
SUBSTITUTE SENATE BILL 5504

State of Washington 62nd Legislature 2011 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Eide, Kohl-Welles, and Keiser)

READ FIRST TIME 02/21/11.

1 AN ACT Relating to unlicensed child care; amending RCW 43.215.300
2 and 43.215.370; adding a new section to chapter 43.215 RCW; and
3 creating a new section.

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

5 **Sec. 1.** RCW 43.215.300 and 2007 c 17 s 2 are each amended to read
6 as follows:

7 (1) An agency may be denied a license, or any license issued
8 pursuant to this chapter may be suspended, revoked, modified, or not
9 renewed by the director upon proof (a) that the agency has failed or
10 refused to comply with the provisions of this chapter or the
11 requirements adopted pursuant to this chapter; or (b) that the
12 conditions required for the issuance of a license under this chapter
13 have ceased to exist with respect to such licenses. RCW 43.215.305
14 governs notice of a license denial, revocation, suspension, or
15 modification and provides the right to an adjudicative proceeding.

16 (2) In any adjudicative proceeding regarding the denial,
17 modification, suspension, or revocation of any license under this
18 chapter, the department's decision shall be upheld if it is supported
19 by a preponderance of the evidence.

1 (3)(a) The department may assess civil monetary penalties upon
2 proof that an agency has failed or refused to comply with the rules
3 adopted under this chapter or that an agency subject to licensing under
4 this chapter is operating without a license except that civil monetary
5 penalties shall not be levied against a licensed foster home.

6 (b) Monetary penalties levied against unlicensed agencies that
7 submit an application for licensure within thirty days of notification
8 and subsequently become licensed will be forgiven. These penalties may
9 be assessed in addition to or in lieu of other disciplinary actions.
10 Civil monetary penalties, if imposed, may be assessed and collected,
11 with interest, for each day an agency is or was out of compliance.

12 (c) Civil monetary penalties shall not exceed (~~seventy-five~~) one
13 hundred fifty dollars per violation for a family day care home and two
14 hundred fifty dollars per violation for child day care centers. Each
15 day upon which the same or substantially similar action occurs is a
16 separate violation subject to the assessment of a separate penalty.

17 (d) The department shall provide a notification period before a
18 monetary penalty is effective and may forgive the penalty levied if the
19 agency comes into compliance during this period.

20 (e) The department may suspend, revoke, or not renew a license for
21 failure to pay a civil monetary penalty it has assessed pursuant to
22 this chapter within ten days after such assessment becomes final. RCW
23 43.215.307 governs notice of a civil monetary penalty and provides the
24 right to an adjudicative proceeding. The preponderance of evidence
25 standard shall apply in adjudicative proceedings related to assessment
26 of civil monetary penalties.

27 (4)(a) In addition to or in lieu of an enforcement action being
28 taken, the department may place a child day care center or family day
29 care provider on nonreferral status if the center or provider has
30 failed or refused to comply with this chapter or rules adopted under
31 this chapter or an enforcement action has been taken. The nonreferral
32 status may continue until the department determines that: (i) No
33 enforcement action is appropriate; or (ii) a corrective action plan has
34 been successfully concluded.

35 (b) Whenever a child day care center or family day care provider is
36 placed on nonreferral status, the department shall provide written
37 notification to the child day care center or family day care provider.

1 (5) The department shall notify appropriate public and private
2 child care resource and referral agencies of the department's decision
3 to: (a) Take an enforcement action against a child day care center or
4 family day care provider; or (b) place or remove a child day care
5 center or family day care provider on nonreferral status.

6 **Sec. 2.** RCW 43.215.370 and 2007 c 415 s 9 are each amended to read
7 as follows:

8 For the purposes of reporting actions taken against agency
9 licensees, upon the development of an early learning information
10 system, the following actions shall be posted to the department's web
11 site accessible by the public: Suspension, surrender, revocation,
12 denial, stayed suspension, or reinstatement of a license. The
13 department shall also post on the web site those agencies subject to
14 licensing that have not initiated the licensing process within thirty
15 days of the department's notification as required in RCW 43.215.300.

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.215 RCW
17 to read as follows:

18 When the department suspects that an agency is providing child care
19 services without a license, it shall send notice to that agency within
20 ten days. The notice shall include, but not be limited to, the
21 following information:

22 (1) That a license is required and the reasons why;

23 (2) That the agency is suspected of providing child care without a
24 license;

25 (3) That the agency must immediately stop providing child care
26 until the agency becomes licensed;

27 (4) That the department can issue a penalty of one hundred fifty
28 dollars per day for each day the agency provided care without being
29 licensed;

30 (5) That if the agency does not initiate the licensing process
31 within thirty days of the date of the notice, the department will post
32 on its web site that the agency is providing child care without a
33 license.

1 NEW SECTION. **Sec. 4.** This act shall be known and cited as the
2 Colby Thompson act.

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