
SENATE BILL 5806

State of Washington

59th Legislature

2005 Regular Session

By Senators Kohl-Welles, Hargrove, Rasmussen and Jacobsen

Read first time 02/07/2005. Referred to Committee on Human Services & Corrections.

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 people of the state of Washington have
6 an interest in obtaining access to information that is relevant to
7 making informed decisions about the persons with whom they entrust the
8 care of their children.

9 The purpose of this act is to establish a system, consistent
10 throughout the state, through which parents, guardians, and other
11 persons acting in loco parentis can obtain certain information about
12 child care providers. The purpose of this act is also to require child
13 day-care providers and family day-care providers to carry a minimal
14 level of liability insurance or to give parents notice that they do not
15 carry such insurance.

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

18 (1) The department shall establish and maintain a toll-free

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

11 (2) Through the toll-free telephone line established by this
12 section, the department shall provide information to callers about:

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

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

26 (4) This section shall not be construed to require the disclosure
27 of any information that is exempt from public disclosure under chapter
28 42.17 RCW.

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

31 Every child day-care center and family day-care provider shall
32 prominently post the following items, clearly visible to parents and
33 staff:

34 (1) The license issued under this chapter;

35 (2) The department's toll-free telephone number established by
36 section 2 of this act; and

1 (3) A notice that inspection reports and any notices of enforcement
2 actions for the previous three years are available from the licensee
3 and the department.

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

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

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

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

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

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

35 (a) The applicant or licensee lacks the character, suitability, or

1 competence to care for children placed in out-of-home care, however, no
2 unfounded report of child abuse or neglect may be used to deny
3 employment or a license;

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

7 (c) The conditions required for issuance of a license under chapter
8 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such
9 licenses.

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

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

34 The department shall provide a notification period before a monetary
35 penalty is effective and may forgive the penalty levied if the agency
36 comes into compliance during this period. The department may suspend,
37 revoke, or not renew a license for failure to pay a civil monetary
38 penalty it has assessed pursuant to this chapter within ten days after

1 such assessment becomes final. Chapter 43.20A RCW governs notice of a
2 civil monetary penalty and provides the right of an adjudicative
3 proceeding. The preponderance of evidence standard shall apply in
4 adjudicative proceedings related to assessment of civil monetary
5 penalties.

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

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

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

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

25 (1) Every licensed child day-care center and family day-care
26 provider shall, at the time of licensure or renewal and at any
27 inspection, provide to the department proof that the licensee has
28 day-care insurance as defined in RCW 48.88.020 or for day-care centers,
29 is self-insured pursuant to chapter 48.90 RCW. Liability limits under
30 this section shall be the same as set forth in RCW 48.88.050.

31 (2) The licensee shall notify the department when coverage has been
32 terminated. The licensee shall post at the day care, in a manner
33 likely to be observed by patrons, notice that coverage has lapsed or
34 been terminated. Within thirty days of lapse or termination, the
35 licensee shall obtain from the parent an affidavit or declaration
36 signed by him or her that states he or she has been informed coverage
37 has lapsed or terminated.

1 (3) The department may take action as provided in RCW 74.15.130 if
2 the licensee fails to maintain in full force and effect the insurance
3 required by this section.

4 (4) This section applies to child day-care centers and family
5 day-care providers holding licenses, initial licenses, and probationary
6 licenses under this chapter.

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

11 (6) Instead of providing proof of insurance in compliance with this
12 chapter, family day-care providers may maintain a file of affidavits or
13 declarations signed by each parent with a child enrolled in family day
14 care. The affidavit or declaration shall state that the parent has
15 been informed that the family day-care provider does not carry day-care
16 insurance and that the parent has been informed that the day-care
17 insurance, if any, of the owner of the property or the homeowners'
18 association, as appropriate, may not provide coverage for losses
19 arising out of, or in connection with, the operation of the family
20 day-care provider, except to the extent that the losses are caused by,
21 or result from, an action or omission by the owner of the property or
22 the homeowners' association, for which the owner of the property or the
23 homeowners' association would otherwise be liable under the law. These
24 affidavits or declarations shall be on a form provided by the
25 department and shall be reviewed at each licensing inspection and at
26 the time of licensure and renewal.

27 (7) Noncompliance or compliance with the provisions of this section
28 shall not constitute evidence of liability or nonliability in any
29 injury litigation.

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