

ESSB 5317 - H AMD

By Representative Kagi

ADOPTED 04/18/2007

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 the history of past  
25   involvement of child protective services or law enforcement agencies  
26   with the individual for the purpose of establishing a pattern of  
27   conduct, behavior, or inaction with regard to the health, safety, or  
28   welfare of a child. No report of child abuse or neglect that has been  
29   destroyed or expunged under RCW 26.44.031 may be used for such  
30   purposes. No unfounded or inconclusive allegation of child abuse or  
31   neglect as defined in RCW 26.44.020 may be disclosed to a provider  
32   licensed under this chapter.

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

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

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

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

13 (d) Criminal justice agencies shall provide the director such  
14 information as they may have and that the director may require for such  
15 purpose.

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

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

21 (a) The license issued under this chapter;

22 (b) The department's toll-free telephone number established by RCW  
23 (~~(74.15.310)~~) 43.215.520;

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

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

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

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

37 (a) On a web site; or



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

3        (3) This section shall not be construed to require the disclosure  
4 of any information that is exempt from public disclosure under chapter  
5 42.56 RCW.

6        **Sec. 7.** RCW 43.215.530 and 2006 c 209 s 12 are each amended to  
7 read as follows:

8        (1) Every child day-care center and family day-care provider shall  
9 have readily available for review by the department, parents, and the  
10 public a copy of each inspection report and notice of enforcement  
11 action received by the center or provider from the department for the  
12 past three years. This subsection only applies to reports and notices  
13 received on or after July 24, 2005.

14        (2) The department shall make available to the public during  
15 business hours all inspection reports and notices of enforcement  
16 actions involving child day-care centers and family day-care providers  
17 (~~consistent with chapter 42.56 RCW~~). The department shall include in  
18 the inspection report a statement of the corrective measures taken by  
19 the center or provider.

20        (3) The department may make available on a publicly accessible web  
21 site all inspection reports and notices of licensing actions, including  
22 the corrective measures required or taken, involving child day-care  
23 centers and family day-care providers.

24        (4) This section shall not be construed to require the disclosure  
25 of any information that is exempt from public disclosure under chapter  
26 42.56 RCW.

27        NEW SECTION. **Sec. 8.** PARENTAL NOTIFICATION. The department and  
28 an agency must, at the first opportunity but in all cases within  
29 forty-eight hours of receiving a report alleging sexual misconduct or  
30 abuse by an agency employee, notify the parents or guardian of a child  
31 alleged to be the victim, target, or recipient of the misconduct or  
32 abuse. The department and an agency shall provide parents annually  
33 with information regarding their rights under the public records act,  
34 chapter 42.56 RCW, to request the public records regarding the  
35 employee.

1        NEW SECTION.    **Sec. 9.**    REPORTING ACTIONS--POSTING ON WEB SITE.    For  
2    the purposes of reporting actions taken against agency licensees, upon  
3    the development of an early learning information system, the following  
4    actions shall be posted to the department's web site accessible by the  
5    public:    Suspension, surrender, revocation, denial, stayed suspension,  
6    or reinstatement of a license.

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

9        (1) Every licensed child day-care center shall, at the time of  
10    licensure or renewal and at any inspection, provide to the department  
11    proof that the licensee has day-care insurance as defined in RCW  
12    48.88.020, or is self-insured pursuant to chapter 48.90 RCW.

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

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

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

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

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

22        (c) The department may take action as provided in RCW (~~74.15.130~~)  
23    43.215.300 if the licensee fails to maintain in full force and effect  
24    the insurance required by this subsection.

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

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

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

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

1 (ii) Provide written notice of their insurance status on a standard  
2 form developed by the department to parents with a child enrolled in  
3 family day care and keep a copy of the notice to each parent on file.  
4 Family day-care providers may choose to opt out of the requirement to  
5 have day care or other applicable insurance but must provide written  
6 notice of their insurance status to parents with a child enrolled and  
7 shall not be subject to the requirements of (b)((~~7~~)) or (c)((~~7~~ or (~~d~~))  
8 of this subsection.

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

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

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

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

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

19 (d) The department may take action as provided in RCW ((~~74.15.130~~))  
20 43.215.300 if the licensee fails to ((~~notify the department when~~  
21 ~~coverage has been terminated as required under (b))~~) comply with the  
22 requirements of this subsection.

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

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

30 NEW SECTION. Sec. 11. Captions used in this act are not any part  
31 of the law.

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

--- END ---