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SENATE BILL 5660

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State of Washington

55th Legislature

1997 Regular Session

By Senators Kohl, Long, Hargrove and Winsley

Read first time 02/05/97. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to out-of-home care; amending RCW 74.15.130 and  
2 74.13.090; reenacting and amending RCW 74.15.020; adding new sections  
3 to chapter 74.15 RCW; creating new sections; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that consumers of  
6 child care services have a legitimate interest in receiving timely  
7 information about child care service providers in order to make  
8 meaningful choices regarding the facilities and people who provide care  
9 for their children. The legislature further finds that as a result of  
10 improvements in information management systems, the state's ability to  
11 provide relevant information to child care service consumers has also  
12 improved.

13 The legislature finds that parents often do not receive timely  
14 information about enforcement actions when complaints are made alleging  
15 serious issues affecting the health or safety of children. The  
16 legislature intends to utilize the state's improved ability to collect  
17 and manage information about child care service providers by requiring  
18 that all relevant licensing actions and enforcement actions be reported  
19 to appropriate individuals and organizations in a timely manner. The

1 legislature further intends to authorize the department to report such  
2 information to the general public when necessary and appropriate for  
3 the health or safety of children.

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

6 (1) Every child day-care center and family day-care provider shall  
7 post the following items, clearly visible to parents and staff:

8 (a) The license issued under this chapter;

9 (b) The notice of any pending enforcement action. The notice must  
10 be posted immediately upon receipt. The notice must be posted for at  
11 least two weeks or until the violation causing the enforcement action  
12 is corrected, whichever is longer, and must be prominently posted, as  
13 prescribed in rules issued by the secretary;

14 (c) A notice that inspection reports and any notices of enforcement  
15 actions for the previous three years are available from the licensee  
16 and the department; and

17 (d) Any other information required by the department.

18 (2) The department is authorized to report to the general public  
19 and counterpart licensing departments in other states, as may be  
20 necessary and appropriate to protect the health or safety of children,  
21 any information that is required to be reported under subsection (1) of  
22 this section.

23 (3) If the child day-care center or family day-care provider is  
24 later found to have not committed the acts or conduct justifying the  
25 enforcement action under subsection (1) or (2) of this section, the  
26 department shall forthwith prepare a notice of public exoneration. The  
27 department shall report the public exoneration to the same people and  
28 entities, and in the same manner, who received a report under  
29 subsection (1) or (2) of this section. Such notice must also be  
30 maintained as part of the department's permanent record of the  
31 enforcement action.

32 (4) The department shall disclose, upon request, the receipt,  
33 general nature, and resolution or current status of all complaints on  
34 record with the department after the effective date of this act against  
35 a child day-care center or family day-care provider that result in an  
36 enforcement action.

1 This section shall not be construed to require the disclosure of  
2 any information that is exempt from public disclosure under chapter  
3 42.17 RCW.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.15 RCW  
5 to read as follows:

6 (1) Every child day-care center and family day-care provider shall  
7 have readily available for review by the department, parents, and the  
8 public a copy of each inspection report and notice of enforcement  
9 action received by the center or provider from the department for the  
10 past three years.

11 (2) The department shall make available to the public during  
12 business hours all inspection reports and notices of enforcement  
13 actions involving child day-care centers and family day-care providers.  
14 The department shall include in the inspection report a statement of  
15 the corrective measures taken by the center or provider.

16 **Sec. 4.** RCW 74.15.130 and 1995 c 302 s 5 are each amended to read  
17 as follows:

18 (1) An agency may be denied a license, or any license issued  
19 pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended,  
20 revoked, modified, or not renewed by the secretary upon proof (a) that  
21 the agency has failed or refused to comply with the provisions of  
22 chapter 74.15 RCW and RCW 74.13.031 or the requirements promulgated  
23 pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031; or  
24 (b) that the conditions required for the issuance of a license under  
25 chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect  
26 to such licenses. RCW 43.20A.205 governs notice of a license denial,  
27 revocation, suspension, or modification and provides the right to an  
28 adjudicative proceeding.

29 (2) In any adjudicative proceeding regarding the denial,  
30 modification, suspension, or revocation of a foster family home  
31 license, the department's decision shall be upheld if there is  
32 reasonable cause to believe that:

33 (a) The applicant or licensee lacks the character, suitability, or  
34 competence to care for children placed in out-of-home care;

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

1 (c) The conditions required for issuance of a license under chapter  
2 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such  
3 licenses.

4 (3) In any adjudicative proceeding regarding the denial,  
5 modification, suspension, or revocation of any license under this  
6 chapter, other than a foster family home license, the department's  
7 decision shall be upheld if it is supported by a preponderance of the  
8 evidence.

9 (4) The department may assess civil monetary penalties upon proof  
10 that an agency has failed or refused to comply with the rules adopted  
11 under the provisions of this chapter and RCW 74.13.031 or that an  
12 agency subject to licensing under this chapter and RCW 74.13.031 is  
13 operating without a license except that civil monetary penalties shall  
14 not be levied against a licensed foster home. Monetary penalties  
15 levied against unlicensed agencies that submit an application for  
16 licensure within thirty days of notification and subsequently become  
17 licensed will be forgiven. These penalties may be assessed in addition  
18 to or in lieu of other disciplinary actions. Civil monetary penalties,  
19 if imposed, may be assessed and collected, with interest, for each day  
20 an agency is or was out of compliance. Civil monetary penalties shall  
21 not exceed seventy-five dollars per violation for a family day-care  
22 home and two hundred fifty dollars per violation for group homes, child  
23 day-care centers, and child-placing agencies. Each day upon which the  
24 same or substantially similar action occurs is a separate violation  
25 subject to the assessment of a separate penalty. The department shall  
26 provide a notification period before a monetary penalty is effective  
27 and may forgive the penalty levied if the agency comes into compliance  
28 during this period. The department may suspend, revoke, or not renew  
29 a license for failure to pay a civil monetary penalty it has assessed  
30 pursuant to this chapter within ten days after such assessment becomes  
31 final. Chapter 43.20A RCW governs notice of a civil monetary penalty  
32 and provides the right of an adjudicative proceeding. The  
33 preponderance of evidence standard shall apply in adjudicative  
34 proceedings related to assessment of civil monetary penalties.

35 (5)(a) The department may place a child day-care center or family  
36 day-care provider on nonreferral status or stop placement status if the  
37 center or provider has failed or refused to comply with this chapter or  
38 rules adopted under this chapter and an enforcement action has been  
39 taken. The nonreferral status or stop placement status may continue

1 until the department determines that: (i) No adverse licensure action  
2 is appropriate; (ii) a complaint is not founded or valid; or (iii) a  
3 corrective action plan has been successfully concluded. The department  
4 shall then remove the center or provider from nonreferral status and  
5 provide appropriate notice to the public and private child care  
6 resource and referral agencies.

7 (b) The department shall notify appropriate public and private  
8 child care resource and referral agencies of the department's decision  
9 to take an enforcement action against the center or provider.

10 (6) Whenever an enforcement action is taken, the department shall  
11 notify the agency subject to the action in writing within two business  
12 days.

13 NEW SECTION. Sec. 5. A new section is added to chapter 74.15 RCW  
14 to read as follows:

15 (1) The department shall compile an annual report summarizing all  
16 enforcement actions for the previous fiscal year relating to children  
17 in the care of child day-care centers and family day-care providers.  
18 The report must be provided to the legislature, the child care  
19 coordinating committee, and child care resource and referral agencies  
20 by August 1st of each year beginning in 1998.

21 (2) The report must include, at a minimum: (a) An analysis of the  
22 volume and general nature of all reports and disclosures made by the  
23 department as required or authorized under section 2 of this act; (b)  
24 an analysis of the volume and general nature of the enforcement  
25 actions, pending complaint investigations, and ongoing corrective  
26 action plans for which the department placed centers and providers on  
27 nonreferral or stop placement status under section 3 of this act; (c)  
28 an analysis of the volume and general nature of complaints determined  
29 to be invalid, inconclusive, or unfounded; and (d) information about  
30 the average length of time required by the department to complete  
31 investigations determined to be (i) founded or valid, (ii)  
32 inconclusive, and (iii) invalid or unfounded.

33 **Sec. 6.** RCW 74.15.020 and 1995 c 311 s 18 and 1995 c 302 s 3 are  
34 each reenacted and amended to read as follows:

35 For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless  
36 otherwise clearly indicated by the context thereof, the following terms  
37 shall mean:

1       (1) (~~("Department" means the state department of social and health~~  
2 ~~services;~~

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

4       ~~(3))~~ "Adverse licensing action" means a denial, suspension,  
5 revocation, modification, or nonrenewal of a license pursuant to RCW  
6 74.15.130, or issuance of a probationary license pursuant to RCW  
7 74.15.125.

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

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

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

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

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

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

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

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

5 (~~(4)~~) (3) "Agency" shall not include the following:

6 (a) Persons related to the child, expectant mother, or person with  
7 developmental disabilities in the following ways:

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

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

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

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

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

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

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

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

37 (e) A person, partnership, corporation, or other entity that  
38 provides placement or similar services to exchange students or

1 international student exchange visitors or persons who have the care of  
2 an exchange student in their home;

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

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

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

12 (i) Hospitals licensed pursuant to chapter 70.41 RCW when  
13 performing functions defined in chapter 70.41 RCW, nursing homes  
14 licensed under chapter 18.51 RCW and boarding homes licensed under  
15 chapter 18.20 RCW;

16 (j) Licensed physicians or lawyers;

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

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

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

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

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

33 (p) An agency located on a federal military reservation, except  
34 where the military authorities request that such agency be subject to  
35 the licensing requirements of this chapter.

36 (4) "Department" means the state department of social and health  
37 services.

38 (5) "Enforcement action" means any disciplinary action taken by the  
39 department including:



1        (a) An adverse licensing action;  
2        (b) Issuance of a deficiency statement, notification of a  
3 violation, or licensing compliance plan;

4        (c) A protective action including removal of a child or initiation  
5 of court proceedings; and

6        (d) Imposition of a civil penalty.

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

10       (7) "Referent" means a person or agency who brings to the attention  
11 of the department a complaint or information resulting in an  
12 investigation or adverse licensing action.

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

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

18       (9) "Secretary" means the secretary of social and health services.

19       NEW SECTION. Sec. 7. The department of social and health services  
20 shall adopt rules as necessary to implement sections 2 through 5 of  
21 this act.

22       **Sec. 8.** RCW 74.13.090 and 1995 c 399 s 204 are each amended to  
23 read as follows:

24       (1) There is established a child care coordinating committee to  
25 provide coordination and communication between state agencies  
26 responsible for child care and early childhood education services. The  
27 child care coordinating committee shall be composed of not ~~((less than~~  
28 ~~seventeen nor))~~ more than ~~((thirty-three))~~ thirty-seven members who  
29 shall include:

30       (a) One representative each from:

31       (i) The department of social and health services~~((7))~~;

32       (ii) The department of community, trade, and economic  
33 development~~((, the office of the superintendent of public instruction,~~  
34 ~~and any other agency having responsibility for regulation, provision,~~  
35 ~~or funding of child care services in the state))~~;

36       ~~((b) One representative from))~~ (iii) The department of labor and  
37 industries;

1        ~~((c) One representative from)~~ (iv) The department of revenue;  
2        ~~((d) One representative from)~~ (v) The employment security  
3 department;  
4        ~~((e) One representative from)~~ (vi) The department of personnel;  
5        ~~((f) One representative from)~~ (vii) The department of health;  
6        ~~((g))~~ (viii) The state board of education;  
7        (ix) The higher education coordinating board;  
8        (x) The state board for community and technical colleges; and  
9        (xi) Any other agency having responsibility for regulation,  
10 provision, or funding of child care services in the state;  
11        (b) At least one representative each of:  
12        (i) Family home child care providers ~~((and one representative of));~~  
13        (ii) Center care providers;  
14        ~~((h) At least one representative of)~~ (iii) Early childhood  
15 development experts;  
16        ~~((i) At least one representative of)~~ (iv) School districts and  
17 teachers involved in the provision of child care and preschool  
18 programs;  
19        ~~((j) At least one)~~ (v) Parent education specialists;  
20        ~~((k) At least one representative of)~~ (vi) Resource and referral  
21 programs;  
22        ~~((l) One)~~ (vii) Pediatric or other health professional;  
23        ~~((m) At least one representative of)~~ (viii) College or university  
24 child care providers;  
25        ~~((n) At least one representative of)~~ (ix) A citizen group  
26 concerned with child care;  
27        ~~((o) At least one representative of)~~ (x) A labor organization;  
28        ~~((p) At least one representative of)~~ (xi) A head start - early  
29 childhood education assistance program agency;  
30        ~~((q) At least one)~~ (xii) Employers who provide~~((s))~~ child care  
31 assistance to employees;  
32        ~~((r))~~ (xiii) Parents ~~((of children receiving, or in need of,~~  
33 child care, half of whom shall be parents)) needing or receiving  
34 subsidized child care ~~((and half of whom shall be));~~ and  
35        (xiv) Parents needing or receiving child care who are able to pay  
36 for child care.

37        The named state agencies shall select their representative to the  
38 child care coordinating committee. The ~~((department of social and~~  
39 ~~health services))~~ committee shall select the remaining members,

1 considering recommendations from lists submitted by professional  
2 associations and other interest groups (~~until such time as the~~  
3 ~~committee adopts a member selection process~~). The department shall  
4 use any federal funds which may become available to accomplish the  
5 purposes of RCW 74.13.085 through 74.13.095.

6 The committee shall elect officers from among its membership and  
7 shall adopt policies and procedures specifying the lengths of terms,  
8 methods for filling vacancies, and other matters necessary to the  
9 ongoing functioning of the committee. (~~The secretary of social and~~  
10 ~~health services shall appoint a temporary chair until the committee has~~  
11 ~~adopted policies and elected a chair accordingly.~~) Child care  
12 coordinating committee members shall be reimbursed for travel expenses  
13 as provided in RCW 43.03.050 and 43.03.060.

14 (2) To the extent possible within available funds, the child care  
15 coordinating committee shall:

16 (a) Serve as an advisory coordinator for all state agencies  
17 responsible for early childhood or child care programs for the purpose  
18 of improving communication and interagency coordination;

19 (b) Annually review state programs and make recommendations to the  
20 agencies and the legislature which will maximize funding and promote  
21 furtherance of the policies set forth in RCW 74.13.085. Reports shall  
22 be provided to (~~all appropriate committees of~~) the legislature by  
23 December 1 of each year. At a minimum the committee shall:

24 (i) (~~Review and propose changes to the child care subsidy system~~  
25 ~~in its December 1989 report;~~

26 (~~ii~~)) Review alternative models for child care service systems, in  
27 the context of the policies set forth in RCW 74.13.085, and recommend  
28 to the legislature (~~a new~~) possible changes to the child care service  
29 structure; and

30 (~~iii~~)) (ii) Review options and make recommendations on the  
31 feasibility of establishing an allocation for day care facilities when  
32 constructing state buildings;

33 (c) Review the department's (~~of social and health services~~)  
34 administration of the child care expansion grant program described in  
35 RCW 74.13.095;

36 (d) Review rules and policies regarding child care facilities and  
37 services (~~for the purpose of identifying those which~~) to promote  
38 quality of care while avoiding rules and policies that may

1 unnecessarily obstruct the availability and affordability of child care  
2 in the state;

3 (e) Advise and assist the office of child care policy in  
4 implementing (~~his or her~~) its duties under RCW 74.13.0903;

5 (f) Perform other functions to improve the quantity and quality of  
6 child care in the state, including compliance with existing and future  
7 prerequisites for federal funding; (~~and~~)

8 (g) Advise and assist the department of personnel in its  
9 responsibility for establishing policies and procedures that provide  
10 for the development of quality child care programs for state employees;  
11 and

12 (h) Review the department's annual reports required under section  
13 5 of this act. The committee shall make recommendations to the  
14 legislature as necessary to improve the availability of information in  
15 the department's possession that is relevant to making meaningful  
16 choices regarding child day-care centers and family day-care providers.

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