
HOUSE BILL 2535

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By Representatives Freeman, Goodman, Walsh, Kochmar, S. Hunt, Wylie, Stonier, Haler, Scott, Sawyer, Kagi, Green, and Haigh

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1 AN ACT Relating to review of licensing and employment decisions by
2 the children's administration; amending RCW 74.15.130; and reenacting
3 and amending RCW 74.15.030.

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

5 **Sec. 1.** RCW 74.15.030 and 2007 c 387 s 5 and 2007 c 17 s 14 are
6 each reenacted and amended to read as follows:

7 The secretary shall have the power and it shall be the secretary's
8 duty:

9 (1) In consultation with the children's services advisory
10 committee, and with the advice and assistance of persons representative
11 of the various type agencies to be licensed, to designate categories of
12 facilities for which separate or different requirements shall be
13 developed as may be appropriate whether because of variations in the
14 ages, sex and other characteristics of persons served, variations in
15 the purposes and services offered or size or structure of the agencies
16 to be licensed hereunder, or because of any other factor relevant
17 thereto;

18 (2) In consultation with the children's services advisory
19 committee, and with the advice and assistance of persons representative

1 of the various type agencies to be licensed, to adopt and publish
2 minimum requirements for licensing applicable to each of the various
3 categories of agencies to be licensed.

4 The minimum requirements shall be limited to:

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

8 (b) Obtaining background information and any out-of-state
9 equivalent, to determine whether the applicant or service provider is
10 disqualified and to determine the character, competence, and
11 suitability of an agency, the agency's employees, volunteers, and other
12 persons associated with an agency;

13 (c) Conducting background checks for those who will or may have
14 unsupervised access to children, expectant mothers, or individuals with
15 a developmental disability;

16 (d) Obtaining child protective services information or records
17 maintained in the department case management information system. No
18 unfounded allegation of child abuse or neglect as defined in RCW
19 26.44.020 may be disclosed to a child-placing agency, private adoption
20 agency, or any other provider licensed under this chapter;

21 (e) Submitting a fingerprint-based background check through the
22 Washington state patrol under chapter 10.97 RCW and through the federal
23 bureau of investigation for:

24 (i) Agencies and their staff, volunteers, students, and interns
25 when the agency is seeking license or relicense;

26 (ii) Foster care and adoption placements; and

27 (iii) Any adult living in a home where a child may be placed;

28 (f) If any adult living in the home has not resided in the state of
29 Washington for the preceding five years, the department shall review
30 any child abuse and neglect registries maintained by any state where
31 the adult has resided over the preceding five years;

32 (g) The cost of fingerprint background check fees will be paid as
33 required in RCW 43.43.837;

34 (h) National and state background information must be used solely
35 for the purpose of determining eligibility for a license and for
36 determining the character, suitability, and competence of those persons
37 or agencies, excluding parents, not required to be licensed who are
38 authorized to care for children or expectant mothers;

1 (i) The number of qualified persons required to render the type of
2 care and treatment for which an agency seeks a license;

3 (j) The safety, cleanliness, and general adequacy of the premises
4 to provide for the comfort, care and well-being of children, expectant
5 mothers or developmentally disabled persons;

6 (k) The provision of necessary care, including food, clothing,
7 supervision and discipline; physical, mental and social well-being; and
8 educational, recreational and spiritual opportunities for those served;

9 (l) The financial ability of an agency to comply with minimum
10 requirements established pursuant to chapter 74.15 RCW and RCW
11 74.13.031; and

12 (m) The maintenance of records pertaining to the admission,
13 progress, health and discharge of persons served;

14 (3) To investigate any person, including relatives by blood or
15 marriage except for parents, for character, suitability, and competence
16 in the care and treatment of children, expectant mothers, and
17 developmentally disabled persons prior to authorizing that person to
18 care for children, expectant mothers, and developmentally disabled
19 persons. However, if a child is placed with a relative under RCW
20 13.34.065 or 13.34.130, and if such relative appears otherwise suitable
21 and competent to provide care and treatment the criminal history
22 background check required by this section need not be completed before
23 placement, but shall be completed as soon as possible after placement;

24 (4) (~~On reports of alleged child abuse and neglect,~~) To allow
25 individuals who are denied licensure, employment, or unsupervised
26 access to children by the children's administration based upon the
27 results of a background check to request an internal administrative
28 review in writing using forms provided by the department, which must
29 include the opportunity to submit evidence of the individual's
30 rehabilitation and that allowing the individual unsupervised access to
31 a child will not jeopardize the child's health or safety. This review
32 process must include participation by children's administration
33 management staff who are not in the direct chain of command with
34 contracts staff and be completed within sixty days. Administrative
35 proceedings under RCW 74.15.130 and applicable timelines for filing may
36 be stayed or extended as appropriate pending this review process. This
37 subsection does not create any civil liability on the part of the state

1 or any state agency, officer, employee, or agent based upon the
2 operation or outcome of this review process except based upon gross
3 negligence;

4 (5) To investigate agencies in accordance with chapter 26.44 RCW,
5 including child day-care centers and family day-care homes, to
6 determine whether the alleged abuse or neglect has occurred, and
7 whether child protective services or referral to a law enforcement
8 agency is appropriate;

9 ~~((+5))~~ (6) To issue, revoke, or deny licenses to agencies pursuant
10 to chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the
11 category of care which an agency is authorized to render and the ages,
12 sex and number of persons to be served;

13 ~~((+6))~~ (7) To prescribe the procedures and the form and contents
14 of reports necessary for the administration of chapter 74.15 RCW and
15 RCW 74.13.031 and to require regular reports from each licensee;

16 ~~((+7))~~ (8) To inspect agencies periodically to determine whether
17 or not there is compliance with chapter 74.15 RCW and RCW 74.13.031 and
18 the requirements adopted hereunder;

19 ~~((+8))~~ (9) To review requirements adopted hereunder at least every
20 two years and to adopt appropriate changes after consultation with
21 affected groups for child day-care requirements and with the children's
22 services advisory committee for requirements for other agencies; and

23 ~~((+9))~~ (10) To consult with public and private agencies in order
24 to help them improve their methods and facilities for the care of
25 children, expectant mothers and developmentally disabled persons.

26 **Sec. 2.** RCW 74.15.130 and 2007 c 220 s 6 are each amended to read
27 as follows:

28 (1) An agency may be denied a license, or any license issued
29 pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended,
30 revoked, modified, or not renewed by the secretary upon proof (a) that
31 the agency has failed or refused to comply with the provisions of
32 chapter 74.15 RCW and RCW 74.13.031 or the requirements promulgated
33 pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031; or
34 (b) that the conditions required for the issuance of a license under
35 chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect
36 to such licenses.

1 (2) RCW 43.20A.205 governs notice of a license denial, revocation,
2 suspension, or modification and provides the right to an adjudicative
3 proceeding. The department shall afford the same notice, right to an
4 adjudicative proceeding, and evidentiary standards described in this
5 section and under RCW 43.20A.205 to a person who has been denied
6 employment with a contracted agency by the children's administration
7 based on the result of a background check.

8 ~~((+2))~~ (3) In any adjudicative proceeding regarding the denial,
9 modification, suspension, or revocation of a foster family home
10 license, the department's decision shall be upheld if there is
11 reasonable cause to believe that:

12 (a) The applicant or licensee lacks the character, suitability, or
13 competence to care for children placed in out-of-home care, however, no
14 unfounded, inconclusive, or screened-out report of child abuse or
15 neglect may be used to deny employment or a license;

16 (b) The applicant or licensee has failed or refused to comply with
17 any provision of chapter 74.15 RCW, RCW 74.13.031, or the requirements
18 adopted pursuant to such provisions; or

19 (c) The conditions required for issuance of a license under chapter
20 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such
21 licenses.

22 ~~((+3))~~ (4) In any adjudicative proceeding regarding the denial,
23 modification, suspension, or revocation of any license under this
24 chapter, other than a foster family home license, the department's
25 decision shall be upheld if it is supported by a preponderance of the
26 evidence.

27 ~~((+4))~~ (5) The department may assess civil monetary penalties upon
28 proof that an agency has failed or refused to comply with the rules
29 adopted under the provisions of this chapter and RCW 74.13.031 or that
30 an agency subject to licensing under this chapter and RCW 74.13.031 is
31 operating without a license except that civil monetary penalties shall
32 not be levied against a licensed foster home. Monetary penalties
33 levied against unlicensed agencies that submit an application for
34 licensure within thirty days of notification and subsequently become
35 licensed will be forgiven. These penalties may be assessed in addition
36 to or in lieu of other disciplinary actions. Civil monetary penalties,
37 if imposed, may be assessed and collected, with interest, for each day
38 an agency is or was out of compliance. Civil monetary penalties shall

1 not exceed two hundred fifty dollars per violation for group homes and
2 child-placing agencies. Each day upon which the same or substantially
3 similar action occurs is a separate violation subject to the assessment
4 of a separate penalty. The department shall provide a notification
5 period before a monetary penalty is effective and may forgive the
6 penalty levied if the agency comes into compliance during this period.
7 The department may suspend, revoke, or not renew a license for failure
8 to pay a civil monetary penalty it has assessed pursuant to this
9 chapter within ten days after such assessment becomes final. Chapter
10 43.20A RCW governs notice of a civil monetary penalty and provides the
11 right of an adjudicative proceeding. The preponderance of evidence
12 standard shall apply in adjudicative proceedings related to assessment
13 of civil monetary penalties.

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