
SENATE BILL 6168

State of Washington

63rd Legislature

2014 Regular Session

By Senators Rivers, Eide, Hargrove, Padden, Fraser, Honeyford, and Rolfes

Read first time 01/16/14. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to review of licensing and employment decisions by
2 the children's administration; amending RCW 74.15.130; reenacting and
3 amending RCW 74.15.030; and adding a new section to chapter 74.15 RCW.

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~~
8 ~~secretary's duty))~~:

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

1 (2) In consultation with the children's services advisory
2 committee, and with the advice and assistance of ~~((persons))~~
3 representatives of the various types of agencies to be licensed, ~~((to))~~
4 adopt and publish minimum requirements for licensing applicable to each
5 of the ~~((various))~~ categories of agencies to be licensed.

6 The minimum requirements shall be limited to:

7 (a) The size and suitability of a facility and the plan of
8 operation for carrying out the purpose for which ~~((an applicant seeks~~
9 ~~a))~~ the license is sought;

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

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

18 ~~(d) Obtaining child protective services information or records~~
19 ~~maintained in the department case management information system. No~~
20 ~~unfounded allegation of child abuse or neglect as defined in RCW~~
21 ~~26.44.020 may be disclosed to a child placing agency, private adoption~~
22 ~~agency, or any other provider licensed under this chapter;~~

23 ~~(e) Submitting a fingerprint based background check through the~~
24 ~~Washington state patrol under chapter 10.97 RCW and through the federal~~
25 ~~bureau of investigation for;~~

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

28 ~~(ii) Foster care and adoption placements; and~~

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

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

34 ~~(g) The cost of fingerprint background check fees will be paid as~~
35 ~~required in RCW 43.43.837;~~

36 ~~(h) National and state background information must be used solely~~
37 ~~for the purpose of determining eligibility for a license and for~~

1 ~~determining the character, suitability, and competence of those persons~~
2 ~~or agencies, excluding parents, not required to be licensed who are~~
3 ~~authorized to care for children or expectant mothers;~~

4 ~~(i))~~ The character, suitability, and competence of an agency and
5 other persons associated with an agency who are directly responsible
6 for the care and treatment of children, expectant mothers, or
7 individuals with developmental disabilities;

8 (c) The number of qualified persons required to render the type of
9 care and treatment for which an agency seeks a license;

10 ~~((j))~~ (d) The safety, cleanliness, and general adequacy of the
11 premises to provide for the comfort, care and well-being of children,
12 expectant mothers or developmentally disabled persons;

13 ~~((k))~~ (e) The provision of necessary care, including food,
14 clothing, supervision and discipline; physical, mental and social well-
15 being; and educational, recreational and spiritual opportunities for
16 those served;

17 ~~((l))~~ (f) The financial ability of an agency to comply with
18 minimum requirements established pursuant to chapter 74.15 RCW and RCW
19 74.13.031; and

20 ~~((m))~~ (g) The maintenance of records pertaining to the admission,
21 progress, health and discharge of persons served;

22 (3) ~~((p))~~ Investigate any person, including relatives by blood or
23 marriage except for parents, for character, suitability, and competence
24 in the care and treatment of children, expectant mothers, and
25 ~~((developmentally disabled))~~ persons with developmental disabilities
26 prior to authorizing that person to care for children, expectant
27 mothers, and ((developmentally disabled)) persons with developmental
28 disabilities, as provided in section 2 of this act. However, if a
29 child is placed with a relative under RCW 13.34.065 or 13.34.130, and
30 if such relative appears otherwise suitable and competent to provide
31 care and treatment the criminal history background check required by
32 this section need not be completed before placement, but ((shall)) must
33 be completed as soon as possible after placement;

34 (4) ~~((On reports of alleged child abuse and neglect, to))~~ Allow
35 individuals who are denied licensure, employment, or unsupervised
36 access to children by the children's administration based upon the
37 results of a background check to request an internal administrative
38 review in writing using forms provided by the department, which must

1 include the opportunity to submit evidence of the individual's
2 rehabilitation and that allowing the individual unsupervised access to
3 a child will not jeopardize the child's health or safety. This review
4 process must include participation by children's administration
5 management staff who are not in the direct chain of command with
6 contracts staff and be completed within sixty days. Administrative
7 proceedings under RCW 74.15.130 and applicable timelines for filing may
8 be stayed or extended as appropriate pending this review process. This
9 subsection does not create any civil liability on the part of the state
10 or any state agency, officer, employee, or agent based upon the
11 operation or outcome of this review process except based upon gross
12 negligence;

13 (5) Investigate agencies in accordance with chapter 26.44 RCW,
14 including child day((-)care centers and family day((-)care homes,
15 upon reports of alleged child abuse and neglect, to determine whether
16 the alleged abuse or neglect has occurred, and whether child protective
17 services or referral to a law enforcement agency is appropriate;

18 ((+5- Tø)) (6) Issue, revoke, or deny licenses to agencies pursuant
19 to chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the
20 category of care which an agency is authorized to render and the ages,
21 sex and number of persons to be served;

22 ((+6- Tø)) (7) Prescribe the procedures and the form and contents
23 of reports necessary for the administration of chapter 74.15 RCW and
24 RCW 74.13.031 and to require regular reports from each licensee;

25 ((+7- Tø)) (8) Inspect agencies periodically to determine whether
26 or not there is compliance with chapter 74.15 RCW and RCW 74.13.031 and
27 the requirements adopted ((hereunder)) pursuant to this section;

28 ((+8- Tø)) (9) Review requirements adopted ((hereunder)) pursuant
29 to this section at least once every two years and to adopt appropriate
30 changes after consultation ((with affected groups for child day care

31 ~~requirements and~~)) with the children's services advisory committee
32 ((for requirements for other agencies)) or, in the case of child day
33 care requirements, with the affected groups; and

34 ((+9- Tø)) (10) Consult with public and private agencies in order
35 to help ((them)) improve ((their)) methods and facilities for the care
36 of children, expectant mothers, and ((developmentally disabled))
37 persons with developmental disabilities.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.15 RCW
2 to read as follows:

3 (1) In conducting background investigations under RCW 74.15.030,
4 the secretary shall:

5 (a) Obtain background information, and any out-of-state equivalent,
6 to determine whether the applicant or service provider is disqualified,
7 and to determine the character, competence, and suitability of an
8 agency, the agency's employees, volunteers, and other persons
9 associated with an agency;

10 (b) Obtain child protective services information or records
11 maintained in the department case management information system. No
12 unfounded allegation of child abuse or neglect as defined in RCW
13 26.44.020 may be disclosed to a child-placing agency, private adoption
14 agency, or any other provider licensed under this chapter;

15 (c) Submit a fingerprint-based background check through the
16 Washington state patrol under chapter 10.97 RCW and through the federal
17 bureau of investigation for:

18 (i) Agencies and their staff, volunteers, students, and interns
19 when the agency is seeking license or relicensure;

20 (ii) Foster care and adoption placements; and

21 (iii) Any adult living in a home where a child may be placed.

22 (2) If any adult living in the home has not resided in the state of
23 Washington for the preceding five years, the department shall review
24 any child abuse and neglect registries maintained by any state where
25 the adult has resided over the preceding five years.

26 (3) The cost of fingerprint background check fees under this
27 section will be paid as required in RCW 43.43.837.

28 (4) National and state background information must be used solely
29 for the purpose of determining eligibility for a license and for
30 determining the character, suitability, and competence of those persons
31 or agencies, excluding parents, not required to be licensed who are
32 authorized to care for children, expectant mothers, or person's with
33 developmental disabilities.

34 **Sec. 3.** RCW 74.15.130 and 2007 c 220 s 6 are each amended to read
35 as follows:

36 (1) An agency may be denied a license, or any license issued
37 pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended,

1 revoked, modified, or not renewed by the secretary upon proof (a) that
2 the agency has failed or refused to comply with the provisions of
3 chapter 74.15 RCW and RCW 74.13.031 or the requirements promulgated
4 pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031; or
5 (b) that the conditions required for the issuance of a license under
6 chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect
7 to such licenses.

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

15 ~~((+2))~~ (3) In any adjudicative proceeding regarding the denial,
16 modification, suspension, or revocation of a foster family home
17 license, the department's decision shall be upheld if there is
18 reasonable cause to believe that:

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

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

26 (c) The conditions required for issuance of a license under chapter
27 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such
28 licenses.

29 ~~((+3))~~ (4) In any adjudicative proceeding regarding the denial,
30 modification, suspension, or revocation of any license under this
31 chapter, other than a foster family home license, the department's
32 decision shall be upheld if it is supported by a preponderance of the
33 evidence.

34 ~~((+4))~~ (5) The department may assess civil monetary penalties upon
35 proof that an agency has failed or refused to comply with the rules
36 adopted under the provisions of this chapter and RCW 74.13.031 or that
37 an agency subject to licensing under this chapter and RCW 74.13.031 is
38 operating without a license except that civil monetary penalties shall

1 not be levied against a licensed foster home. Monetary penalties
2 levied against unlicensed agencies that submit an application for
3 licensure within thirty days of notification and subsequently become
4 licensed will be forgiven. These penalties may be assessed in addition
5 to or in lieu of other disciplinary actions. Civil monetary penalties,
6 if imposed, may be assessed and collected, with interest, for each day
7 an agency is or was out of compliance. Civil monetary penalties shall
8 not exceed two hundred fifty dollars per violation for group homes and
9 child-placing agencies. Each day upon which the same or substantially
10 similar action occurs is a separate violation subject to the assessment
11 of a separate penalty. The department shall provide a notification
12 period before a monetary penalty is effective and may forgive the
13 penalty levied if the agency comes into compliance during this period.
14 The department may suspend, revoke, or not renew a license for failure
15 to pay a civil monetary penalty it has assessed pursuant to this
16 chapter within ten days after such assessment becomes final. Chapter
17 43.20A RCW governs notice of a civil monetary penalty and provides the
18 right of an adjudicative proceeding. The preponderance of evidence
19 standard shall apply in adjudicative proceedings related to assessment
20 of civil monetary penalties.

--- END ---