

2SHB 1903 - S COMM AMD

By Committee on Human Services & Corrections

OUT OF ORDER 04/12/2011

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

3 "Sec. 1. RCW 43.215.010 and 2007 c 415 s 2 and 2007 c 394 s 2 are
4 each reenacted and amended to read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

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

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

14 (b) "Early learning" includes but is not limited to programs and
15 services for child care; state, federal, private, and nonprofit
16 preschool; child care subsidies; child care resource and referral;
17 parental education and support; and training and professional
18 development for early learning professionals;

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

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

28 (e) "Service provider" means the entity that operates a community
29 facility.

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

- 1 (a) Persons related to the child in the following ways:
- 2 (i) Any blood relative, including those of half-blood, and
3 including first cousins, nephews or nieces, and persons of preceding
4 generations as denoted by prefixes of grand, great, or great-great;
- 5 (ii) Stepfather, stepmother, stepbrother, and stepsister;
- 6 (iii) A person who legally adopts a child or the child's parent as
7 well as the natural and other legally adopted children of such persons,
8 and other relatives of the adoptive parents in accordance with state
9 law; or
- 10 (iv) Spouses of any persons named in (i), (ii), or (iii) of this
11 subsection (2)(a), even after the marriage is terminated;
- 12 (b) Persons who are legal guardians of the child;
- 13 (c) Persons who care for a neighbor's or friend's child or
14 children, with or without compensation, where the person providing care
15 for periods of less than twenty-four hours does not conduct such
16 activity on an ongoing, regularly scheduled basis for the purpose of
17 engaging in business, which includes, but is not limited to,
18 advertising such care;
- 19 (d) Parents on a mutually cooperative basis exchange care of one
20 another's children;
- 21 (e) Nursery schools or kindergartens that are engaged primarily in
22 educational work with preschool children and in which no child is
23 enrolled on a regular basis for more than four hours per day;
- 24 (f) Schools, including boarding schools, that are engaged primarily
25 in education, operate on a definite school year schedule, follow a
26 stated academic curriculum, accept only school-age children, and do not
27 accept custody of children;
- 28 (g) Seasonal camps of three months' or less duration engaged
29 primarily in recreational or educational activities;
- 30 (h) Facilities providing care to children for periods of less than
31 twenty-four hours whose parents remain on the premises to participate
32 in activities other than employment;
- 33 (i) Any agency having been in operation in this state ten years
34 before June 8, 1967, and not seeking or accepting moneys or assistance
35 from any state or federal agency, and is supported in part by an
36 endowment or trust fund;
- 37 (j) An agency operated by any unit of local, state, or federal

1 government or an agency, located within the boundaries of a federally
2 recognized Indian reservation, licensed by the Indian tribe;

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

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

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

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

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

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

16 (7) "Enforcement action" means denial, suspension, revocation,
17 modification, or nonrenewal of a license pursuant to RCW 43.215.300(1)
18 or assessment of civil monetary penalties pursuant to RCW
19 43.215.300(3).

20 (8) "Probationary license" means a license issued as a disciplinary
21 measure to an agency that has previously been issued a full license but
22 is out of compliance with licensing standards.

23 (9) "Requirement" means any rule, regulation, or standard of care
24 to be maintained by an agency.

25 (10) "Conviction information" means criminal history record
26 information relating to an incident that has led to a conviction or
27 other disposition adverse to the subject.

28 (11) "Negative action" means a court order, court judgment, or an
29 adverse action taken by an agency, in any state, federal, tribal, or
30 foreign jurisdiction, that results in a finding against the applicant
31 reasonably related to the individual's character, suitability, and
32 competence to care for or have unsupervised access to children in child
33 care. This may include but is not limited to:

34 (a) A decision issued by an administrative law judge;

35 (b) A final determination, decision, or finding made by an agency
36 following an investigation;

37 (c) An adverse agency action, including termination, revocation, or

1 denial of a license or certification, or if pending adverse agency
2 action, the voluntary surrender of a license, certification, or
3 contract in lieu of the adverse action;

4 (d) A revocation, denial, or restriction placed on any professional
5 license; and

6 (e) A final decision of a disciplinary board.

7 (12) "Nonconviction information" means arrest, founded allegations
8 of child abuse or neglect pursuant to chapter 26.44 RCW, or other
9 negative action adverse to the applicant.

10 **Sec. 2.** RCW 43.215.215 and 2007 c 415 s 5 are each amended to read
11 as follows:

12 (1) In determining whether an individual is of appropriate
13 character, suitability, and competence to provide child care and early
14 learning services to children, the department may consider the history
15 of past involvement of child protective services or law enforcement
16 agencies with the individual for the purpose of establishing a pattern
17 of conduct, behavior, or inaction with regard to the health, safety, or
18 welfare of a child. No report of child abuse or neglect that has been
19 destroyed or expunged under RCW 26.44.031 may be used for such
20 purposes. No unfounded or inconclusive allegation of child abuse or
21 neglect as defined in RCW 26.44.020 may be disclosed to a provider
22 licensed under this chapter.

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

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

31 ~~(b) ((The fingerprint criminal history record checks shall be at~~
32 ~~the expense of the licensee. The licensee may not pass this cost on to~~
33 ~~the employee or prospective employee, unless the employee is determined~~
34 ~~to be unsuitable due to his or her criminal history record)) The~~
35 applicant must pay for the costs of obtaining the fingerprint criminal
36 history record check.

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

6 (d) Criminal justice agencies shall provide the director such
7 information as they may have and that the director may require for such
8 purpose.

9 (e) The department shall issue a background check clearance card or
10 certificate to the applicant if after the completion of a background
11 check the department concludes the applicant is qualified for
12 unsupervised access to children in care. The background check
13 clearance card or certificate is valid for one year from the date of
14 issuance. The card or certificate must be renewed annually. In
15 renewing the card or certificate, the department need not conduct
16 another extensive fingerprint-based background check unless it receives
17 a complaint that when investigated indicates another fingerprint-based
18 background check is warranted.

19 (f) The applicant and agency must maintain on-site for inspection
20 a copy of the background check clearance card or certificate.

21 (g) Individuals who have been issued a background check clearance
22 card or certificate must report nonconviction and conviction
23 information to the department within twenty-four hours of the event
24 constituting the nonconviction or conviction information.

25 (h) The department shall investigate and conduct a redetermination
26 of an applicant's or licensee's background clearance if the department
27 receives a complaint or information from individuals, a law enforcement
28 agency, or other federal, state, or local government agency. Subject
29 to the requirements in RCW 43.215.300 and 43.215.305, and based on a
30 determination that an individual lacks the appropriate character,
31 suitability, or competence to provide child care or early learning
32 services to children, the department may invalidate the background card
33 or certificate, or suspend, modify, or revoke any license authorized by
34 this chapter."

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1 On page 1, line 2 of the title, after "employees;" strike the
2 remainder of the title and insert "amending RCW 43.215.215; and
3 reenacting and amending RCW 43.215.010."

EFFECT: Removes the provisions requiring DEL to institute a portable background check registry. Removes the requirement that all applicants must undergo a fingerprint-based background check. Removes fees and the creation of a new account. Provides that the background check card or certificate is good for one year and must be renewed annually.

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