
SENATE BILL 5132

State of Washington

56th Legislature

1999 Regular Session

By Senators Kohl-Welles, Long, Hargrove, Brown, Patterson, McAuliffe and Costa

Read first time 01/13/1999. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to increasing public and parental access to
2 information regarding child care service; amending RCW 74.15.130 and
3 74.15.020; adding new sections to chapter 74.15 RCW; creating new
4 sections; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that consumers of
7 child care services have a legitimate interest in receiving timely
8 information about child care service providers in order to make
9 meaningful choices regarding the facilities and people who provide care
10 for their children.

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

1 information to the general public when necessary and appropriate for
2 the health or safety of children.

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

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

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

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

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

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

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

36 This section shall not be construed to require the disclosure of
37 any information that is exempt from public disclosure under chapter
38 42.17 RCW.

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

3 (1) Every child day-care center and family day-care provider shall
4 have readily available for review by the department, parents, and the
5 public a copy of each inspection report and notice of enforcement
6 action received by the center or provider from the department for the
7 past three years. This subsection only applies to reports and notices
8 received on or after the effective date of this act.

9 (2) The department shall make available to the public during
10 business hours all inspection reports and notices of enforcement
11 actions involving child day-care centers and family day-care providers
12 consistent with chapter 42.17 RCW. The department shall include in the
13 inspection report a statement of the corrective measures taken by the
14 center or provider.

15 **Sec. 4.** RCW 74.15.130 and 1998 c 314 s 6 are each amended to read
16 as follows:

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

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

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

36 (b) The applicant or licensee has failed or refused to comply with
37 any provision of chapter 74.15 RCW, RCW 74.13.031, or the requirements
38 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 enforcement action is
2 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 by certified mail
12 within two business 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 1999.

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 1998 c 269 s 3 are each amended to read
34 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) "Adverse licensing action" means a denial, suspension,
2 revocation, modification, or nonrenewal of a license pursuant to RCW
3 74.15.130, or issuance of a probationary license pursuant to RCW
4 74.15.125.

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

15 (a) "Child day-care center" means an agency which regularly
16 provides care for a group of children for periods of less than twenty-
17 four hours;

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

20 (c) "Community facility" means a group care facility operated for
21 the care of juveniles committed to the department under RCW 13.40.185.
22 A county detention facility that houses juveniles committed to the
23 department under RCW 13.40.185 pursuant to a contract with the
24 department is not a community facility;

25 (d) "Crisis residential center" means an agency which is a
26 temporary protective residential facility operated to perform the
27 duties specified in chapter 13.32A RCW, in the manner provided in RCW
28 74.13.032 through 74.13.036;

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

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

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

4 (h) "Maternity service" means an agency which provides or arranges
5 for care or services to expectant mothers, before or during
6 confinement, or which provides care as needed to mothers and their
7 infants after confinement;

8 (i) "Service provider" means the entity that operates a community
9 facility.

10 ~~((+2))~~ (3) "Agency" shall not include the following:

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

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

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

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

21 (iv) Spouses of any persons named in (i), (ii), or (iii) of this
22 subsection (2)(a), even after the marriage is terminated; or

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

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

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

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

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

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

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

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

16 (i) Hospitals licensed pursuant to chapter 70.41 RCW when
17 performing functions defined in chapter 70.41 RCW, nursing homes
18 licensed under chapter 18.51 RCW and boarding homes licensed under
19 chapter 18.20 RCW;

20 (j) Licensed physicians or lawyers;

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

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

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

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

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

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

1 (~~(3)~~) (4) "Department" means the state department of social and
2 health services.

3 (~~(4)~~) (5) "Enforcement action" means any disciplinary action
4 taken by the department including:

5 (a) An adverse licensing action;

6 (b) Issuance of a deficiency statement, notification of a
7 violation, or licensing compliance plan;

8 (c) A protective action including removal of a child or initiation
9 of court proceedings; or

10 (d) Imposition of a civil penalty.

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

14 (7) "Referent" means a person or agency who brings to the attention
15 of the department a complaint or information resulting in an
16 investigation or enforcement action.

17 (8) "Juvenile" means a person under the age of twenty-one who has
18 been sentenced to a term of confinement under the supervision of the
19 department under RCW 13.40.185.

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

23 (~~(6)~~) (9) "Requirement" means any rule, regulation, or standard
24 of care to be maintained by an agency.

25 (~~(7)~~) (10) "Secretary" means the secretary of social and health
26 services.

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

30 NEW SECTION. Sec. 8. A new section is added to chapter 74.15 RCW
31 to read as follows:

32 (1) The department shall establish and maintain a toll-free
33 telephone number for communication of information regarding child day-
34 care centers and family day-care providers. The number shall be
35 published in reasonably available printed and electronic media. The
36 number shall be easily identifiable as a number for communication of
37 information as set forth in this section.

1 (2) All licensed child day-care centers and family day-care
2 providers shall post in a place and manner clearly visible to patrons
3 and visitors the department's toll-free telephone number. Parents or
4 guardians must be given the department's toll-free telephone number.

5 (3)(a) The department shall make a preliminary review of the
6 complaint and investigate any complaint within its authority unless the
7 department determines that: (i) The complaint is intended to willfully
8 harass a licensee or employee of a licensee; or (ii) there is no
9 reasonable basis for investigation; or (iii) corrective action has been
10 taken as determined by the department.

11 (b) The department shall refer complaints to the appropriate state
12 agencies, law enforcement agencies, the attorney general, or other
13 entities if the department lacks authority to investigate or if its
14 investigation reveals that a follow-up referral to one or more of these
15 entities is appropriate.

16 (4) For the purposes of this section, "communication of
17 information" means callers may: (a) Determine whether a day care is
18 licensed; (b) determine whether a day care is in good standing
19 regarding licensing requirements; (c) obtain information on how to
20 report suspected or observed noncompliance with licensing requirements;
21 (d) obtain information on how to report alleged abuse or neglect in a
22 day care; (e) obtain information on how to report health, safety, and
23 welfare concerns in a day care; (f) receive follow-up assistance,
24 including information on the office of the family and children's
25 ombudsman; and (g) receive referral information on other agencies or
26 entities that may be of further assistance to the caller.

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