

ESSB 5806 - H AMD 524

By Representative Hinkle

ADOPTED 04/13/2005

1 On page 1, after line 18, insert the following:

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

4 For the purposes of this act, "enforcement action" means denial,
5 suspension, revocation, modification, or nonrenewal of a license
6 pursuant to RCW 74.15.130(1) or assessment of civil monetary penalties
7 pursuant to RCW 74.15.130(4)."

8 Renumber the remaining sections consecutively and correct any
9 internal references accordingly.

10 Beginning on page 3, line 33, strike all of section 5 and insert
11 the following:

12 "**Sec. 5.** RCW 74.15.130 and 1998 c 314 s 6 are each amended to read
13 as follows:

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

25 (2) In any adjudicative proceeding regarding the denial,
26 modification, suspension, or revocation of a foster family home

1 license, the department's decision shall be upheld if there is
2 reasonable cause to believe that:

3 (a) The applicant or licensee lacks the character, suitability, or
4 competence to care for children placed in out-of-home care, however, no
5 unfounded report of child abuse or neglect may be used to deny
6 employment or a license;

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

10 (c) The conditions required for issuance of a license under chapter
11 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such
12 licenses.

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

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

1 pursuant to this chapter within ten days after such assessment becomes
2 final. Chapter 43.20A RCW governs notice of a civil monetary penalty
3 and provides the right of an adjudicative proceeding. The
4 preponderance of evidence standard shall apply in adjudicative
5 proceedings related to assessment of civil monetary penalties.

6 (5)(a) In addition to or in lieu of an enforcement action being
7 taken, the department may place a child day-care center or family day-
8 care provider on nonreferral status if the center or provider has
9 failed or refused to comply with this chapter or rules adopted under
10 this chapter or an enforcement action has been taken. The nonreferral
11 status may continue until the department determines that: (i) No
12 enforcement action is appropriate; or (ii) a corrective action plan has
13 been successfully concluded.

14 (b) Whenever a child day-care center or family day-care provider is
15 placed on nonreferral status, the department shall provide written
16 notification to the child day-care center or family day-care provider.

17 (6) The department shall notify appropriate public and private
18 child care resource and referral agencies of the department's decision
19 to: (a) Take an enforcement action against a child day-care center or
20 family day-care provider; or (b) place or remove a child day-care
21 center or family day-care provider on nonreferral status."

EFFECT: Defines "enforcement action" as denial, suspension, revocation, modification, or nonrenewal of a license pursuant to subsection (1) of RCW 74.15.130 or assessment of civil monetary penalties pursuant to subsection (4) of RCW 74.15.130.

No longer provides that an agency licensed by the Department of Social and Health Services (DSHS), as defined in RCW 74.15.020, that continues to operate following a license revocation is subject to the maximum penalty for each day of operation following the revocation.

No longer makes provision for placing a child daycare center or family daycare provider on stop placement status.

Provides that the DSHS may place a child daycare center or family daycare provider on nonreferral status in addition to or in lieu of an enforcement action being taken.

Removes the following condition from the conditions provided in the bill upon which nonreferral status is to be discontinued: The determination by the DSHS that a complaint is not founded or valid.

Replaces language in the bill relating to notification of Child Care Resource and Referral agencies of the DSHS' decisions to take

enforcement action to provide that whenever a child daycare center or family daycare provider is placed on nonreferral status, the DSHS is required to provide written notification to the center or provider, as well as notify appropriate public and private Child Care Resource and Referral agencies of the DSHS' decision to: Take an enforcement action against a center or provider; or place or remove a center or provider on nonreferral status.

No longer provides that whenever an enforcement action is taken, the DSHS is required to notify the child care agency subject to the action in writing by personal service within 10 business days.

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