

HOUSE BILL REPORT

2SSB 5660

As Reported By House Committee On:
Children & Family Services

Title: An act relating to out-of-home care.

Brief Description: Requiring notice of enforcement actions taken against child day-care centers and family day-care providers.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Kohl, Long, Hargrove and Winsley).

Brief History:

Committee Activity:

Children & Family Services: 2/19/98, 2/26/98 [DPA].

HOUSE COMMITTEE ON CHILDREN & FAMILY SERVICES

Majority Report: Do pass as amended. Signed by 11 members: Representatives Cooke, Chairman; Boldt, Vice Chairman; Bush, Vice Chairman; Tokuda, Ranking Minority Member; Kastama, Assistant Ranking Minority Member; Ballasiotes; Carrell; Dickerson; Gombosky; McDonald and Wolfe.

Staff: Douglas Ruth (786-7134).

Background: The Department of Social and Health Services (DSHS) licenses child care centers and family day care homes.

The department uses a variety of licensing controls and sanctions with regard to licensed child day-care facilities when they are not in compliance with statute or regulations. When a non-serious licensing violation is reported, a licensor may issue a deficiency statement notifying the center of the violation. The statement is normally presented to the center by an inspector, in person, during a routine inspection. If the center remedies the violation within a specified time period no more action is taken. However, if the violation persists, the department may issue a letter notifying the center of the continuing violation. A compliance plan may also be drafted.

If the center continues to refuse to remedy the violation, or if the initial violation is serious, the department may suspend, revoke, or place on probation a center's license. Civil monetary penalties may also be issued. Where a violation involves abuse, the

department may remove the child care employee and initiate court proceedings. In some circumstances a child may be removed immediately from the facility.

The department reports to child care referral agencies those licensing actions that result in a change in the status of the provider's license, such as suspension or modification of the license. The department also retains records of these types of actions on file.

Summary of Amended Bill: Every licensed child day-care center and family day-care provider is required to prominently post the following items: (1) a copy of the license; (2) the notice of any pending enforcement action; (3) a notice that inspection reports, complaints, and notices of enforcement actions for the past three years are available for review; and (4) any other information required by the department.

"Enforcement action" is defined to mean any disciplinary action including: suspension, denial, modification, nonrenewal or revocation of a license, issuance of a deficiency statement, issuance of a noncompliance plan, initiation of a court proceeding, removal of a child, removal of a child care worker, and imposition of a civil monetary penalty.

"Adverse licensing action" means a denial, suspension, revocation, modification, or nonrenewal of a license.

When an enforcement action is taken and notice is received by the licensee, the notice must be posted immediately by the licensee and must remain posted for at least two weeks or until the violation is corrected, whichever is longer. The licensee must keep copies of all notices of enforcement actions received for the past three years.

The department is authorized to notify the public or licensing agencies in other states of enforcement actions when necessary and appropriate to protect the health and safety of children. The department is also authorized to place a facility on nonreferral or stop placement status for failing to post a notice of an enforcement action. Referral agencies are notified of any adverse licensing actions taken against a center or home by the department.

When an enforcement action is made in error, or is later determined to be unjustified, the department is required to distribute a notice of public exoneration to the same people, and in the same manner, as the original notice.

The department must make available, on request, information about specific child day-care centers and family day-care providers, including inspection reports and enforcement actions, and corrective measures taken by the facility. The department must follow public disclosure laws in making information public.

Providers who are required to post an enforcement action, or who are the subject of a nonreferral or stop placement action, may not appeal the department's decision unless the providers's license is suspended, revoked, modified, or placed on probation.

The department must compile annual reports analyzing all enforcement actions, investigations, and reports made as a result of this act.

Amended Bill Compared to Second Substitute Bill: Child care providers must post notices of enforcement actions taken by the department, not those pending.

Child care providers must post that complaints against providers are also available from the department and the agency.

Providers are not allowed to appeal the department's decision to place a provider on nonreferral status or require that an enforcement action is posted, unless the enforcement action is a suspension, revocation, modification or probation of the provider's license.

When the department removes a provider from nonreferral status, it must only notify referral agencies of the change and not the general public.

The department must only notify referral agencies and providers of adverse licensing actions, civil penalties, and protective actions, not all enforcement actions. The time period for notifying providers is increased to four days.

The definition of "enforcement action" is narrowed to include only those protective actions that result in the removal of a child, a child care worker, or involve a court proceeding.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: For many licensing actions or other sanctions, customers and potential customers have no reliable way to discover what actions have been taken against the facility, either currently or in the recent past. The bill will make information about actions of the department more accessible to parents. Parents will be able to use the information to make better decisions about safe child care. The bill was tailored after similar requirements for notification by nursing homes. The fiscal impact is small compared with not taking any action. The state has already been the subject of several civil suits regarding the lack of notifying parents of child care providers who have a history of serious licensing violations. If the state is not going to provide training to

child care employees, and refuse to require providers to purchase liability insurance, it should at least give parents warnings of the low-quality providers. Personal accounts indicate that parents take their children to providers who later injure a child because they had no way of knowing that the provider had a history of licensing violations. Even when parents inquire, DSHS has refused to provide past complaints against a provider to the parents absent a court order.

Testimony Against: None.

Testified: Senator Jeanne Kohl, prime sponsor; Kris Mohn, parent (pro); Stu Jacobson, Washington Parents (pro); and Lonnie Johns-Brown, Early Childhood Collaborative (pro).