

---

SENATE BILL 5905

---

State of Washington

61st Legislature

2009 Regular Session

By Senators Hargrove, Zarelli, Kline, Franklin, Delvin, and Shin

Read first time 02/06/09. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to a review panel for day care facility licensing  
2 concerns; amending RCW 43.215.525 and 43.215.530; reenacting and  
3 amending RCW 43.215.010; and adding a new section to chapter 43.215  
4 RCW.

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

6 **Sec. 1.** RCW 43.215.010 and 2007 c 415 s 2 and 2007 c 394 s 2 are  
7 each reenacted and amended to read as follows:

8 The definitions in this section apply throughout this chapter  
9 unless the context clearly requires otherwise.

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

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

17 (b) "Early learning" includes but is not limited to programs and  
18 services for child care; state, federal, private, and nonprofit

1 preschool; child care subsidies; child care resource and referral;  
2 parental education and support; and training and professional  
3 development for early learning professionals;

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

8 (d) "Nongovernmental private-public partnership" means an entity  
9 registered as a nonprofit corporation in Washington state with a  
10 primary focus on early learning, school readiness, and parental  
11 support, and an ability to raise a minimum of five million dollars in  
12 contributions;

13 (e) "Service provider" means the entity that operates a community  
14 facility.

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

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

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

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

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

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

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

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

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

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

1 (f) Schools, including boarding schools, that are engaged primarily  
2 in education, operate on a definite school year schedule, follow a  
3 stated academic curriculum, accept only school-age children, and do not  
4 accept custody of children;

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

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

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

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

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

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

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

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

26 (5) "Director" means the director of the department.

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

30 (7) "Enforcement action" means denial, suspension, revocation,  
31 modification, or nonrenewal of a license pursuant to RCW 43.215.300(1)  
32 or assessment of civil monetary penalties pursuant to RCW  
33 43.215.300(3).

34 (8) "Facility licensing compliance agreement" means a written  
35 notice of rule violations and the intention to initiate enforcement,  
36 including a corrective action plan.

37 (9) "Licensee" means the person or persons named on the license as

1 having been issued the license and who are responsible for maintaining  
2 compliance with the requirements.

3 (10) "Probationary license" means a license issued as a  
4 disciplinary measure to an agency that has previously been issued a  
5 full license but is out of compliance with licensing standards.

6 ~~((+9))~~ (11) "Requirement" means any rule, regulation, or standard  
7 of care to be maintained by an agency.

8 NEW SECTION. Sec. 2. A new section is added to chapter 43.215 RCW  
9 to read as follows:

10 (1) The department shall convene a review panel at the written  
11 request of a licensee if:

12 (a) The licensee receives a facility licensing compliance agreement  
13 and requests a review of the agreement within twenty-eight days of  
14 receiving the agreement; or

15 (b) The licensee requests a modification of its license and the  
16 licensor has not begun a review or forwarded the request to a  
17 supervisor within twenty-eight days of receiving the request.

18 (2) The review panel shall consist of five members, appointed in  
19 the following manner:

20 (a) One representative from the department;

21 (b) One representative from a child day care center, appointed by  
22 the early learning advisory council;

23 (c) One representative who is a family day care provider, appointed  
24 by a statewide collective bargaining unit of all family child care  
25 licensees;

26 (d) One representative from a statewide collective bargaining unit  
27 of all family child care licensees; and

28 (e) One parent advocate, other than a provider or an employee of  
29 the department, appointed by the early learning advisory council.

30 (3) The review panel shall convene to review the licensee's request  
31 within twenty-eight days and shall release a decision within five  
32 business days from the date of the review. The licensee shall be  
33 allowed to participate in the review and may invite an advocate of his  
34 or her choosing.

35 (4) The department may adopt rules to implement this section.  
36 These rules may include, but are not limited to, provisions for the

1 length of members' terms, panel meeting locations, video-conferencing  
2 arrangements, and the types of documents allowed to be presented at the  
3 review.

4 **Sec. 3.** RCW 43.215.525 and 2007 c 415 s 6 are each amended to read  
5 as follows:

6 (1) Every child day care center and family day care provider shall  
7 prominently post the following items, clearly visible to parents and  
8 staff:

9 (a) The license issued under this chapter;

10 (b) The department's toll-free telephone number established by RCW  
11 43.215.520;

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

16 (d) A notice that inspection reports, review panel decisions under  
17 section 2 of this act, and any notices of enforcement actions for the  
18 previous three years are available from the licensee and the  
19 department; and

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

21 (2) The department shall disclose the receipt, general nature, and  
22 resolution or current status of all complaints on record with the  
23 department after July 24, 2005, against a child day care center or  
24 family day care provider that result in an enforcement action.  
25 Information may be posted:

26 (a) On a web site; or

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

29 (3) This section shall not be construed to require the disclosure  
30 of any information that is exempt from public disclosure under chapter  
31 42.56 RCW.

32 **Sec. 4.** RCW 43.215.530 and 2007 c 415 s 7 are each amended to read  
33 as follows:

34 (1) Every child day care center and family day care provider shall  
35 have readily available for review by the department, parents, and the  
36 public a copy of each inspection report, review panel decision under

1 section 2 of this act, and notice of enforcement action received by the  
2 center or provider from the department for the past three years. This  
3 subsection only applies to reports, decisions, and notices received on  
4 or after July 24, 2005.

5 (2) The department shall make available to the public during  
6 business hours all inspection reports, review panel decisions under  
7 section 2 of this act, and notices of enforcement actions involving  
8 child day care centers and family day care providers. The department  
9 shall include in the inspection report a statement of the corrective  
10 measures taken by the center or provider.

11 (3) The department may make available on a publicly accessible web  
12 site all inspection reports and notices of licensing actions, including  
13 the corrective measures required or taken, involving child day care  
14 centers and family day care providers. If a licensee files a timely  
15 request for a review panel under section 2 of this act, the facility  
16 licensing compliance agreement shall not be posted on the web site  
17 until the review panel decision has been released.

18 (4) This section shall not be construed to require the disclosure  
19 of any information that is exempt from public disclosure under chapter  
20 42.56 RCW.

--- END ---