

2SHB 3115 - S COMM AMD

By Committee on Human Services & Corrections

OUT OF ORDER 03/03/2006

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that:

4 (1) Foster parents are able to successfully maintain placements of  
5 sexually aggressive youth, physically assaultive children, or children  
6 with other high-risk behaviors when they are provided with proper  
7 training and support. Lack of support contributes to placement  
8 disruptions and multiple moves between foster homes.

9 (2) Young children who have experienced repeated early abuse and  
10 trauma are at high risk for behavior later in life that is sexually  
11 deviant, if left untreated. Placement with a well-trained, prepared,  
12 and supported foster family can break this cycle.

13 (3) The department is better able to recruit and retain foster  
14 parents by acknowledging that foster parents who serve sexually  
15 aggressive youth, physically assaultive children, or children with  
16 other high-risk behaviors may be more susceptible to allegations of  
17 abuse arising out of a foster child's conduct. Fair investigations of  
18 the allegations, protection from disclosure of unfounded allegations,  
19 and appropriate maintenance of all department records are necessary to  
20 protect foster parents and other similarly situated individuals.

21 NEW SECTION. **Sec. 2.** A foster parent critical support and  
22 retention program is established to retain foster parents who care for  
23 sexually aggressive youth, physically assaultive children, or children  
24 with other high-risk behaviors. Services shall consist of short-term  
25 therapeutic and educational interventions to support the stability of  
26 the placement. Services shall be coordinated with the children's  
27 administration social worker. The foster parent critical support and  
28 retention program is to be implemented under the division of children  
29 and family services' contract and supervision. A contractor must

1 demonstrate experience providing in-home case management, as well as  
2 experience working with caregivers of children with significant  
3 behavioral issues that pose a threat to others or themselves or the  
4 stability of the placement.

5 NEW SECTION. **Sec. 3.** Under the foster parent critical support and  
6 retention program, foster parents who care for sexually aggressive  
7 youth, physically assaultive children, or children with other high-risk  
8 behaviors shall receive:

9 (1) Availability at any time of the day or night to address  
10 specific concerns related to the identified child;

11 (2) Assessment of risk and development of a safety and supervision  
12 plan;

13 (3) Home-based foster parent training utilizing evidence-based  
14 models; and

15 (4) Referral to relevant community services and training provided  
16 by the local children's administration office or community agencies.  
17 Referral to additional services shall be coordinated with the assigned  
18 social worker.

19 **Sec. 4.** RCW 26.44.020 and 2005 c 512 s 5 are each amended to read  
20 as follows:

21 The definitions in this section apply throughout this chapter  
22 unless the context clearly requires otherwise.

23 (1) "Court" means the superior court of the state of Washington,  
24 juvenile department.

25 (2) "Law enforcement agency" means the police department, the  
26 prosecuting attorney, the state patrol, the director of public safety,  
27 or the office of the sheriff.

28 (3) "Practitioner of the healing arts" or "practitioner" means a  
29 person licensed by this state to practice podiatric medicine and  
30 surgery, optometry, chiropractic, nursing, dentistry, osteopathic  
31 medicine and surgery, or medicine and surgery or to provide other  
32 health services. The term "practitioner" includes a duly accredited  
33 Christian Science practitioner: PROVIDED, HOWEVER, That a person who  
34 is being furnished Christian Science treatment by a duly accredited  
35 Christian Science practitioner will not be considered, for that reason  
36 alone, a neglected person for the purposes of this chapter.

1 (4) "Institution" means a private or public hospital or any other  
2 facility providing medical diagnosis, treatment or care.

3 (5) "Department" means the state department of social and health  
4 services.

5 (6) "Child" or "children" means any person under the age of  
6 eighteen years of age.

7 (7) "Professional school personnel" include, but are not limited  
8 to, teachers, counselors, administrators, child care facility  
9 personnel, and school nurses.

10 (8) "Social service counselor" means anyone engaged in a  
11 professional capacity during the regular course of employment in  
12 encouraging or promoting the health, welfare, support or education of  
13 children, or providing social services to adults or families, including  
14 mental health, drug and alcohol treatment, and domestic violence  
15 programs, whether in an individual capacity, or as an employee or agent  
16 of any public or private organization or institution.

17 (9) "Psychologist" means any person licensed to practice psychology  
18 under chapter 18.83 RCW, whether acting in an individual capacity or as  
19 an employee or agent of any public or private organization or  
20 institution.

21 (10) "Pharmacist" means any registered pharmacist under chapter  
22 18.64 RCW, whether acting in an individual capacity or as an employee  
23 or agent of any public or private organization or institution.

24 (11) "Clergy" means any regularly licensed or ordained minister,  
25 priest, or rabbi of any church or religious denomination, whether  
26 acting in an individual capacity or as an employee or agent of any  
27 public or private organization or institution.

28 (12) "Abuse or neglect" means sexual abuse, sexual exploitation, or  
29 injury of a child by any person under circumstances which cause harm to  
30 the child's health, welfare, or safety, excluding conduct permitted  
31 under RCW 9A.16.100; or the negligent treatment or maltreatment of a  
32 child by a person responsible for or providing care to the child. An  
33 abused child is a child who has been subjected to child abuse or  
34 neglect as defined in this section.

35 (13) "Child protective services section" means the child protective  
36 services section of the department.

37 (14) "Sexual exploitation" includes: (a) Allowing, permitting, or  
38 encouraging a child to engage in prostitution by any person; or (b)

1 allowing, permitting, encouraging, or engaging in the obscene or  
2 pornographic photographing, filming, or depicting of a child by any  
3 person.

4 (15) "Negligent treatment or maltreatment" means an act or a  
5 failure to act, or the cumulative effects of a pattern of conduct,  
6 behavior, or inaction, that evidences a serious disregard of  
7 consequences of such magnitude as to constitute a clear and present  
8 danger to a child's health, welfare, or safety. When considering  
9 whether a clear and present danger exists, evidence of a parent's  
10 substance abuse as a contributing factor to negligent treatment or  
11 maltreatment shall be given great weight. The fact that siblings share  
12 a bedroom is not, in and of itself, negligent treatment or  
13 maltreatment. Poverty, homelessness, or exposure to domestic violence  
14 as defined in RCW 26.50.010 that is perpetrated against someone other  
15 than the child (~~do~~ ~~does~~) does not constitute negligent treatment or  
16 maltreatment in and of (~~themselves~~ ~~itself~~) itself.

17 (16) "Child protective services" means those services provided by  
18 the department designed to protect children from child abuse and  
19 neglect and safeguard such children from future abuse and neglect, and  
20 conduct investigations of child abuse and neglect reports.  
21 Investigations may be conducted regardless of the location of the  
22 alleged abuse or neglect. Child protective services includes referral  
23 to services to ameliorate conditions that endanger the welfare of  
24 children, the coordination of necessary programs and services relevant  
25 to the prevention, intervention, and treatment of child abuse and  
26 neglect, and services to children to ensure that each child has a  
27 permanent home. In determining whether protective services should be  
28 provided, the department shall not decline to provide such services  
29 solely because of the child's unwillingness or developmental inability  
30 to describe the nature and severity of the abuse or neglect.

31 (17) "Malice" or "maliciously" means an evil intent, wish, or  
32 design to vex, annoy, or injure another person. Such malice may be  
33 inferred from an act done in willful disregard of the rights of  
34 another, or an act wrongfully done without just cause or excuse, or an  
35 act or omission of duty betraying a willful disregard of social duty.

36 (18) "Sexually aggressive youth" means a child who is defined in  
37 RCW 74.13.075(1)(b) as being a sexually aggressive youth.

1       (19) "Screened-out report" means a report of alleged child abuse or  
2 neglect that the department has determined does not rise to the level  
3 of a credible report of abuse or neglect and is not referred for  
4 investigation.

5       (20) "Unfounded" means ~~((available information indicates))~~ a  
6 finding at the completion of an investigation by the department or a  
7 judicial finding that, more likely than not, child abuse or neglect did  
8 not occur. ~~((No unfounded allegation of child abuse or neglect may be~~  
9 ~~disclosed to a child placing agency, private adoption agency, or any~~  
10 ~~other provider licensed under chapter 74.15 RCW.))~~

11       (21) "Inconclusive" means a finding at the completion of an  
12 investigation by the department that there is insufficient evidence to  
13 conclude that the alleged child abuse or neglect occurred.

14       (22) "Founded" means a finding at the completion of an  
15 investigation by the department or a judicial finding that, more likely  
16 than not, the alleged child abuse or neglect occurred.

17       **Sec. 5.** RCW 26.44.030 and 2005 c 417 s 1 are each amended to read  
18 as follows:

19       (1)(a) When any practitioner, county coroner or medical examiner,  
20 law enforcement officer, professional school personnel, registered or  
21 licensed nurse, social service counselor, psychologist, pharmacist,  
22 licensed or certified child care providers or their employees, employee  
23 of the department, juvenile probation officer, placement and liaison  
24 specialist, responsible living skills program staff, HOPE center staff,  
25 or state family and children's ombudsman or any volunteer in the  
26 ombudsman's office has reasonable cause to believe that a child has  
27 suffered abuse or neglect, he or she shall report such incident, or  
28 cause a report to be made, to the proper law enforcement agency or to  
29 the department as provided in RCW 26.44.040.

30       (b) When any person, in his or her official supervisory capacity  
31 with a nonprofit or for-profit organization, has reasonable cause to  
32 believe that a child has suffered abuse or neglect caused by a person  
33 over whom he or she regularly exercises supervisory authority, he or  
34 she shall report such incident, or cause a report to be made, to the  
35 proper law enforcement agency, provided that the person alleged to have  
36 caused the abuse or neglect is employed by, contracted by, or  
37 volunteers with the organization and coaches, trains, educates, or

1 counsels a child or children or regularly has unsupervised access to a  
2 child or children as part of the employment, contract, or voluntary  
3 service. No one shall be required to report under this section when he  
4 or she obtains the information solely as a result of a privileged  
5 communication as provided in RCW 5.60.060.

6 Nothing in this subsection (1)(b) shall limit a person's duty to  
7 report under (a) of this subsection.

8 For the purposes of this subsection, the following definitions  
9 apply:

10 (i) "Official supervisory capacity" means a position, status, or  
11 role created, recognized, or designated by any nonprofit or for-profit  
12 organization, either for financial gain or without financial gain,  
13 whose scope includes, but is not limited to, overseeing, directing, or  
14 managing another person who is employed by, contracted by, or  
15 volunteers with the nonprofit or for-profit organization.

16 (ii) "Regularly exercises supervisory authority" means to act in  
17 his or her official supervisory capacity on an ongoing or continuing  
18 basis with regards to a particular person.

19 (c) The reporting requirement also applies to department of  
20 corrections personnel who, in the course of their employment, observe  
21 offenders or the children with whom the offenders are in contact. If,  
22 as a result of observations or information received in the course of  
23 his or her employment, any department of corrections personnel has  
24 reasonable cause to believe that a child has suffered abuse or neglect,  
25 he or she shall report the incident, or cause a report to be made, to  
26 the proper law enforcement agency or to the department as provided in  
27 RCW 26.44.040.

28 (d) The reporting requirement shall also apply to any adult who has  
29 reasonable cause to believe that a child who resides with them, has  
30 suffered severe abuse, and is able or capable of making a report. For  
31 the purposes of this subsection, "severe abuse" means any of the  
32 following: Any single act of abuse that causes physical trauma of  
33 sufficient severity that, if left untreated, could cause death; any  
34 single act of sexual abuse that causes significant bleeding, deep  
35 bruising, or significant external or internal swelling; or more than  
36 one act of physical abuse, each of which causes bleeding, deep  
37 bruising, significant external or internal swelling, bone fracture, or  
38 unconsciousness.

1 (e) The report must be made at the first opportunity, but in no  
2 case longer than forty-eight hours after there is reasonable cause to  
3 believe that the child has suffered abuse or neglect. The report must  
4 include the identity of the accused if known.

5 (2) The reporting requirement of subsection (1) of this section  
6 does not apply to the discovery of abuse or neglect that occurred  
7 during childhood if it is discovered after the child has become an  
8 adult. However, if there is reasonable cause to believe other children  
9 are or may be at risk of abuse or neglect by the accused, the reporting  
10 requirement of subsection (1) of this section does apply.

11 (3) Any other person who has reasonable cause to believe that a  
12 child has suffered abuse or neglect may report such incident to the  
13 proper law enforcement agency or to the department of social and health  
14 services as provided in RCW 26.44.040.

15 (4) The department, upon receiving a report of an incident of  
16 alleged abuse or neglect pursuant to this chapter, involving a child  
17 who has died or has had physical injury or injuries inflicted upon him  
18 or her other than by accidental means or who has been subjected to  
19 alleged sexual abuse, shall report such incident to the proper law  
20 enforcement agency. In emergency cases, where the child's welfare is  
21 endangered, the department shall notify the proper law enforcement  
22 agency within twenty-four hours after a report is received by the  
23 department. In all other cases, the department shall notify the law  
24 enforcement agency within seventy-two hours after a report is received  
25 by the department. If the department makes an oral report, a written  
26 report must also be made to the proper law enforcement agency within  
27 five days thereafter.

28 (5) Any law enforcement agency receiving a report of an incident of  
29 alleged abuse or neglect pursuant to this chapter, involving a child  
30 who has died or has had physical injury or injuries inflicted upon him  
31 or her other than by accidental means, or who has been subjected to  
32 alleged sexual abuse, shall report such incident in writing as provided  
33 in RCW 26.44.040 to the proper county prosecutor or city attorney for  
34 appropriate action whenever the law enforcement agency's investigation  
35 reveals that a crime may have been committed. The law enforcement  
36 agency shall also notify the department of all reports received and the  
37 law enforcement agency's disposition of them. In emergency cases,  
38 where the child's welfare is endangered, the law enforcement agency

1 shall notify the department within twenty-four hours. In all other  
2 cases, the law enforcement agency shall notify the department within  
3 seventy-two hours after a report is received by the law enforcement  
4 agency.

5 (6) Any county prosecutor or city attorney receiving a report under  
6 subsection (5) of this section shall notify the victim, any persons the  
7 victim requests, and the local office of the department, of the  
8 decision to charge or decline to charge a crime, within five days of  
9 making the decision.

10 (7) The department may conduct ongoing case planning and  
11 consultation with those persons or agencies required to report under  
12 this section, with consultants designated by the department, and with  
13 designated representatives of Washington Indian tribes if the client  
14 information exchanged is pertinent to cases currently receiving child  
15 protective services. Upon request, the department shall conduct such  
16 planning and consultation with those persons required to report under  
17 this section if the department determines it is in the best interests  
18 of the child. Information considered privileged by statute and not  
19 directly related to reports required by this section must not be  
20 divulged without a valid written waiver of the privilege.

21 (8) Any case referred to the department by a physician licensed  
22 under chapter 18.57 or 18.71 RCW on the basis of an expert medical  
23 opinion that child abuse, neglect, or sexual assault has occurred and  
24 that the child's safety will be seriously endangered if returned home,  
25 the department shall file a dependency petition unless a second  
26 licensed physician of the parents' choice believes that such expert  
27 medical opinion is incorrect. If the parents fail to designate a  
28 second physician, the department may make the selection. If a  
29 physician finds that a child has suffered abuse or neglect but that  
30 such abuse or neglect does not constitute imminent danger to the  
31 child's health or safety, and the department agrees with the  
32 physician's assessment, the child may be left in the parents' home  
33 while the department proceeds with reasonable efforts to remedy  
34 parenting deficiencies.

35 (9) Persons or agencies exchanging information under subsection (7)  
36 of this section shall not further disseminate or release the  
37 information except as authorized by state or federal statute.  
38 Violation of this subsection is a misdemeanor.



1 (10) Upon receiving a report((s)) of alleged abuse or neglect, the  
2 department shall:

3 (a) Make reasonable efforts to learn the name, address, and  
4 telephone number of each person making a report of abuse or neglect  
5 under this section. The department shall provide assurances of  
6 appropriate confidentiality of the identification of persons reporting  
7 under this section. If the department is unable to learn the  
8 information required under this subsection, the department shall only  
9 investigate cases in which:

10 (i) The department believes there is a serious threat of  
11 substantial harm to the child;

12 (ii) The report indicates conduct involving a criminal offense that  
13 has, or is about to occur, in which the child is the victim; or

14 (iii) The department has a prior founded report of abuse or neglect  
15 that is within three years of receipt of the referral;

16 (b) Unless the report is screened-out or being investigated by a  
17 law enforcement agency, conduct an investigation within time frames  
18 established by the department in rule; and

19 (c) Make a finding that the report of child abuse or neglect is  
20 unfounded, founded, or inconclusive at the completion of the  
21 investigation.

22 (11) In conducting an investigation of alleged abuse or neglect,  
23 the department or law enforcement agency:

24 (a) May interview children. The interviews may be conducted on  
25 school premises, at day-care facilities, at the child's home, or at  
26 other suitable locations outside of the presence of parents. Parental  
27 notification of the interview must occur at the earliest possible point  
28 in the investigation that will not jeopardize the safety or protection  
29 of the child or the course of the investigation. Prior to commencing  
30 the interview the department or law enforcement agency shall determine  
31 whether the child wishes a third party to be present for the interview  
32 and, if so, shall make reasonable efforts to accommodate the child's  
33 wishes. Unless the child objects, the department or law enforcement  
34 agency shall make reasonable efforts to include a third party in any  
35 interview so long as the presence of the third party will not  
36 jeopardize the course of the investigation((-

37 ~~(11) Upon receiving a report of alleged child abuse and neglect,~~  
38 ~~the department or investigating law enforcement agency)); and~~

1        (b) Shall have access to all relevant records of the child in the  
2 possession of mandated reporters and their employees.

3        (12) The department shall maintain investigation records and  
4 conduct timely and periodic reviews of all founded cases  
5 (~~constituting~~) of abuse and neglect. The department shall maintain  
6 a log of screened-out nonabusive cases.

7        (13) The department shall use a risk assessment process when  
8 investigating alleged child abuse and neglect referrals. The  
9 department shall present the risk factors at all hearings in which the  
10 placement of a dependent child is an issue. Substance abuse must be a  
11 risk factor. The department shall, within funds appropriated for this  
12 purpose, offer enhanced community-based services to persons who are  
13 determined not to require further state intervention.

14        (14) Upon receipt of a report of alleged abuse or neglect the law  
15 enforcement agency may arrange to interview the person making the  
16 report and any collateral sources to determine if any malice is  
17 involved in the reporting.

18        (~~(15) The department shall make reasonable efforts to learn the  
19 name, address, and telephone number of each person making a report of  
20 abuse or neglect under this section. The department shall provide  
21 assurances of appropriate confidentiality of the identification of  
22 persons reporting under this section. If the department is unable to  
23 learn the information required under this subsection, the department  
24 shall only investigate cases in which: (a) The department believes  
25 there is a serious threat of substantial harm to the child; (b) the  
26 report indicates conduct involving a criminal offense that has, or is  
27 about to occur, in which the child is the victim; or (c) the department  
28 has, after investigation, a report of abuse or neglect that has been  
29 founded with regard to a member of the household within three years of  
30 receipt of the referral.~~)

31        **Sec. 6.** RCW 26.44.031 and 1997 c 282 s 1 are each amended to read  
32 as follows:

33        (1) To protect the privacy in reporting and the maintenance of  
34 reports of nonaccidental injury, neglect, death, sexual abuse, and  
35 cruelty to children by their parents, and to safeguard against  
36 arbitrary, malicious, or erroneous information or actions, the

1 department shall not disclose or maintain information related to  
2 ~~((unfounded referrals in files or))~~ reports of child abuse or neglect  
3 ~~((for longer than six years))~~ except as provided in this section.

4 ~~((At the end of six years from receipt of the unfounded report, the  
5 information shall be purged unless an additional report has been  
6 received in the intervening period.))~~

7 (2) The department shall destroy all of its records concerning:

8 (a) A screened-out report, within thirty days from the receipt of  
9 the report;

10 (b) An unfounded report, within one year of completion of the  
11 investigation; and

12 (c) An inconclusive report, within six years of completion of the  
13 investigation, unless a prior or subsequent founded report has been  
14 received before the records are destroyed.

15 (3) The department may keep records concerning founded reports of  
16 child abuse or neglect as the department determines by rule.

17 (4) An unfounded or screened-out report may not be disclosed to a  
18 child-placing agency, private adoption agency, or any other provider  
19 licensed under chapter 74.15 RCW.

20 (5) A person who is the subject of an unfounded report that was  
21 made prior to the effective date of this section may request that the  
22 department destroy all of the records concerning the unfounded report  
23 if one year or more has elapsed since the completion of the  
24 investigation.

25 (6)(a) If the department fails to comply with this section, an  
26 individual who is the subject of a report may institute proceedings for  
27 injunctive or other appropriate relief for enforcement of the  
28 requirement to purge information. These proceedings may be instituted  
29 in the superior court for the county in which the person resides or, if  
30 the person is not then a resident of this state, in the superior court  
31 for Thurston county.

32 (b) If the department fails to comply with subsection (4) of this  
33 section and an individual who is the subject of the report is harmed by  
34 the disclosure of information, in addition to the relief provided in  
35 (a) of this subsection, the court may award a penalty of up to one  
36 thousand dollars and reasonable attorneys' fees and court costs to the  
37 petitioner.

1 (c) A proceeding under this subsection does not preclude other  
2 methods of enforcement provided for by law.

3 (7) The department shall establish, by rule, a process and  
4 standards for an individual who is the subject of an inconclusive  
5 report of child abuse or neglect to request destruction of department  
6 records earlier than the time frames set out in this section.

7 (8) Nothing in this section shall prevent the department from  
8 retaining general, nonidentifying information which is required for  
9 state and federal reporting and management purposes.

10 **Sec. 7.** RCW 74.13.280 and 2001 c 318 s 3 are each amended to read  
11 as follows:

12 (1) Except as provided in RCW 70.24.105, whenever a child is placed  
13 in out-of-home care by the department or a child-placing agency, the  
14 department or agency shall share information about the child and the  
15 child's family with the care provider and shall consult with the care  
16 provider regarding the child's case plan. If the child is dependent  
17 pursuant to a proceeding under chapter 13.34 RCW, the department or  
18 agency shall keep the care provider informed regarding the dates and  
19 location of dependency review and permanency planning hearings  
20 pertaining to the child.

21 (2) Information about the child and the child's family shall  
22 include information about behavioral and emotional problems of the  
23 child and whether the child is a sexually aggressive youth as provided  
24 in RCW 74.13.075.

25 (3) Any person who receives information about a child or a child's  
26 family pursuant to this section shall keep the information confidential  
27 and shall not further disclose or disseminate the information except as  
28 authorized by law.

29 ~~((3))~~ (4) Nothing in this section shall be construed to limit the  
30 authority of the department or child-placing agencies to disclose  
31 client information or to maintain client confidentiality as provided by  
32 law.

33 NEW SECTION. **Sec. 8.** A new section is added to chapter 74.13 RCW  
34 to read as follows:

35 (1) A care provider may not be found to have abused or neglected a

1 child under chapter 26.44 RCW or be denied a license pursuant to  
2 chapter 74.15 RCW and RCW 74.13.031 for any allegations of failure to  
3 supervise wherein:

4 (a) The allegations arise from the child's conduct that is  
5 substantially similar to prior behavior of the child, the child has  
6 behavioral or emotional problems that were known to the department, and  
7 the problems were not disclosed to the care provider as required by RCW  
8 74.13.280;

9 (b) The allegations arise from the child's conduct, the child is a  
10 sexually aggressive youth as defined in RCW 74.13.075, and the care  
11 provider had no prior knowledge that the child was sexually aggressive;  
12 or

13 (c) The child was not within the reasonable control of the care  
14 provider at the time of the incident that is the subject of the  
15 allegation.

16 (2) Allegations of child abuse or neglect against a care provider  
17 that meet the provisions of this section shall be designated as  
18 "unfounded" as defined in RCW 26.44.020.

19 **Sec. 9.** RCW 74.15.130 and 2005 c 473 s 6 are each amended to read  
20 as follows:

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

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

36 (a) The applicant or licensee lacks the character, suitability, or

1 competence to care for children placed in out-of-home care, however, no  
2 unfounded or screened-out report of child abuse or neglect may be used  
3 to deny employment or a license;

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

7 (c) The conditions required for issuance of a license under chapter  
8 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such  
9 licenses.

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

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

1 and provides the right of an adjudicative proceeding. The  
2 preponderance of evidence standard shall apply in adjudicative  
3 proceedings related to assessment of civil monetary penalties.

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

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

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

20 NEW SECTION. **Sec. 10.** The code reviser shall alphabetize the  
21 definitions in RCW 26.44.020 and correct any references.

22 NEW SECTION. **Sec. 11.** Sections 4 through 6, 9, and 10 of this act  
23 take effect July 1, 2007. The department of social and health services  
24 shall present a report to the appropriate committees of the legislature  
25 by January 1, 2007, with proposed legislative changes, if any, to those  
26 sections."

2SHB 3115 - S COMM AMD  
By Committee on Human Services & Corrections

**OUT OF ORDER 03/03/2006**

27 On page 1, line 2 of the title, after "program;" strike the  
28 remainder of the title and insert "amending RCW 26.44.020, 26.44.030,

1 26.44.031, 74.13.280, and 74.15.130; adding a new section to chapter  
2 74.13 RCW; creating new sections; and providing an effective date."

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