
HOUSE BILL 2516

State of Washington

54th Legislature

1996 Regular Session

By Representatives Lambert, Cooke, McMorris, Stevens, Johnson, Sherstad, Pennington and Silver

Read first time 01/12/96. Referred to Committee on Children & Family Services.

1 AN ACT Relating to registration of child day-care facilities;
2 reenacting and amending RCW 74.15.020; adding new sections to chapter
3 74.15 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds and declares that
6 parents and guardians have the primary responsibility in caring for
7 their children, including parental decisions in evaluating and
8 selecting appropriate day-care services in the community.
9 Informational guides published by the department of social and health
10 services help parents address questions about health and safety
11 concerns and day-care services best suited to the well-being of their
12 children. The current regulatory structure of child day-care
13 facilities does not adequately facilitate the day-care needs of
14 families in providing parents with an adequate choice of other options.
15 Currently some thirty-six percent of day-care providers reimbursed by
16 the department under the aid to families with dependent children
17 program are not licensed, with no increased incidents of harm. There
18 needs to be a more flexible and responsive system of child day-care

1 services that offers parents access to wider choices within a realistic
2 regulatory framework.

3 Accordingly, it is the intent of the legislature to establish a
4 tiered system of day-care services that provides parents improved
5 access to a greater range of acceptable services, at more competitive
6 day-care arrangements, and within a more realistic and flexible
7 regulatory environment. This tiered system recognizes (1) the
8 licensure of child day-care centers for assuring the maintenance of
9 high day-care standards, (2) family day-care providers licensed or
10 registered under section 3 of this act, and (3) neighbors and friends
11 to provide other options for day-care services to parents and guardians
12 exercising informed choices.

13 Nothing in this act is intended to affect existing child protection
14 and health and safety laws. This act may be known and cited as the
15 freedom of choice for child day-care services act.

16 **Sec. 2.** RCW 74.15.020 and 1995 c 311 s 18 and 1995 c 302 s 3 are
17 each reenacted and amended to read as follows:

18 For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless
19 otherwise clearly indicated by the context thereof, the following terms
20 shall mean:

21 (1) "Department" means the state department of social and health
22 services;

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

24 (3) "Agency" means any person, firm, partnership, association,
25 corporation, or facility which receives children, expectant mothers, or
26 persons with developmental disabilities for control, care, or
27 maintenance outside their own homes, or which places, arranges the
28 placement of, or assists in the placement of children, expectant
29 mothers, or persons with developmental disabilities for foster care or
30 placement of children for adoption, and shall include the following
31 irrespective of whether there is compensation to the agency or to the
32 children, expectant mothers or persons with developmental disabilities
33 for services rendered:

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

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

1 (c) "Maternity service" means an agency which provides or arranges
2 for care or services to expectant mothers, before or during
3 confinement, or which provides care as needed to mothers and their
4 infants after confinement;

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

8 (e) "Family day-care provider" means a child day-care provider who
9 regularly provides child day care for not more than twelve children in
10 the provider's home in the family living quarters;

11 (f) "Foster-family home" means an agency which regularly provides
12 care on a twenty-four hour basis to one or more children, expectant
13 mothers, or persons with developmental disabilities in the family abode
14 of the person or persons under whose direct care and supervision the
15 child, expectant mother, or person with a developmental disability is
16 placed;

17 (g) "Crisis residential center" means an agency which is a
18 temporary protective residential facility operated to perform the
19 duties specified in chapter 13.32A RCW, in the manner provided in RCW
20 74.13.032 through 74.13.036.

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

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

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

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

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

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

34 (v) "Extended family members," as defined by the law or custom of
35 the Indian child's tribe or, in the absence of such law or custom, a
36 person who has reached the age of eighteen and who is the Indian
37 child's grandparent, aunt or uncle, brother or sister, brother-in-law
38 or sister-in-law, niece or nephew, first or second cousin, or

1 stepparent who provides care in the family abode on a twenty-four-hour
2 basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

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

5 (c) Persons who care for a neighbor's or friend's child or
6 children, with or without compensation, where(~~(i) The person~~
7 ~~providing care for periods of less than twenty four hours does not~~
8 ~~conduct such activity on an ongoing, regularly scheduled basis for the~~
9 ~~purpose of engaging in business, which includes, but is not limited to,~~
10 ~~advertising such care; or (ii) the parent and person providing care on~~
11 ~~a twenty four hour basis have agreed to the placement in writing and~~
12 ~~the state is not providing any payment for the care)) the neighbor or
13 friend does not provide child day care for more than six children in
14 the provider's home or advertise child day-care services;~~

15 (d) Parents on a mutually cooperative basis exchange care of one
16 another's children;

17 (e) A person, partnership, corporation, or other entity that
18 provides placement or similar services to exchange students or
19 international student exchange visitors or persons who have the care of
20 an exchange student in their home;

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

24 (g) Schools, including boarding schools, which are engaged
25 primarily in education, operate on a definite school year schedule,
26 follow a stated academic curriculum, accept only school-age children
27 and do not accept custody of children;

28 (h) Seasonal camps of three months' or less duration engaged
29 primarily in recreational or educational activities;

30 (i) Hospitals licensed pursuant to chapter 70.41 RCW when
31 performing functions defined in chapter 70.41 RCW, nursing homes
32 licensed under chapter 18.51 RCW and boarding homes licensed under
33 chapter 18.20 RCW;

34 (j) Licensed physicians or lawyers;

35 (k) Facilities providing care to children for periods of less than
36 twenty-four hours whose parents remain on the premises to participate
37 in activities other than employment;

38 (l) Facilities approved and certified under chapter 71A.22 RCW;

1 (m) Any agency having been in operation in this state ten years
2 prior to June 8, 1967, and not seeking or accepting moneys or
3 assistance from any state or federal agency, and is supported in part
4 by an endowment or trust fund;

5 (n) Persons who have a child in their home for purposes of
6 adoption, if the child was placed in such home by a licensed child-
7 placing agency, an authorized public or tribal agency or court or if a
8 replacement report has been filed under chapter 26.33 RCW and the
9 placement has been approved by the court;

10 (o) An agency operated by any unit of local, state, or federal
11 government or an agency, located within the boundaries of a federally
12 recognized Indian reservation, licensed by the Indian tribe;

13 (p) An agency located on a federal military reservation, except
14 where the military authorities request that such agency be subject to
15 the licensing requirements of this chapter;

16 (q) Family day-care providers registered with the department under
17 section 3 of this act.

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

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

23 NEW SECTION. Sec. 3. A new section is added to chapter 74.15 RCW
24 to read as follows:

25 (1) The department shall establish a register for family day-care
26 providers that are not licensed under this chapter. Family day-care
27 providers registered under this section are not subject to the
28 licensing standards.

29 (2) A parent or guardian accepting day-care services for a child
30 with a registered family day-care provider must sign a declaration, on
31 a form approved by the department, that the parent or guardian
32 understands that the family day-care provider is not licensed and,
33 under the exclusions permissible by law, is not required to meet
34 licensure standards.

35 (3) Notwithstanding the limitations imposed by law on the number of
36 children served in child day-care facilities, a child day-care center,
37 family day-care provider, or neighbor or friend providing child day-
38 care services may accept additionally one-half as many school-age

1 children before and after school as is specified by the limitation on
2 the total number of children permitted by law to be served in each
3 facility respectively.

4 (4) The department may revoke or suspend registration under this
5 section if the department finds that a clear and substantial risk
6 affects the health or safety of the child which results in a violation
7 of a child protection or health and safety law leading to a conviction,
8 a finding of a violation of law, an assessment of a fine, or other
9 penalty. The department may suspend a registration upon the filing of
10 a complaint, pending a final determination of the complaint, if the
11 department has reasonable cause to believe an emergency exists that
12 requires immediate attention and such a violation has occurred.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 74.15 RCW
14 to read as follows:

15 The department shall monitor the child day-care program for
16 effectiveness and incidence of child health and safety risks, if any,
17 associated with nonlicensed day-care facilities and report its findings
18 and conclusions, together with any recommendations, by January 1, 1997,
19 to the legislature. Legislative standing committees having
20 jurisdiction shall study the effectiveness of the child day-care
21 program in the 1996 interim and hold hearings on the effectiveness of
22 the expanded day-care program to determine how parents are exercising
23 their choices, together with any clear risks to the public health and
24 safety posed in accessing expanded services.

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