
SENATE BILL 5745

State of Washington 55th Legislature 1997 Regular Session

By Senators Morton, Haugen, Hochstatter, Swecker, Zarelli and Stevens

Read first time 02/11/97. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to certificates of registration without inspection
2 for family day care providers; amending RCW 43.20A.710, 74.15.030, and
3 74.13.031; reenacting and amending RCW 74.15.020; adding a new section
4 to chapter 74.15 RCW; adding a new section to chapter 74.13 RCW;
5 creating a new section; and prescribing penalties.

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

7 NEW SECTION. **Sec. 1.** It is the intent of the legislature:

8 (1) To increase family responsibility and control over the care of
9 their children and thus increase the ability of parents to ensure their
10 children's safety and well-being in out-of-home day care by
11 establishing a registration process for family day care homes caring
12 for a maximum of seven children;

13 (2) To reduce government's role in the lives of families and
14 increase availability of family day care homes by minimizing the
15 department's role in inspection of these homes to only major concerns
16 about compliance with laws on health and sanitation; and

17 (3) That the department of social and health services provide for
18 a process of registration that is streamlined, efficient, and effective
19 in this regard.

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

3 (1) A person not subject to the licensing requirements of this
4 chapter may not operate a family day care home without a certificate of
5 registration without inspection from the department.

6 (2) A family day care home holding a certificate of registration
7 without inspection may care for a maximum of seven children younger
8 than thirteen years of age, including the provider's own children. Of
9 the ten children:

10 (a) No more than six may be younger than five years of age; and

11 (b) No more than two may be twenty-four months of age or younger.

12 (3)(a) To obtain a certificate of registration without inspection,
13 a provider must apply to the department by submitting a completed
14 application work sheet and a nonrefundable fee. The fee shall vary
15 according to the number of children for which the family day care home
16 is requesting to be certified and shall be determined and applied
17 through rules adopted by the department, but shall not exceed thirty
18 dollars for the registration and sixty dollars for the criminal records
19 check. The department may waive any or all of the fee if the
20 department determines that imposition of the fee would impose a
21 hardship on the provider.

22 (b) Upon receipt of an application satisfactory to the department
23 and upon receipt of a satisfactory criminal records check, the
24 department shall issue a certificate of registration without
25 inspection. The certificate is valid for a period of two years.

26 (4) A certificate of registration without inspection authorizes
27 operation of the family day care home only on the premises described in
28 the certificate and only by the person named in the certificate.

29 (5) The department shall adopt rules:

30 (a) Creating the application work sheet required under subsection
31 (3) of this section;

32 (b) Defining full-time and part-time care;

33 (c) Establishing under what circumstances the adult-to-child ratio
34 requirements may be temporarily waived; and

35 (d) Establishing recommended health and safety procedures,
36 including written information on how to identify and prevent child
37 abuse.

1 (6) The department shall adopt the application work sheet required
2 by subsection (3) of this section. The work sheet must include, but
3 need not be limited to, the following:

4 (a) The number and ages of the children to be cared for at the
5 family day care home; and

6 (b) The health and safety procedures in place and followed at the
7 family day care home.

8 (7) The department, upon good cause shown, may waive one or more of
9 the certification requirements. The department may waive a requirement
10 only if appropriate conditions or safeguards are imposed to protect the
11 welfare of the children and the consumer interests of the parents of
12 the children.

13 (8) The department, by rule, shall develop a list of recommended
14 standards consistent with standards established by professional
15 organizations regarding child care programs for child care facilities.
16 Compliance with the standards is not required for a certificate of
17 registration without inspection, but the department shall encourage
18 voluntary compliance and shall provide technical assistance to a family
19 day care home attempting to comply with the standards. The family day
20 care home shall distribute the list of recommended minimum standards to
21 the parents of all children cared for at the family day care home and
22 shall receive and retain a signed receipt from the parent in return.

23 (9) In adopting rules relating to certificates of registration
24 without inspection, the department shall consult with the appropriate
25 legislative committees in developing the rules to be adopted. If the
26 rules are being adopted during a period when the legislature is not in
27 session, the department shall consult with the appropriate interim
28 legislative committee.

29 (10) A person who violates this section is subject to a civil
30 penalty not to exceed one hundred dollars. The department may impose
31 the civil penalty for violation of any of the terms or conditions of a
32 certificate of registration without inspection.

33 (11) Any person operating a family day care home may apply for a
34 license for such family day care home from the department and receive
35 a license upon meeting licensing requirements.

36 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.13 RCW
37 to read as follows:

1 An application for a certificate of registration without inspection
2 or renewal may be denied or a temporary or regular certificate of
3 registration without inspection may be revoked or suspended if the
4 department finds:

5 (1) That the family day care home or its operation does not comply
6 with applicable rules, or with any term or condition imposed under the
7 certificate; or

8 (2) That visitation or inspection of a family day care home or its
9 records has not been permitted when requested by the department to
10 investigate complaints of health and sanitation.

11 **Sec. 4.** RCW 43.20A.710 and 1993 c 210 s 1 are each amended to read
12 as follows:

13 The secretary shall investigate the conviction records, pending
14 charges or disciplinary board final decisions of: (1) Persons being
15 considered for state employment in positions directly responsible for
16 the supervision, care, or treatment of children or individuals with
17 mental illness or developmental disabilities; ~~((and))~~ (2) individual
18 providers who are paid by the state for in-home services and hired by
19 individuals with physical disabilities, developmental disabilities,
20 mental illness, or mental impairment; and (3) family day care providers
21 applying for certificates of registration without inspection. The
22 investigation may include an examination of state and national criminal
23 identification data and the child abuse and neglect register
24 established under chapter 26.44 RCW. The secretary shall provide the
25 results of the state background check on individual providers to the
26 individuals with physical disabilities, developmental disabilities,
27 mental illness, or mental impairment who hired them and to their legal
28 guardians, if any. The secretary shall use the information solely for
29 the purpose of determining the character, suitability, and competence
30 of these applicants except that in the case of individuals with
31 physical disabilities, developmental disabilities, mental illness, or
32 mental impairment who employ individual providers, the determination of
33 character, suitability, and competence of applicants shall be made by
34 the individual with a physical disability, developmental disability,
35 mental illness, or mental impairment. Criminal justice agencies shall
36 provide the secretary such information as they may have and that the
37 secretary may require for such purpose. If necessary, persons may be

1 employed on a conditional basis pending completion of the background
2 investigation.

3 **Sec. 5.** RCW 74.15.020 and 1995 c 311 s 18 and 1995 c 302 s 3 are
4 each reenacted and amended to read as follows:

5 For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless
6 otherwise clearly indicated by the context thereof, the following terms
7 shall mean:

8 (1) "Department" means the state department of social and health
9 services;

10 (2) "Secretary" means the secretary of social and health services;

11 (3) "Agency" means any person, firm, partnership, association,
12 corporation, or facility which receives children, expectant mothers, or
13 persons with developmental disabilities for control, care, or
14 maintenance outside their own homes, or which places, arranges the
15 placement of, or assists in the placement of children, expectant
16 mothers, or persons with developmental disabilities for foster care or
17 placement of children for adoption, and shall include the following
18 irrespective of whether there is compensation to the agency or to the
19 children, expectant mothers or persons with developmental disabilities
20 for services rendered:

21 (a) "Group-care facility" means an agency, other than a foster-
22 family home, which is maintained and operated for the care of a group
23 of children on a twenty-four hour basis;

24 (b) "Child-placing agency" means an agency which places a child or
25 children for temporary care, continued care, or for adoption;

26 (c) "Maternity service" means an agency which provides or arranges
27 for care or services to expectant mothers, before or during
28 confinement, or which provides care as needed to mothers and their
29 infants after confinement;

30 (d) "Child day-care center" means an agency which regularly
31 provides care for a group of children for periods of less than twenty-
32 four hours;

33 (e) "Family day-care provider" means a child day-care provider who
34 regularly provides child day care for (~~not~~) more than (~~twelve~~)
35 seven children in the provider's home in the family living quarters;

36 (f) "Foster-family home" means an agency which regularly provides
37 care on a twenty-four hour basis to one or more children, expectant
38 mothers, or persons with developmental disabilities in the family abode

1 of the person or persons under whose direct care and supervision the
2 child, expectant mother, or person with a developmental disability is
3 placed;

4 (g) "Crisis residential center" means an agency which is a
5 temporary protective residential facility operated to perform the
6 duties specified in chapter 13.32A RCW, in the manner provided in RCW
7 74.13.032 through 74.13.036.

8 (4) "Agency" shall not include the following:

9 (a) Persons related to the child, expectant mother, or person with
10 developmental disability in the following ways:

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

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

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

19 (iv) Spouses of any persons named in (i), (ii), or (iii) of this
20 subsection (4)(a), even after the marriage is terminated; or

21 (v) Extended family members, as defined by the law or custom of the
22 Indian child's tribe or, in the absence of such law or custom, a person
23 who has reached the age of eighteen and who is the Indian child's
24 grandparent, aunt or uncle, brother or sister, brother-in-law or
25 sister-in-law, niece or nephew, first or second cousin, or stepparent
26 who provides care in the family abode on a twenty-four-hour basis to an
27 Indian child as defined in 25 U.S.C. Sec. 1903(4);

28 (b) Persons who are legal guardians of the child, expectant mother,
29 or persons with developmental disabilities;

30 (c) Persons who care for a neighbor's or friend's child or
31 children, with or without compensation, where: (i) The person
32 providing care for periods of less than twenty-four hours does not
33 conduct such activity on an ongoing, regularly scheduled basis for the
34 purpose of engaging in business, which includes, but is not limited to,
35 advertising such care; or (ii) the parent and person providing care on
36 a twenty-four-hour basis have agreed to the placement in writing and
37 the state is not providing any payment for the care;

38 (d) Persons who regularly care for no more than seven children in
39 the provider's home in the family's living quarters, are not covered

1 under (c) of this subsection, and hold a certificate of registration
2 without inspection under section 2 of this act.

3 (e) Parents on a mutually cooperative basis exchange care of one
4 another's children;

5 ~~((e))~~ (f) A person, partnership, corporation, or other entity
6 that provides placement or similar services to exchange students or
7 international student exchange visitors or persons who have the care of
8 an exchange student in their home;

9 ~~((f))~~ (g) Nursery schools or kindergartens which are engaged
10 primarily in educational work with preschool children and in which no
11 child is enrolled on a regular basis for more than four hours per day;

12 ~~((g))~~ (h) Schools, including boarding schools, which are engaged
13 primarily in education, operate on a definite school year schedule,
14 follow a stated academic curriculum, accept only school-age children
15 and do not accept custody of children;

16 ~~((h))~~ (i) Seasonal camps of three months' or less duration
17 engaged primarily in recreational or educational activities;

18 ~~((i))~~ (j) Hospitals licensed pursuant to chapter 70.41 RCW when
19 performing functions defined in chapter 70.41 RCW, nursing homes
20 licensed under chapter 18.51 RCW and boarding homes licensed under
21 chapter 18.20 RCW;

22 ~~((j))~~ (k) Licensed physicians or lawyers;

23 ~~((k))~~ (l) Facilities providing care to children for periods of
24 less than twenty-four hours whose parents remain on the premises to
25 participate in activities other than employment;

26 ~~((l))~~ (m) Facilities approved and certified under chapter 71A.22
27 RCW;

28 ~~((m))~~ (n) Any agency having been in operation in this state ten
29 years prior to June 8, 1967, and not seeking or accepting moneys or
30 assistance from any state or federal agency, and is supported in part
31 by an endowment or trust fund;

32 ~~((n))~~ (o) Persons who have a child in their home for purposes of
33 adoption, if the child was placed in such home by a licensed child-
34 placing agency, an authorized public or tribal agency or court or if a
35 replacement report has been filed under chapter 26.33 RCW and the
36 placement has been approved by the court;

37 ~~((o))~~ (p) An agency operated by any unit of local, state, or
38 federal government or an agency, located within the boundaries of a
39 federally recognized Indian reservation, licensed by the Indian tribe;

1 (~~(p)~~) (q) An agency located on a federal military reservation,
2 except where the military authorities request that such agency be
3 subject to the licensing requirements of this chapter.

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

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

9 **Sec. 6.** RCW 74.15.030 and 1995 c 302 s 4 are each amended to read
10 as follows:

11 The secretary shall have the power and it shall be the secretary's
12 duty:

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

22 (2) In consultation with the children's services advisory
23 committee, and with the advice and assistance of persons representative
24 of the various type agencies to be licensed, to adopt and publish
25 minimum requirements for licensing applicable to each of the various
26 categories of agencies to be licensed.

27 The minimum requirements shall be limited to:

28 (a) The size and suitability of a facility and the plan of
29 operation for carrying out the purpose for which an applicant seeks a
30 license;

31 (b) The character, suitability and competence of an agency and
32 other persons associated with an agency directly responsible for the
33 care and treatment of children, expectant mothers or developmentally
34 disabled persons. In consultation with law enforcement personnel, the
35 secretary shall investigate the conviction record or pending charges
36 and dependency record information under chapter 43.43 RCW of each
37 agency and its staff seeking licensure or relicensure. In order to
38 determine the suitability of applicants for an agency license or a

1 certificate of registration without inspection, licensees, applicants,
2 their employees, and other persons who have unsupervised access to
3 children in care, and who have not resided in the state of Washington
4 during the three-year period before being authorized to care for
5 children shall be fingerprinted. The fingerprints shall be forwarded
6 to the Washington state patrol and federal bureau of investigation for
7 a criminal history records check. The fingerprint criminal history
8 records checks will be at the expense of the licensee except that in
9 the case of a foster family home, if this expense would work a hardship
10 on the licensee, the department shall pay the expense. The licensee
11 may not pass this cost on to the employee or prospective employee,
12 unless the employee is determined to be unsuitable due to his or her
13 criminal history record. The secretary shall use the information
14 solely for the purpose of determining eligibility for a license and for
15 determining the character, suitability, and competence of those persons
16 or agencies, excluding parents, not required to be licensed who are
17 authorized to care for children, expectant mothers, and developmentally
18 disabled persons. Criminal justice agencies shall provide the
19 secretary such information as they may have and that the secretary may
20 require for such purpose;

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

23 (d) The safety, cleanliness, and general adequacy of the premises
24 to provide for the comfort, care and well-being of children, expectant
25 mothers or developmentally disabled persons;

26 (e) The provision of necessary care, including food, clothing,
27 supervision and discipline; physical, mental and social well-being; and
28 educational, recreational and spiritual opportunities for those served;

29 (f) The financial ability of an agency to comply with minimum
30 requirements established pursuant to chapter 74.15 RCW and RCW
31 74.13.031; and

32 (g) The maintenance of records pertaining to the admission,
33 progress, health and discharge of persons served;

34 (3) To investigate any person, including relatives by blood or
35 marriage except for parents, for character, suitability, and competence
36 in the care and treatment of children, expectant mothers, and
37 developmentally disabled persons prior to authorizing that person to
38 care for children, expectant mothers, and developmentally disabled
39 persons. However, if a child is placed with a relative under RCW

1 13.34.060 or 13.34.130, and if such relative appears otherwise suitable
2 and competent to provide care and treatment the criminal history
3 background check required by this section need not be completed before
4 placement, but shall be completed as soon as possible after placement;

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

10 (5) To issue, revoke, or deny certificates of registration without
11 inspection and licenses to agencies pursuant to chapter 74.15 RCW and
12 RCW 74.13.031. Licenses shall specify the category of care which an
13 agency is authorized to render and the ages, sex and number of persons
14 to be served;

15 (6) To prescribe the procedures and the form and contents of
16 reports necessary for the administration of chapter 74.15 RCW and RCW
17 74.13.031 and to require regular reports from each licensee;

18 (7) To inspect agencies periodically to determine whether or not
19 there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the
20 requirements adopted hereunder;

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

26 (9) To consult with public and private agencies in order to help
27 them improve their methods and facilities for the care of children,
28 expectant mothers and developmentally disabled persons.

29 **Sec. 7.** RCW 74.13.031 and 1995 c 191 s 1 are each amended to read
30 as follows:

31 The department shall have the duty to provide child welfare
32 services as defined in RCW 74.13.020, and shall:

33 (1) Develop, administer, supervise, and monitor a coordinated and
34 comprehensive plan that establishes, aids, and strengthens services for
35 the protection and care of homeless, runaway, dependent, or neglected
36 children.

37 (2) Develop a recruiting plan for recruiting an adequate number of
38 prospective adoptive and foster homes, both regular and specialized,

1 i.e. homes for children of ethnic minority, including Indian homes for
2 Indian children, sibling groups, handicapped and emotionally disturbed,
3 and annually submit the plan for review to the house and senate
4 committees on social and health services. The plan shall include a
5 section entitled "Foster Home Turn-Over, Causes and Recommendations."

6 (3) Investigate complaints of neglect, abuse, or abandonment of
7 children, and on the basis of the findings of such investigation, offer
8 child welfare services in relation to the problem to such parents,
9 legal custodians, or persons serving in loco parentis, and/or bring the
10 situation to the attention of an appropriate court, or another
11 community agency: PROVIDED, That an investigation is not required of
12 nonaccidental injuries which are clearly not the result of a lack of
13 care or supervision by the child's parents, legal custodians, or
14 persons serving in loco parentis. If the investigation reveals that a
15 crime may have been committed, the department shall notify the
16 appropriate law enforcement agency.

17 (4) Offer, on a voluntary basis, family reconciliation services to
18 families who are in conflict.

19 (5) Monitor out-of-home placements, on a timely and routine basis,
20 to assure the safety, well-being, and quality of care being provided is
21 within the scope of the intent of the legislature as defined in RCW
22 74.13.010 and 74.15.010, and annually submit a report delineating the
23 results to the house and senate committees on social and health
24 services.

25 (6) Have authority to accept custody of children from parents and
26 to accept custody of children from juvenile courts, where authorized to
27 do so under law, to provide child welfare services including placement
28 for adoption, and to provide for the physical care of such children and
29 make payment of maintenance costs if needed. Except where required by
30 Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency
31 which receives children for adoption from the department shall
32 discriminate on the basis of race, creed, or color when considering
33 applications in their placement for adoption.

34 (7) Have authority to provide temporary shelter to children who
35 have run away from home and who are admitted to crisis residential
36 centers.

37 (8) Have authority to purchase care for children; and shall follow
38 in general the policy of using properly approved private agency
39 services and family day care providers who hold certificates of

1 registration without inspection for the actual care and supervision of
2 such children insofar as they are available, paying for care of such
3 children as are accepted by the department as eligible for support at
4 reasonable rates established by the department.

5 (9) Establish a children's services advisory committee which shall
6 assist the secretary in the development of a partnership plan for
7 utilizing resources of the public and private sectors, and advise on
8 all matters pertaining to child welfare, licensing of child care
9 agencies, adoption, and services related thereto. At least one member
10 shall represent the adoption community.

11 (10) Have authority to provide continued foster care or group care
12 for individuals from eighteen through twenty years of age to enable
13 them to complete their high school or vocational school program.

14 (11) Have authority within funds appropriated for foster care
15 services to purchase care for Indian children who are in the custody of
16 a federally recognized Indian tribe or tribally licensed child-placing
17 agency pursuant to parental consent, tribal court order, or state
18 juvenile court order; and the purchase of such care shall be subject to
19 the same eligibility standards and rates of support applicable to other
20 children for whom the department purchases care.

21 Notwithstanding any other provision of RCW 13.32A.170 through
22 13.32A.200 and 74.13.032 through 74.13.036, or of this section all
23 services to be provided by the department of social and health services
24 under subsections (4), (6), and (7) of this section, subject to the
25 limitations of these subsections, may be provided by any program
26 offering such services funded pursuant to Titles II and III of the
27 federal juvenile justice and delinquency prevention act of 1974.

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