

HOUSE BILL REPORT

SSB 5680

As Reported By House Committee On:
Children & Family Services

Title: An act relating to the enforcement of child care agency licensing.

Brief Description: Modifying licensing enforcement for child care agencies.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Long, Franklin, Kohl and Winsley; by request of Department of Social and Health Services).

Brief History:

Committee Activity:

Children & Family Services: 3/30/95, 3/31/95 [DPA].

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: Do pass as amended. Signed by 10 members: Representatives Cooke, Chairman; Lambert, Vice Chairman; Stevens, Vice Chairman; Thibaudeau, Ranking Minority Member; Brown, Assistant Ranking Minority Member; Boldt; Buck; Carrell; Patterson and Tokuda.

Staff: David Knutson (786-7146).

Background: Recent cases involving serious violations, including child abuse, in group homes and foster homes resulted in a legislative evaluation of these incidents. In 1994, the Department of Social and Health Services took specific initiatives to respond to the incidents and to promote child welfare, health and safety in licensed child care facilities.

The department also provided specific concerns to the Legislature and suggested the need for legislative changes to promote enforcement of license violations.

The department noted its hesitancy to revoke a child care agency license due to the number of administrative hearing decisions that have overturned license revocations.

The department also noted that it had limited options to enforce compliance with licensing requirements short of formal revocation procedures. Also, current background checks often do not disclose a person's criminal history in other states.

Summary of Amended Bill: Safeguarding the health, safety and well-being of children, expectant mothers and developmentally disabled persons is declared to be paramount over the right of any person to provide care. Children placed in foster care should be cared for in a stable, safe, secure environment with a husband and wife who are licensed as foster parents. The Office of Administrative Hearings may not assign an administrative law judge to a hearing regarding a child care agency license, unless the judge receives training related to state and federal laws, and policies and procedures of the Department of Social and Health Services on child care issues.

A departmental decision regarding a foster family home license is upheld if there is reasonable cause to believe that the licensee is unsuitable, fails to comply with license requirements, or the conditions for issuing the license no longer exist. A departmental decision regarding any other child care agency license is upheld if it is supported by a preponderance of the evidence.

In addition to other penalties, the department can assess fines against child care agencies, except licensed foster homes, for failure to comply with license standards or operating without a license. The maximum fine ranges from \$75 for a family day-care home, to \$250 for a group home and a child day-care center. Each day of violation may be considered an assessment of a separate penalty.

For disciplinary purposes, the department may issue a six-month probationary license to a licensee temporarily not in compliance with licensing standards. The probationary license may be extended for an additional six months. A probationary license is only issued if there is no immediate threat to the children, and the licensee has a plan to correct the noncompliance. The department must terminate a probationary license at any time the noncompliance creates an immediate threat to the children. The licensee does not have a right to an adjudicative proceeding on the probationary license, unless the licensee refuses probationary status and the department suspends, revokes or modifies the license.

In addition to current background checks, applicants and their employees who reside in Washington for less than three years must be fingerprinted, and the fingerprints are used to check for criminal history. The costs must be paid for by the licensee, who may not pass the cost on to the employee, unless the employee is determined to be unsuitable due to his or her criminal record. The Department of Social and Health Services will pay the expense for family foster care licenses.

A foster home no longer under the supervision of the agency with which it is licensed ceases to have a valid license. Child care agency licenses are not transferable and apply only to the location stated in the application. For foster-family homes where the family remains intact and family day-care homes with acceptable records for care, the license remains in effect for two weeks after a move.

An intent section is included in the legislation. The term "day-care center" is changed to "child day-care center." The definition of "family day-care provider" is clarified. The definition of related persons excepted from inclusion as a child care agency is altered to be consistent with federal guidelines. A "provisional" license is changed to an "initial" license.

Amended Bill Compared to Substitute Bill: Language was added declaring the intent that when children are placed in foster care they should be placed with a husband and wife who are licensed as foster parents. The department will pay for fingerprint checks for new residents of the state seeking a family foster home license instead of the applicant.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The statute should clearly state the health, safety, and well-being of children is more important than the right of a foster care or group care provider to continue providing services. The Department of Social and Health Services needs additional sanctions to address problems with substandard service providers.

Testimony Against: None.

Testified: Don Knapp, Foster Parents Association of Washington State (pro); Dr. Kathryn Mikesell (pro); Ruth Kagi, Independent Review Committee (pro); Karen Tvedt, Department of Social and Health Services (pro); and Jean Sloan, Child Care Action Council (pro).