

SENATE BILL REPORT

SB 5680

As Reported By Senate Committee On:
Human Services & Corrections, February 21, 1995

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

Brief Description: Modifying licensing enforcement for child care agencies.

Sponsors: Senators Hargrove, Long, Franklin, Kohl and Winsley; by request of Department of Social and Health Services.

Brief History:

Committee Activity: Human Services & Corrections: 2/7/95, 2/21/95 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5680 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Franklin, Vice Chair; Fairley, Kohl, Long, Moyer, Palmer, Prentice and Schow.

Staff: Dennis Martin (786-7403)

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 Substitute 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. 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 group homes and child day-care centers. 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. When foster family home licensees plead hardship, the department must pay the expense.

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.

Substitute Bill Compared to Original Bill: The substitute bill clarifies the training required for administrative law judges, limits licensees' ability to pass the cost of fingerprint checks on to an employee, and provides for termination of a probationary license when there is an immediate threat to the children.

Appropriation: None.

Fiscal Note: Requested on January 31, 1995.

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

Testimony For: The bill will provide greater disciplinary authority for the department to deal with violations by licensed child care agencies.

Testimony Against: None.

Testified: Dick Anderson, DSHS/DCFS (pro); Marty Jacobs, Washington Association for Education of Young Children (pro); Stu Jacobson, King County Parents for Safe Day Care (pro); Pam Toal, parent (pro); Lonnie Johns-Brown, Licensing Subcommittee, Child Care Coordinating Committee (pro); Ruth Kagi, Manson Investigation Committee (pro); Darlene Flowers, Foster Care Parents Association (pro); Karen Tvedt, DSHS (pro); Elizabeth Thompson, WA State Child Care Resource and Referral Network (pro); Pamela Grigsby-Jones, private provider (pro); Jacqueline Jordan, Concerned Citizens for Quality Child Care (pro).