

ESSB 5317 - H COMM AMD

By Committee on Early Learning & Children's Services

ADOPTED 04/09/2007

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

3 "Sec. 1. RCW 43.215.005 and 2006 c 265 s 101 are each amended to
4 read as follows:

5 (1) The legislature recognizes that:

6 (a) Parents are their children's first and most important teachers
7 and decision makers;

8 (b) Research across disciplines now demonstrates that what happens
9 in the earliest years makes a critical difference in children's
10 readiness to succeed in school and life;

11 (c) Washington's competitiveness in the global economy requires a
12 world-class education system that starts early and supports life-long
13 learning;

14 (d) Washington state currently makes substantial investments in
15 voluntary child care and early learning services and supports, but
16 because services are fragmented across multiple state agencies, and
17 early learning providers lack the supports and incentives needed to
18 improve the quality of services they provide, many parents have
19 difficulty accessing high quality early learning services;

20 (e) A more cohesive and integrated voluntary early learning system
21 would result in greater efficiencies for the state, increased
22 partnership between the state and the private sector, improved access
23 to high quality early learning services, and better employment and
24 early learning outcomes for families and all children.

25 (2) The legislature finds that the early years of a child's life
26 are critical to the child's healthy brain development and that the
27 quality of caregiving during the early years can significantly impact
28 the child's intellectual, social, and emotional development.

29 (3) The purpose of this chapter is:

30 (a) To establish the department of early learning;

1 (b) To coordinate and consolidate state activities relating to
2 child care and early learning programs;

3 (c) To safeguard and promote the health, safety, and well-being of
4 children receiving child care and early learning assistance, which is
5 paramount over the right of any person to provide care;

6 (d) To provide tools to promote the hiring of suitable providers of
7 child care by:

8 (i) Providing parents with access to information regarding child
9 care providers;

10 (ii) Providing parents with child care licensing action histories
11 regarding child care providers; and

12 (iii) Requiring background checks of applicants for employment in
13 any child care facility licensed or regulated under current law;

14 (e) To promote linkages and alignment between early learning
15 programs and elementary schools and support the transition of children
16 and families from prekindergarten environments to kindergarten;

17 ((+e)) (f) To promote the development of a sufficient number and
18 variety of adequate child care and early learning facilities, both
19 public and private; and

20 ((+f)) (g) To license agencies and to assure the users of such
21 agencies, their parents, the community at large and the agencies
22 themselves that adequate minimum standards are maintained by all child
23 care and early learning facilities.

24 (4) This chapter does not expand the state's authority to license
25 or regulate activities or programs beyond those licensed or regulated
26 under existing law.

27 **Sec. 2.** RCW 43.215.010 and 2006 c 265 s 102 are each amended to
28 read as follows:

29 The definitions in this section apply throughout this chapter
30 unless the context clearly requires otherwise.

31 (1) "Agency" means any person, firm, partnership, association,
32 corporation, or facility that provides child care and early learning
33 services outside a child's own home and includes the following
34 irrespective of whether there is compensation to the agency:

35 (a) "Child day care center" means an agency that regularly provides
36 child day care and early learning services for a group of children for
37 periods of less than twenty-four hours;

1 (b) "Early learning" includes but is not limited to programs and
2 services for child care; state, federal, private, and nonprofit
3 preschool; child care subsidies; child care resource and referral;
4 parental education and support; and training and professional
5 development for early learning professionals;

6 (c) "Family day care provider" means a child day care provider who
7 regularly provides child day care and early learning services for not
8 more than twelve children in the provider's home in the family living
9 quarters;

10 (d) "Service provider" means the entity that operates a community
11 facility.

12 (2) "Agency" does not include the following:

13 (a) Persons related to the child in the following ways:

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

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

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

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

24 (b) Persons who are legal guardians of the child;

25 (c) Persons who care for a neighbor's or friend's child or
26 children, with or without compensation, where the person providing care
27 for periods of less than twenty-four hours does not conduct such
28 activity on an ongoing, regularly scheduled basis for the purpose of
29 engaging in business, which includes, but is not limited to,
30 advertising such care;

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

33 (e) Nursery schools or kindergartens that are engaged primarily in
34 educational work with preschool children and in which no child is
35 enrolled on a regular basis for more than four hours per day;

36 (f) Schools, including boarding schools, that are engaged primarily
37 in education, operate on a definite school year schedule, follow a

1 stated academic curriculum, accept only school-age children, and do not
2 accept custody of children;

3 (g) Seasonal camps of three months' or less duration engaged
4 primarily in recreational or educational activities;

5 (h) Facilities providing care to children for periods of less than
6 twenty-four hours whose parents remain on the premises to participate
7 in activities other than employment;

8 (i) Any agency having been in operation in this state ten years
9 before June 8, 1967, and not seeking or accepting moneys or assistance
10 from any state or federal agency, and is supported in part by an
11 endowment or trust fund;

12 (j) An agency operated by any unit of local, state, or federal
13 government or an agency, located within the boundaries of a federally
14 recognized Indian reservation, licensed by the Indian tribe;

15 (k) An agency located on a federal military reservation, except
16 where the military authorities request that such agency be subject to
17 the licensing requirements of this chapter;

18 (l) An agency that offers early learning and support services, such
19 as parent education, and does not provide child care services on a
20 regular basis.

21 (3) "Applicant" means a person who requests or seeks employment in
22 an agency.

23 (4) "Department" means the department of early learning.

24 ((+4)) (5) "Director" means the director of the department.

25 ((+5)) (6) "Employer" means a person or business that engages the
26 services of one or more people, especially for wages or salary to work
27 in an agency.

28 (7) "Enforcement action" means denial, suspension, revocation,
29 modification, or nonrenewal of a license pursuant to RCW 43.215.300(1)
30 or assessment of civil monetary penalties pursuant to RCW
31 43.215.300(3).

32 ((+6)) (8) "Probationary license" means a license issued as a
33 disciplinary measure to an agency that has previously been issued a
34 full license but is out of compliance with licensing standards.

35 ((+7)) (9) "Requirement" means any rule, regulation, or standard
36 of care to be maintained by an agency.

1 **Sec. 3.** RCW 43.215.200 and 2006 c 265 s 301 are each amended to
2 read as follows:

3 It shall be the director's duty with regard to licensing:

4 (1) In consultation and with the advice and assistance of persons
5 representative of the various type agencies to be licensed, to
6 designate categories of child care facilities for which separate or
7 different requirements shall be developed as may be appropriate whether
8 because of variations in the ages and other characteristics of the
9 children served, variations in the purposes and services offered or
10 size or structure of the agencies to be licensed, or because of any
11 other factor relevant thereto;

12 (2) In consultation and with the advice and assistance of parents
13 or guardians, and persons representative of the various type agencies
14 to be licensed, to adopt and publish minimum requirements for licensing
15 applicable to each of the various categories of agencies to be licensed
16 under this chapter((-

17 ~~The minimum requirements shall be limited to:~~

18 ~~(a) The size and suitability of a facility and the plan of~~
19 ~~operation for carrying out the purpose for which an applicant seeks a~~
20 ~~license;~~

21 ~~(b) The character, suitability, and competence of an agency and~~
22 ~~other persons associated with an agency directly responsible for the~~
23 ~~care of children. In consultation with law enforcement personnel, the~~
24 ~~director shall investigate the conviction record or pending charges and~~
25 ~~dependency record information under chapter 43.43 RCW of each agency~~
26 ~~and its staff seeking licensure or relicensure. No unfounded~~
27 ~~allegation of child abuse or neglect as defined in RCW 26.44.020 may be~~
28 ~~disclosed to a provider licensed under this chapter. In order to~~
29 ~~determine the suitability of applicants for an agency license,~~
30 ~~licensees, their employees, and other persons who have unsupervised~~
31 ~~access to children in care, and who have not resided in the state of~~
32 ~~Washington during the three year period before being authorized to care~~
33 ~~for children shall be fingerprinted. The fingerprints shall be~~
34 ~~forwarded to the Washington state patrol and federal bureau of~~
35 ~~investigation for a criminal history records check. The fingerprint~~
36 ~~criminal history records checks will be at the expense of the licensee.~~
37 ~~The licensee may not pass this cost on to the employee or prospective~~
38 ~~employee, unless the employee is determined to be unsuitable due to his~~

1 ~~or her criminal history record. The director shall use the information~~
2 ~~solely for the purpose of determining eligibility for a license and for~~
3 ~~determining the character, suitability, and competence of those persons~~
4 ~~or agencies, excluding parents, not required to be licensed who are~~
5 ~~authorized to care for children. Criminal justice agencies shall~~
6 ~~provide the director such information as they may have and that the~~
7 ~~director may require for such purpose;~~

8 ~~(c) The number of qualified persons required to render the type of~~
9 ~~care for which an agency seeks a license;~~

10 ~~(d) The health, safety, cleanliness, and general adequacy of the~~
11 ~~premises to provide for the comfort, care, and well being of children;~~

12 ~~(e) The provision of necessary care and early learning, including~~
13 ~~food, supervision, and discipline; physical, mental, and social well-~~
14 ~~being; and educational and recreational opportunities for those served;~~

15 ~~(f) The financial ability of an agency to comply with minimum~~
16 ~~requirements established under this chapter; and~~

17 ~~(g) The maintenance of records pertaining to the care of~~
18 ~~children));~~

19 (3) In consultation with law enforcement personnel, the director
20 shall investigate the conviction record or pending charges of each
21 agency and its staff seeking licensure or relicensure, and other
22 persons having unsupervised access to children in care;

23 (4) To issue, revoke, or deny licenses to agencies pursuant to this
24 chapter. Licenses shall specify the category of care that an agency is
25 authorized to render and the ages and number of children to be served;

26 ~~((+4))~~ (5) To prescribe the procedures and the form and contents
27 of reports necessary for the administration of this chapter and to
28 require regular reports from each licensee;

29 ~~((+5))~~ (6) To inspect agencies periodically to determine whether
30 or not there is compliance with this chapter and the requirements
31 adopted under this chapter;

32 ~~((+6))~~ (7) To review requirements adopted under this chapter at
33 least every two years and to adopt appropriate changes after
34 consultation with affected groups for child day care requirements; and

35 ~~((+7))~~ (8) To consult with public and private agencies in order to
36 help them improve their methods and facilities for the care and early
37 learning of children.

1 NEW SECTION. **Sec. 4.** MINIMUM REQUIREMENTS FOR LICENSING.

2 Applications for licensure shall require, at a minimum, the following
3 information:

4 (1) The size and suitability of a facility and the plan of
5 operation for carrying out the purpose for which an applicant seeks a
6 license;

7 (2) The character, suitability, and competence of an agency and
8 other persons associated with an agency directly responsible for the
9 care of children;

10 (3) The number of qualified persons required to render the type of
11 care for which an agency seeks a license;

12 (4) The health, safety, cleanliness, and general adequacy of the
13 premises to provide for the comfort, care, and well-being of children;

14 (5) The provision of necessary care and early learning, including
15 food, supervision, and discipline; physical, mental, and social
16 well-being; and educational and recreational opportunities for those
17 served;

18 (6) The financial ability of an agency to comply with minimum
19 requirements established under this chapter; and

20 (7) The maintenance of records pertaining to the care of children.

21 NEW SECTION. **Sec. 5.** CHARACTER, SUITABILITY, AND COMPETENCE. (1)

22 In determining whether an individual is of appropriate character,
23 suitability, and competence to provide child care and early learning
24 services to children, the department may consider all child abuse and
25 neglect history information regarding a prospective child care
26 provider. No unfounded or inconclusive allegation of child abuse or
27 neglect as defined in RCW 26.44.020 may be disclosed to a provider
28 licensed under this chapter.

29 (2) In order to determine the suitability of applicants for an
30 agency license, licensees, their employees, and other persons who have
31 unsupervised access to children in care, and who have not resided in
32 the state of Washington during the three-year period before being
33 authorized to care for children, shall be fingerprinted.

34 (a) The fingerprints shall be forwarded to the Washington state
35 patrol and federal bureau of investigation for a criminal history
36 record check.

1 (b) The fingerprint criminal history record checks shall be at the
2 expense of the licensee. The licensee may not pass this cost on to the
3 employee or prospective employee, unless the employee is determined to
4 be unsuitable due to his or her criminal history record.

5 (c) The director shall use the information solely for the purpose
6 of determining eligibility for a license and for determining the
7 character, suitability, and competence of those persons or agencies,
8 excluding parents, not required to be licensed who are authorized to
9 care for children.

10 (d) Criminal justice agencies shall provide the director such
11 information as they may have and that the director may require for such
12 purpose.

13 **Sec. 6.** RCW 43.215.525 and 2006 c 209 s 11 are each amended to
14 read as follows:

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

18 (a) The license issued under this chapter;

19 (b) The department's toll-free telephone number established by RCW
20 (~~(74.15.310)~~) 43.215.520;

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

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

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

29 (2) The department shall disclose(~~(, upon request,)~~) the receipt,
30 general nature, and resolution or current status of all complaints on
31 record with the department after July 24, 2005, against a child day-
32 care center or family day-care provider that result in an enforcement
33 action. Information may be posted:

34 (a) On a web site; or

35 (b) In a physical location that is easily accessed by parents and
36 potential employers.

1 the development of an early learning information system, the following
2 actions shall be posted to the department's web site accessible by the
3 public: Suspension, surrender, revocation, denial, stayed suspension,
4 or reinstatement of a license.

5 **Sec. 10.** RCW 43.215.535 and 2005 c 473 s 7 are each amended to
6 read as follows:

7 (1) Every licensed child day-care center shall, at the time of
8 licensure or renewal and at any inspection, provide to the department
9 proof that the licensee has day-care insurance as defined in RCW
10 48.88.020, or is self-insured pursuant to chapter 48.90 RCW.

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

- 13 (i) Notify the department when coverage has been terminated;
- 14 (ii) Post at the day-care center, in a manner likely to be observed
15 by patrons, notice that coverage has lapsed or been terminated;
- 16 (iii) Provide written notice to parents that coverage has lapsed or
17 terminated within thirty days of lapse or termination.

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

20 (c) The department may take action as provided in RCW (~~74.15.130~~)
21 43.215.300 if the licensee fails to maintain in full force and effect
22 the insurance required by this subsection.

23 (d) This subsection applies to child day-care centers holding
24 licenses, initial licenses, and probationary licenses under this
25 chapter.

26 (e) A child day-care center holding a license under this chapter on
27 July 24, 2005, is not required to be in compliance with this subsection
28 until the time of renewal of the license or until January 1, 2006,
29 whichever is sooner.

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

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

35 (ii) Provide written notice of their insurance status on a standard
36 form developed by the department to parents with a child enrolled in
37 family day care and keep a copy of the notice to each parent on file.

1 Family day-care providers may choose to opt out of the requirement to
2 have day care or other applicable insurance but must provide written
3 notice of their insurance status to parents with a child enrolled and
4 shall not be subject to the requirements of (b)((~~7~~)) or (c)((~~7~~ or (~~d~~))
5 of this subsection.

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

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

10 (ii) Post at the day-care home, 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 (c) Liability limits under (a)(i) of this subsection shall be the
15 same as set forth in RCW 48.88.050.

16 (d) The department may take action as provided in RCW ((~~74.15.130~~))
17 43.215.300 if the licensee fails to ((~~notify the department when~~
18 ~~coverage has been terminated as required under (b)~~)) comply with the
19 requirements of this subsection.

20 (e) A family day-care provider holding a license under this chapter
21 on July 24, 2005, is not required to be in compliance with this
22 subsection until the time of renewal of the license or until January 1,
23 2006, whichever is sooner.

24 (3) Noncompliance or compliance with the provisions of this section
25 shall not constitute evidence of liability or nonliability in any
26 injury litigation.

27 NEW SECTION. **Sec. 11.** Captions used in this act are not any part
28 of the law.

29 NEW SECTION. **Sec. 12.** Sections 4, 5, 8, and 9 of this act are
30 each added to chapter 43.215 RCW."

--- END ---