

2SHB 3115 - S COMM AMD
By Committee on Ways & Means

ADOPTED AS AMENDED 03/03/06

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;

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; and

19 (5) Any relevant health care information. Disclosure of any
20 relevant health care information shall be consistent with RCW 70.24.105
21 and any guidelines or recommendations established by the department of
22 health concerning disclosure of such information, including testing for
23 and disclosure of information related to blood-borne pathogens.

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

26 The definitions in this section apply throughout this chapter
27 unless the context clearly requires otherwise.

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

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

33 (3) "Practitioner of the healing arts" or "practitioner" means a
34 person licensed by this state to practice podiatric medicine and
35 surgery, optometry, chiropractic, nursing, dentistry, osteopathic
36 medicine and surgery, or medicine and surgery or to provide other

1 health services. The term "practitioner" includes a duly accredited
2 Christian Science practitioner: PROVIDED, HOWEVER, That a person who
3 is being furnished Christian Science treatment by a duly accredited
4 Christian Science practitioner will not be considered, for that reason
5 alone, a neglected person for the purposes of this chapter.

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

8 (5) "Department" means the state department of social and health
9 services.

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

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

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

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

26 (10) "Pharmacist" means any registered pharmacist under chapter
27 18.64 RCW, whether acting in an individual capacity or as an employee
28 or agent of any public or private organization or institution.

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

33 (12) "Abuse or neglect" means sexual abuse, sexual exploitation, or
34 injury of a child by any person under circumstances which cause harm to
35 the child's health, welfare, or safety, excluding conduct permitted
36 under RCW 9A.16.100; or the negligent treatment or maltreatment of a
37 child by a person responsible for or providing care to the child. An

1 abused child is a child who has been subjected to child abuse or
2 neglect as defined in this section.

3 (13) "Child protective services section" means the child protective
4 services section of the department.

5 (14) "Sexual exploitation" includes: (a) Allowing, permitting, or
6 encouraging a child to engage in prostitution by any person; or (b)
7 allowing, permitting, encouraging, or engaging in the obscene or
8 pornographic photographing, filming, or depicting of a child by any
9 person.

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

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

37 (17) "Malice" or "maliciously" means an evil intent, wish, or
38 design to vex, annoy, or injure another person. Such malice may be

1 inferred from an act done in willful disregard of the rights of
2 another, or an act wrongfully done without just cause or excuse, or an
3 act or omission of duty betraying a willful disregard of social duty.

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

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

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

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

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

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

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

35 (b) When any person, in his or her official supervisory capacity
36 with a nonprofit or for-profit organization, has reasonable cause to
37 believe that a child has suffered abuse or neglect caused by a person

1 over whom he or she regularly exercises supervisory authority, he or
2 she shall report such incident, or cause a report to be made, to the
3 proper law enforcement agency, provided that the person alleged to have
4 caused the abuse or neglect is employed by, contracted by, or
5 volunteers with the organization and coaches, trains, educates, or
6 counsels a child or children or regularly has unsupervised access to a
7 child or children as part of the employment, contract, or voluntary
8 service. No one shall be required to report under this section when he
9 or she obtains the information solely as a result of a privileged
10 communication as provided in RCW 5.60.060.

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

13 For the purposes of this subsection, the following definitions
14 apply:

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

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

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

33 (d) The reporting requirement shall also apply to any adult who has
34 reasonable cause to believe that a child who resides with them, has
35 suffered severe abuse, and is able or capable of making a report. For
36 the purposes of this subsection, "severe abuse" means any of the
37 following: Any single act of abuse that causes physical trauma of
38 sufficient severity that, if left untreated, could cause death; any

1 single act of sexual abuse that causes significant bleeding, deep
2 bruising, or significant external or internal swelling; or more than
3 one act of physical abuse, each of which causes bleeding, deep
4 bruising, significant external or internal swelling, bone fracture, or
5 unconsciousness.

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

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

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

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

33 (5) Any law enforcement agency receiving a report of an incident of
34 alleged abuse or neglect pursuant to this chapter, involving a child
35 who has died or has had physical injury or injuries inflicted upon him
36 or her other than by accidental means, or who has been subjected to
37 alleged sexual abuse, shall report such incident in writing as provided
38 in RCW 26.44.040 to the proper county prosecutor or city attorney for

1 appropriate action whenever the law enforcement agency's investigation
2 reveals that a crime may have been committed. The law enforcement
3 agency shall also notify the department of all reports received and the
4 law enforcement agency's disposition of them. In emergency cases,
5 where the child's welfare is endangered, the law enforcement agency
6 shall notify the department within twenty-four hours. In all other
7 cases, the law enforcement agency shall notify the department within
8 seventy-two hours after a report is received by the law enforcement
9 agency.

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

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

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

1 while the department proceeds with reasonable efforts to remedy
2 parenting deficiencies.

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

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

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

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

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

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

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

25 (c) Make a finding that the report of child abuse or neglect is
26 unfounded, founded, or inconclusive at the completion of the
27 investigation.

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

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

1 wishes. Unless the child objects, the department or law enforcement
2 agency shall make reasonable efforts to include a third party in any
3 interview so long as the presence of the third party will not
4 jeopardize the course of the investigation((-

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

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

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

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

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

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

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

3 (1) To protect the privacy in reporting and the maintenance of
4 reports of nonaccidental injury, neglect, death, sexual abuse, and
5 cruelty to children by their parents, and to safeguard against
6 arbitrary, malicious, or erroneous information or actions, the
7 department shall not ~~disclose or~~ maintain information related to
8 ~~((unfounded referrals in files or))~~ reports of child abuse or neglect
9 ~~((for longer than six years))~~ except as provided in this section.

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

13 (2) The department shall destroy all of the electronic records
14 concerning:

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

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

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

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

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

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

34 (b) If the department fails to comply with subsection (4) of this
35 section and an individual who is the subject of the report is harmed by
36 the disclosure of information, in addition to the relief provided in
37 (a) of this subsection, the court may award a penalty of up to one

1 thousand dollars and reasonable attorneys' fees and court costs to the
2 petitioner.

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

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

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

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

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

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

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

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

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

1 (1) A care provider may not be found to have abused or neglected a
2 child under chapter 26.44 RCW or be denied a license pursuant to
3 chapter 74.15 RCW and RCW 74.13.031 for any allegations of failure to
4 supervise wherein:

5 (a) The allegations arise from the child's conduct that is
6 substantially similar to prior behavior of the child, the child has
7 behavioral or emotional problems that were known to the department, and
8 the problems were not disclosed to the care provider as required by RCW
9 74.13.280;

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

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

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

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

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

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

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

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

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

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

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

ADOPTED 03/03/06

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."

--- END ---