

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5952

60th Legislature
2007 Regular Session

Passed by the Senate March 9, 2007
YEAS 45 NAYS 0

President of the Senate

Passed by the House March 30, 2007
YEAS 94 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5952** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5952

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators McAuliffe, Kohl-Welles and Rasmussen; by request of Department of Early Learning)

READ FIRST TIME 02/23/07.

1 AN ACT Relating to correcting provisions for the department of
2 early learning; amending RCW 43.215.300, 43.43.838, 42.48.010,
3 35.21.688, 35.63.185, 35A.63.215, 36.70.757, and 36.70A.450; reenacting
4 and amending RCW 74.15.030; adding new sections to chapter 43.215 RCW;
5 recodifying RCW 74.13.0903; and repealing RCW 43.215.2201 and
6 74.15.035.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.215 RCW
9 to read as follows:

10 (1) The director shall charge fees to the licensee for obtaining a
11 license. The director may waive the fees when, in the discretion of
12 the director, the fees would not be in the best interest of public
13 health and safety, or when the fees would be to the financial
14 disadvantage of the state.

15 (2) Fees charged shall be based on, but shall not exceed, the cost
16 to the department for the licensure of the activity or class of
17 activities and may include costs of necessary inspection.

18 (3) The director shall establish the fees charged by rule.

1 **Sec. 2.** RCW 43.215.300 and 2006 c 265 s 311 are each amended to
2 read as follows:

3 (1) An agency may be denied a license, or any license issued
4 pursuant to this chapter may be suspended, revoked, modified, or not
5 renewed by the director upon proof (a) that the agency has failed or
6 refused to comply with the provisions of this chapter or the
7 requirements adopted pursuant to this chapter; or (b) that the
8 conditions required for the issuance of a license under this chapter
9 have ceased to exist with respect to such licenses. ((~~RCW 43.20A.205~~))
10 Section 3 of this act governs notice of a license denial, revocation,
11 suspension, or modification and provides the right to an adjudicative
12 proceeding.

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

17 (3) The department may assess civil monetary penalties upon proof
18 that an agency has failed or refused to comply with the rules adopted
19 under this chapter or that an agency subject to licensing under this
20 chapter is operating without a license except that civil monetary
21 penalties shall not be levied against a licensed foster home. Monetary
22 penalties levied against unlicensed agencies that submit an application
23 for licensure within thirty days of notification and subsequently
24 become licensed will be forgiven. These penalties may be assessed in
25 addition to or in lieu of other disciplinary actions. Civil monetary
26 penalties, if imposed, may be assessed and collected, with interest,
27 for each day an agency is or was out of compliance. Civil monetary
28 penalties shall not exceed seventy-five dollars per violation for a
29 family day care home and two hundred fifty dollars per violation for
30 child day care centers. Each day upon which the same or substantially
31 similar action occurs is a separate violation subject to the assessment
32 of a separate penalty. The department shall provide a notification
33 period before a monetary penalty is effective and may forgive the
34 penalty levied if the agency comes into compliance during this period.
35 The department may suspend, revoke, or not renew a license for failure
36 to pay a civil monetary penalty it has assessed pursuant to this
37 chapter within ten days after such assessment becomes final. ((~~Chapter~~
38 ~~43.20A-RCW~~)) Section 4 of this act governs notice of a civil monetary

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

4 (4)(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 (5) 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. 3.** A new section is added to chapter 43.215 RCW
21 to read as follows:

22 (1) The department shall give written notice of the denial of an
23 application for a license to the applicant or his or her agent. The
24 department shall give written notice of revocation, suspension, or
25 modification of a license to the licensee or his or her agent. The
26 notice shall state the reasons for the action. The notice shall be
27 personally served in the manner of service of a summons in a civil
28 action or shall be given in another manner that shows proof of receipt.

29 (2) Except as otherwise provided in this subsection and in
30 subsection (4) of this section, revocation, suspension, or modification
31 is effective twenty-eight days after the licensee or the agent receives
32 the notice.

33 (a) The department may make the date the action is effective later
34 than twenty-eight days after receipt. If the department does so, it
35 shall state the effective date in the written notice given the licensee
36 or agent.

1 (b) The department may make the date the action is effective sooner
2 than twenty-eight days after receipt when necessary to protect the
3 public health, safety, or welfare. When the department does so, it
4 shall state the effective date and the reasons supporting the effective
5 date in the written notice given to the licensee or agent.

6 (c) When the department has received certification pursuant to
7 chapter 74.20A RCW from the division of child support that the licensee
8 is a person who is not in compliance with a support order, the
9 department shall provide that the suspension is effective immediately
10 upon receipt of the suspension notice by the licensee.

11 (3) Except for licensees suspended for noncompliance with a support
12 order under chapter 74.20A RCW, a license applicant or licensee who is
13 aggrieved by a department denial, revocation, suspension, or
14 modification has the right to an adjudicative proceeding. The
15 proceeding is governed by the administrative procedure act, chapter
16 34.05 RCW. The application must be in writing, state the basis for
17 contesting the adverse action, include a copy of the adverse notice, be
18 served on and received by the department within twenty-eight days of
19 the license applicant's or licensee's receiving the adverse notice, and
20 be served in a manner that shows proof of receipt.

21 (4)(a) If the department gives a licensee twenty-eight or more
22 days' notice of revocation, suspension, or modification and the
23 licensee files an appeal before its effective date, the department
24 shall not implement the adverse action until the final order has been
25 entered. The presiding or reviewing officer may permit the department
26 to implement part or all of the adverse action while the proceedings
27 are pending if the appellant causes an unreasonable delay in the
28 proceeding, if the circumstances change so that implementation is in
29 the public interest, or for other good cause.

30 (b) If the department gives a licensee less than twenty-eight days'
31 notice of revocation, suspension, or modification and the licensee
32 timely files a sufficient appeal, the department may implement the
33 adverse action on the effective date stated in the notice. The
34 presiding or reviewing officer may order the department to stay
35 implementation of part or all of the adverse action while the
36 proceedings are pending if staying implementation is in the public
37 interest or for other good cause.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.215 RCW
2 to read as follows:

3 (1) The department shall give written notice to the person against
4 whom it assesses a civil fine. The notice shall state the reasons for
5 the adverse action. The notice shall be personally served in the
6 manner of service of a summons in a civil action or shall be given in
7 another manner that shows proof of receipt.

8 (2) Except as otherwise provided in subsection (4) of this section,
9 the civil fine is due and payable twenty-eight days after receipt. The
10 department may make the date the fine is due later than twenty-eight
11 days after receipt. When the department does so, it shall state the
12 effective date in the written notice given the person against whom it
13 assesses the fine.

14 (3) The person against whom the department assesses a civil fine
15 has the right to an adjudicative proceeding. The proceeding is
16 governed by the administrative procedure act, chapter 34.05 RCW. The
17 application must be in writing, state the basis for contesting the
18 fine, include a copy of the adverse notice, be served on and received
19 by the department within twenty-eight days of the person's receiving
20 the notice of civil fine, and be served in a manner that shows proof of
21 receipt.

22 (4) If the person files a timely and sufficient appeal, the
23 department shall not implement the action until the final order has
24 been served. The presiding or reviewing officer may permit the
25 department to implement part or all of the action while the proceedings
26 are pending if the appellant causes an unreasonable delay in the
27 proceedings or for other good cause.

28 **Sec. 5.** RCW 43.43.838 and 2005 c 421 s 5 are each amended to read
29 as follows:

30 (1) After January 1, 1988, and notwithstanding any provision of RCW
31 43.43.700 through 43.43.810 to the contrary, the state patrol shall
32 furnish a transcript of the conviction record pertaining to any person
33 for whom the state patrol or the federal bureau of investigation has a
34 record upon the written request of:

35 (a) The subject of the inquiry;

36 (b) Any business or organization for the purpose of conducting
37 evaluations under RCW 43.43.832;

1 (c) The department of social and health services;

2 (d) Any law enforcement agency, prosecuting authority, or the
3 office of the attorney general; (~~(e)~~)

4 (e) The department of social and health services for the purpose of
5 meeting responsibilities set forth in chapter 74.15, 18.51, 18.20, or
6 72.23 RCW, or any later-enacted statute which purpose is to regulate or
7 license a facility which handles vulnerable adults. However, access to
8 conviction records pursuant to this subsection (1)(e) does not limit or
9 restrict the ability of the department to obtain additional information
10 regarding conviction records and pending charges as set forth in RCW
11 74.15.030(2)(b); or

12 (f) The department of early learning for the purpose of meeting
13 responsibilities in chapter 43.215 RCW.

14 (2) The state patrol shall by rule establish fees for disseminating
15 records under this section to recipients identified in subsection
16 (1)(a) and (b) of this section. The state patrol shall also by rule
17 establish fees for disseminating records in the custody of the national
18 crime information center. The revenue from the fees shall cover, as
19 nearly as practicable, the direct and indirect costs to the state
20 patrol of disseminating the records. No fee shall be charged to a
21 nonprofit organization for the records check. In the case of record
22 checks using fingerprints requested by school districts and educational
23 service districts, the state patrol shall charge only for the
24 incremental costs associated with checking fingerprints in addition to
25 name and date of birth. Record checks requested by school districts
26 and educational service districts using only name and date of birth
27 shall continue to be provided free of charge.

28 (3) No employee of the state, employee of a business or
29 organization, or the business or organization is liable for defamation,
30 invasion of privacy, negligence, or any other claim in connection with
31 any lawful dissemination of information under RCW 43.43.830 through
32 43.43.840 or 43.43.760.

33 (4) Before July 26, 1987, the state patrol shall adopt rules and
34 forms to implement this section and to provide for security and privacy
35 of information disseminated under this section, giving first priority
36 to the criminal justice requirements of this chapter. The rules may
37 include requirements for users, audits of users, and other procedures

1 to prevent use of civil adjudication record information or criminal
2 history record information inconsistent with this chapter.

3 (5) Nothing in RCW 43.43.830 through 43.43.840 shall authorize an
4 employer to make an inquiry not specifically authorized by this
5 chapter, or be construed to affect the policy of the state declared in
6 chapter 9.96A RCW.

7 **Sec. 6.** RCW 42.48.010 and 1989 1st ex.s. c 9 s 207 are each
8 amended to read as follows:

9 For the purposes of this chapter, the following definitions apply:

10 (1) "Individually identifiable" means that a record contains
11 information which reveals or can likely be associated with the identity
12 of the person or persons to whom the record pertains.

13 (2) "Legally authorized representative" means a person legally
14 authorized to give consent for the disclosure of personal records on
15 behalf of a minor or a legally incompetent adult.

16 (3) "Personal record" means any information obtained or maintained
17 by a state agency which refers to a person and which is declared exempt
18 from public disclosure, confidential, or privileged under state or
19 federal law.

20 (4) "Research" means a planned and systematic sociological,
21 psychological, epidemiological, biomedical, or other scientific
22 investigation carried out by a state agency, by a scientific research
23 professional associated with a bona fide scientific research
24 organization, or by a graduate student currently enrolled in an
25 advanced academic degree curriculum, with an objective to contribute to
26 scientific knowledge, the solution of social and health problems, or
27 the evaluation of public benefit and service programs. This definition
28 excludes methods of record analysis and data collection that are
29 subjective, do not permit replication, and are not designed to yield
30 reliable and valid results.

31 (5) "Research record" means an item or grouping of information
32 obtained for the purpose of research from or about a person or
33 extracted for the purpose of research from a personal record.

34 (6) "State agency" means: (a) The department of social and health
35 services; (b) the department of corrections; (c) an institution of
36 higher education as defined in RCW 28B.10.016; ~~((or))~~ (d) the
37 department of health; or (e) the department of early learning.

1 NEW SECTION. **Sec. 7.** RCW 74.13.0903 is recodified as a section in
2 chapter 43.215 RCW.

3 NEW SECTION. **Sec. 8.** The following acts or parts of acts are each
4 repealed:

- 5 (1) RCW 43.215.2201 (Licensed day care centers--Notice of pesticide
6 use) and 2001 c 333 s 5; and
7 (2) RCW 74.15.035 (Negotiated rule making--Family child care
8 licensees--Intent) and 2006 c 54 s 6.

9 **Sec. 9.** RCW 35.21.688 and 2003 c 286 s 1 are each amended to read
10 as follows:

11 (1) Except as provided in subsections (2) and (3) of this section,
12 no city or town may enact, enforce, or maintain an ordinance,
13 development regulation, zoning regulation, or official control, policy,
14 or administrative practice that prohibits the use of a residential
15 dwelling, located in an area zoned for residential or commercial use,
16 as a family day-care provider's facility serving twelve or fewer
17 children.

18 (2) A city or town may require that the facility: (a) Comply with
19 all building, fire, safety, health code, and business licensing
20 requirements; (b) conform to lot size, building size, setbacks, and lot
21 coverage standards applicable to the zoning district except if the
22 structure is a legal nonconforming structure; (c) is certified by the
23 (~~office of child care policy~~) department of early learning licenser
24 as providing a safe passenger loading area; (d) include signage, if
25 any, that conforms to applicable regulations; and (e) limit hours of
26 operations to facilitate neighborhood compatibility, while also
27 providing appropriate opportunity for persons who use family day-care
28 who work a nonstandard work shift.

29 (3) A city or town may also require that the family day-care
30 provider, before state licensing, require proof of written notification
31 by the provider that the immediately adjoining property owners have
32 been informed of the intent to locate and maintain such a facility. If
33 a dispute arises between neighbors and the day-care provider over
34 licensing requirements, the licenser may provide a forum to resolve the
35 dispute.

1 (4) This section may not be construed to prohibit a city or town
2 from imposing zoning conditions on the establishment and maintenance of
3 a family day-care provider's home serving twelve or fewer children in
4 an area zoned for residential or commercial use, if the conditions are
5 no more restrictive than conditions imposed on other residential
6 dwellings in the same zone and the establishment of such facilities is
7 not precluded. As used in this section, "family day-care provider" is
8 as defined in RCW (~~(74.15.020)~~) 43.215.010.

9 **Sec. 10.** RCW 35.63.185 and 2003 c 286 s 3 are each amended to read
10 as follows:

11 (1) Except as provided in subsections (2) and (3) of this section,
12 no city may enact, enforce, or maintain an ordinance, development
13 regulation, zoning regulation, or official control, policy, or
14 administrative practice that prohibits the use of a residential
15 dwelling, located in an area zoned for residential or commercial use,
16 as a family day-care provider's home facility.

17 (2) A city may require that the facility: (a) Comply with all
18 building, fire, safety, health code, and business licensing
19 requirements; (b) conform to lot size, building size, setbacks, and lot
20 coverage standards applicable to the zoning district except if the
21 structure is a legal nonconforming structure; (c) is certified by the
22 (~~(office of child care policy)~~) department of early learning licenser
23 as providing a safe passenger loading area; (d) include signage, if
24 any, that conforms to applicable regulations; and (e) limit hours of
25 operations to facilitate neighborhood compatibility, while also
26 providing appropriate opportunity for persons who use family day-care
27 and who work a nonstandard work shift.

28 (3) A city may also require that the family day-care provider,
29 before state licensing, require proof of written notification by the
30 provider that the immediately adjoining property owners have been
31 informed of the intent to locate and maintain such a facility. If a
32 dispute arises between neighbors and the family day-care provider over
33 licensing requirements, the licenser may provide a forum to resolve the
34 dispute.

35 (4) Nothing in this section shall be construed to prohibit a city
36 from imposing zoning conditions on the establishment and maintenance of
37 a family day-care provider's home in an area zoned for residential or

1 commercial use, so long as such conditions are no more restrictive than
2 conditions imposed on other residential dwellings in the same zone and
3 the establishment of such facilities is not precluded. As used in this
4 section, "family day-care provider" is as defined in RCW (~~(74.15.020)~~)
5 43.215.010.

6 **Sec. 11.** RCW 35A.63.215 and 2003 c 286 s 4 are each amended to
7 read as follows:

8 (1) Except as provided in subsections (2) and (3) of this section,
9 no city may enact, enforce, or maintain an ordinance, development
10 regulation, zoning regulation, or official control, policy, or
11 administrative practice that prohibits the use of a residential
12 dwelling, located in an area zoned for residential or commercial use,
13 as a family day-care provider's home facility.

14 (2) A city may require that the facility: (a) Comply with all
15 building, fire, safety, health code, and business licensing
16 requirements; (b) conform to lot size, building size, setbacks, and lot
17 coverage standards applicable to the zoning district except if the
18 structure is a legal nonconforming structure; (c) is certified by the
19 (~~office of child care policy~~) department of early learning licenser
20 as providing a safe passenger loading area; (d) include signage, if
21 any, that conforms to applicable regulations; and (e) limit hours of
22 operations to facilitate neighborhood compatibility, while also
23 providing appropriate opportunity for persons who use family day-care
24 and who work a nonstandard work shift.

25 (3) A city may also require that the family day-care provider,
26 before state licensing, require proof of written notification by the
27 provider that the immediately adjoining property owners have been
28 informed of the intent to locate and maintain such a facility. If a
29 dispute arises between neighbors and the family day-care provider over
30 licensing requirements, the licenser may provide a forum to resolve the
31 dispute.

32 (4) Nothing in this section shall be construed to prohibit a city
33 from imposing zoning conditions on the establishment and maintenance of
34 a family day-care provider's home in an area zoned for residential or
35 commercial use, so long as such conditions are no more restrictive than
36 conditions imposed on other residential dwellings in the same zone and

1 the establishment of such facilities is not precluded. As used in this
2 section, "family day-care provider" is as defined in RCW ((74.15.020))
3 43.215.010.

4 **Sec. 12.** RCW 36.70.757 and 2003 c 286 s 2 are each amended to read
5 as follows:

6 (1) Except as provided in subsections (2) and (3) of this section,
7 no county may enact, enforce, or maintain an ordinance, development
8 regulation, zoning regulation, or official control, policy, or
9 administrative practice that prohibits the use of a residential
10 dwelling, located in an area zoned for residential or commercial use,
11 as a family day-care provider's facility serving twelve or fewer
12 children.

13 (2) A county may require that the facility: (a) Comply with all
14 building, fire, safety, health code, and business licensing
15 requirements; (b) conform to lot size, building size, setbacks, and lot
16 coverage standards applicable to the zoning district except if the
17 structure is a legal nonconforming structure; (c) is certified by the
18 ((office of child care policy)) department of early learning licenser
19 as providing a safe passenger loading area; (d) include signage, if
20 any, that conforms to applicable regulations; and (e) limit hours of
21 operations to facilitate neighborhood compatibility, while also
22 providing appropriate opportunity for persons who use family day-care
23 who work a nonstandard work shift.

24 (3) A county may also require that the family day-care provider,
25 before state licensing, require proof of written notification by the
26 provider that the immediately adjoining property owners have been
27 informed of the intent to locate and maintain such a facility. If a
28 dispute arises between neighbors and the day-care provider over
29 licensing requirements, the licenser may provide a forum to resolve the
30 dispute.

31 (4) This section may not be construed to prohibit a county from
32 imposing zoning conditions on the establishment and maintenance of a
33 family day-care provider's home serving twelve or fewer children in an
34 area zoned for residential or commercial use, if the conditions are no
35 more restrictive than conditions imposed on other residential dwellings
36 in the same zone and the establishment of such facilities is not

1 precluded. As used in this section, "family day-care provider" is as
2 defined in RCW (~~(74.15.020)~~) 43.215.010.

3 **Sec. 13.** RCW 36.70A.450 and 2003 c 286 s 5 are each amended to
4 read as follows:

5 (1) Except as provided in subsections (2) and (3) of this section,
6 no county or city may enact, enforce, or maintain an ordinance,
7 development regulation, zoning regulation, or official control, policy,
8 or administrative practice that prohibits the use of a residential
9 dwelling, located in an area zoned for residential or commercial use,
10 as a family day-care provider's home facility.

11 (2) A county or city may require that the facility: (a) Comply
12 with all building, fire, safety, health code, and business licensing
13 requirements; (b) conform to lot size, building size, setbacks, and lot
14 coverage standards applicable to the zoning district except if the
15 structure is a legal nonconforming structure; (c) is certified by the
16 (~~office of child care policy~~) department of early learning licenser
17 as providing a safe passenger loading area; (d) include signage, if
18 any, that conforms to applicable regulations; and (e) limit hours of
19 operations to facilitate neighborhood compatibility, while also
20 providing appropriate opportunity for persons who use family day-care
21 and who work a nonstandard work shift.

22 (3) A county or city may also require that the family day-care
23 provider, before state licensing, require proof of written notification
24 by the provider that the immediately adjoining property owners have
25 been informed of the intent to locate and maintain such a facility. If
26 a dispute arises between neighbors and the family day-care provider
27 over licensing requirements, the licenser may provide a forum to
28 resolve the dispute.

29 (4) Nothing in this section shall be construed to prohibit a county
30 or city from imposing zoning conditions on the establishment and
31 maintenance of a family day-care provider's home in an area zoned for
32 residential or commercial use, so long as such conditions are no more
33 restrictive than conditions imposed on other residential dwellings in
34 the same zone and the establishment of such facilities is not
35 precluded. As used in this section, "family day-care provider" is as
36 defined in RCW (~~(74.15.020)~~) 43.215.010.

1 **Sec. 14.** RCW 74.15.030 and 2006 c 265 s 402 and 2006 c 54 s 8 are
2 each reenacted and amended to read as follows:

3 The secretary shall have the power and it shall be the secretary's
4 duty:

5 (1) In consultation with the children's services advisory
6 committee, and with the advice and assistance of persons representative
7 of the various type agencies to be licensed, to designate categories of
8 facilities for which separate or different requirements shall be
9 developed as may be appropriate whether because of variations in the
10 ages, sex and other characteristics of persons served, variations in
11 the purposes and services offered or size or structure of the agencies
12 to be licensed hereunder, or because of any other factor relevant
13 thereto;

14 (2) In consultation with the children's services advisory
15 committee, and with the advice and assistance of persons representative
16 of the various type agencies to be licensed, to adopt and publish
17 minimum requirements for licensing applicable to each of the various
18 categories of agencies to be licensed.

19 The minimum requirements shall be limited to:

20 (a) The size and suitability of a facility and the plan of
21 operation for carrying out the purpose for which an applicant seeks a
22 license;

23 (b) The character, suitability and competence of an agency and
24 other persons associated with an agency directly responsible for the
25 care and treatment of children, expectant mothers or developmentally
26 disabled persons. In consultation with law enforcement personnel, the
27 secretary shall investigate the conviction record or pending charges
28 and dependency record information under chapter 43.43 RCW of each
29 agency and its staff seeking licensure or relicensure. No unfounded
30 allegation of child abuse or neglect as defined in RCW 26.44.020 may be
31 disclosed to a child-placing agency, private adoption agency, or any
32 other provider licensed under this chapter. In order to determine the
33 suitability of applicants for an agency license, licensees, their
34 employees, and other persons who have unsupervised access to children
35 in care, and who have not resided in the state of Washington during the
36 three-year period before being authorized to care for children shall be
37 fingerprinted. The fingerprints shall be forwarded to the Washington
38 state patrol and federal bureau of investigation for a criminal history

1 records check. The fingerprint criminal history records checks will be
2 at the expense of the licensee except that in the case of a foster
3 family home, if this expense would work a hardship on the licensee, the
4 department shall pay the expense. The licensee may not pass this cost
5 on to the employee or prospective employee, unless the employee is
6 determined to be unsuitable due to his or her criminal history record.
7 The secretary shall use the information solely for the purpose of
8 determining eligibility for a license and for determining the
9 character, suitability, and competence of those persons or agencies,
10 excluding parents, not required to be licensed who are authorized to
11 care for children, expectant mothers, and developmentally disabled
12 persons. Criminal justice agencies shall provide the secretary such
13 information as they may have and that the secretary may require for
14 such purpose;

15 (c) The number of qualified persons required to render the type of
16 care and treatment for which an agency seeks a license;

17 (d) The safety, cleanliness, and general adequacy of the premises
18 to provide for the comfort, care and well-being of children, expectant
19 mothers or developmentally disabled persons;

20 (e) The provision of necessary care, including food, clothing,
21 supervision and discipline; physical, mental and social well-being; and
22 educational, recreational and spiritual opportunities for those served;

23 (f) The financial ability of an agency to comply with minimum
24 requirements established pursuant to chapter 74.15 RCW and RCW
25 74.13.031; and

26 (g) The maintenance of records pertaining to the admission,
27 progress, health and discharge of persons served;

28 (3) To investigate any person, including relatives by blood or
29 marriage except for parents, for character, suitability, and competence
30 in the care and treatment of children, expectant mothers, and
31 developmentally disabled persons prior to authorizing that person to
32 care for children, expectant mothers, and developmentally disabled
33 persons. However, if a child is placed with a relative under RCW
34 13.34.065 or 13.34.130, and if such relative appears otherwise suitable
35 and competent to provide care and treatment the criminal history
36 background check required by this section need not be completed before
37 placement, but shall be completed as soon as possible after placement;

1 (4) On reports of alleged child abuse and neglect, to investigate
2 agencies in accordance with chapter 26.44 RCW, including child day-care
3 centers and family day-care homes, to determine whether the alleged
4 abuse or neglect has occurred, and whether child protective services or
5 referral to a law enforcement agency is appropriate;

6 (5) To issue, revoke, or deny licenses to agencies pursuant to
7 chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the
8 category of care which an agency is authorized to render and the ages,
9 sex and number of persons to be served;

10 (6) To prescribe the procedures and the form and contents of
11 reports necessary for the administration of chapter 74.15 RCW and RCW
12 74.13.031 and to require regular reports from each licensee;

13 (7) To inspect agencies periodically to determine whether or not
14 there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the
15 requirements adopted hereunder;

16 (8) To review requirements adopted hereunder at least every two
17 years and to adopt appropriate changes after consultation with the
18 children's services advisory committee for requirements for other
19 agencies; and

20 ~~((To engage in negotiated rule making pursuant to RCW
21 34.05.310(2)(a) with the exclusive representative of the family child
22 care licensees selected in accordance with RCW 74.15.035 and with other
23 affected interests before adopting requirements that affect family
24 child care licensees; and~~

25 ~~(+10+))~~ To consult with public and private agencies in order to help
26 them improve their methods and facilities for the care of children,
27 expectant mothers and developmentally disabled persons.

28 NEW SECTION. Sec. 15. A new section is added to chapter 43.215
29 RCW to read as follows:

30 The director shall have the power and it shall be the director's
31 duty to engage in negotiated rule making pursuant to RCW
32 34.05.310(2)(a) with the exclusive representative of the family child
33 care licensees selected in accordance with section 16 of this act and
34 with other affected interests before adopting requirements that affect
35 family child care licensees.

1 NEW SECTION. **Sec. 16.** A new section is added to chapter 43.215
2 RCW to read as follows:

3 (1) Solely for the purposes of negotiated rule making pursuant to
4 RCW 34.05.310(2)(a) and section 15 of this act, a statewide unit of all
5 family child care licensees is appropriate. As of June 7, 2006, the
6 exclusive representative of family child care licensees in the
7 statewide unit shall be the representative selected as the majority
8 representative in the election held under the directive of the governor
9 to the secretary of the department of social and health services, dated
10 September 16, 2005. If family child care licensees seek to select a
11 different representative thereafter, the family child care licensees
12 may request that the American arbitration association conduct an
13 election and certify the results of the election.

14 (2) In enacting this section, the legislature intends to provide
15 state action immunity under federal and state antitrust laws for the
16 joint activities of family child care licensees and their exclusive
17 representative to the extent such activities are authorized by this
18 chapter.

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