h) how to receive referral information on
24 other agencies or entities that may be of further assistance to the
25 caller.

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

29 (4) This section shall not be construed to require the disclosure
30 of any information that is exempt from public disclosure under chapter
31 42.17 RCW.

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

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

37 (a) The license issued under this chapter;

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

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

7 (d) 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; and

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

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

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

19 NEW SECTION. **Sec. 4.** 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 have readily available for review by the department, parents, and the
23 public a copy of each inspection report and notice of enforcement
24 action received by the center or provider from the department for the
25 past three years. This subsection only applies to reports and notices
26 received on or after the effective date of this act.

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

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

35 (1) An agency may be denied a license, or any license issued
36 pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended,

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

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

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

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

21 (c) The conditions required for issuance of a license under chapter
22 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such
23 licenses.

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

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

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

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

3 (1) Every licensed child day-care center shall, at the time of
4 licensure or renewal and at any inspection, provide to the department
5 proof that the licensee has day-care insurance as defined in RCW
6 48.88.020, or is self-insured pursuant to chapter 48.90 RCW.

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

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

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

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

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

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

19 (d) This subsection applies to child day-care centers holding
20 licenses, initial licenses, and probationary licenses under this
21 chapter.

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

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

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

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

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

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

37 (ii) Post at the day-care home, in a manner likely to be observed
38 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 (c) Liability limits under (a)(i) of this subsection shall be the
4 same as set forth in RCW 48.88.050.

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

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

12 (3) Noncompliance or compliance with the provisions of this section
13 shall not constitute evidence of liability or nonliability in any
14 injury litigation.

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