

HOUSE BILL REPORT

SSB 5504

As Reported by House Committee On:
Early Learning & Human Services

Title: An act relating to unlicensed child care.

Brief Description: Addressing unlicensed child care.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Eide, Kohl-Welles and Keiser).

Brief History:

Committee Activity:

Early Learning & Human Services: 3/15/11, 3/22/11 [DPA].

**Brief Summary of Substitute Bill
(As Amended by House)**

- Requires the Department of Early Learning (DEL) to notify agencies it suspects are operating without licensure about licensing requirements and consequences for failing to initiate the licensing process.
- Requires the DEL to post on its website agencies that have not initiated the licensing process within designated timelines.
- Changes the maximum civil monetary penalty from \$75 to \$150 per violation for family home day care centers.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: Do pass as amended. Signed by 6 members: Representatives Kagi, Chair; Roberts, Vice Chair; Hope, Assistant Ranking Minority Member; Dickerson, Goodman and Orwall.

Minority Report: Do not pass. Signed by 3 members: Representatives Walsh, Ranking Minority Member; Johnson and Overstreet.

Staff: Megan Palchak (786-7120).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

Agencies subject to child care licensure through the Department of Early Learning (DEL) are defined as: any person, firm, partnership, association, corporation, or facility that provides child care outside of a child's home.

The following are exempt from licensing requirements:

- a blood relative, step-parent, step-sibling, or spouse of any of the persons listed;
- an adoptive parent or that parent's relatives or spouse of any of the persons listed;
- the child's legal guardian;
- persons who care for a neighbor's or friend's child, for less than 24 hours, so long as the person does not provide the care on an ongoing, regularly scheduled basis;
- parents on a mutually cooperative basis exchange care of one another's children;
- nursery schools or kindergartens engaged primarily in educational work with preschool children and in which no child is enrolled for more than four hours a day;
- schools, including boarding schools, engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children, and do not accept custody of children;
- seasonal camps of three months or less engaged primarily in recreational or educational activities;
- facilities providing child care for less than 24 hours so long as the child's parent remains on the premises to participate in activities other than employment;
- agencies that have been in business since 1957 and are supported in part by an endowment or trust fund and which do not seek or accept assistance from any state or federal agency;
- agencies operated by local, state, or federal government or an agency located within the boundaries of a federally recognized Indian reservation;
- agencies located on a military base, unless the military authorities have requested that the agency be licensed by the DEL; and
- agencies that offer early learning and support services and do not provide child care services on a regular basis.

The DEL is authorized to assess civil monetary penalties to agencies operating without a license. However, if the unlicensed agency submits a child care license application within 30 days of being notified that they need to be licensed, and subsequently becomes licensed, then monetary penalties levied are forgiven. The maximum penalty for a family home day care may not exceed \$75, and the maximum penalty for child care centers may not exceed \$250. Each day upon which the same or substantially similar action occurs is considered a separate violation that is subject to a separate penalty. The DEL is required to provide a notification period before a monetary penalty is effective.

The DEL is required to report the following actions taken against an agency on its public website:

- suspension;
- surrender;
- revocation;
- denial;
- stayed suspension; or

- reinstatement of a license.
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Summary of Amended Bill:

When the DEL suspects an agency subject to licensure is providing unlicensed child care, it is required to send notice to that agency within 10 days. The notice shall include, but is not limited to, the following information:

- that a license is required and the reasons why;
- that the agency is suspected of providing child care without a license;
- that the agency must immediately stop providing child care services until the agency becomes licensed;
- that the DEL can issue a penalty of \$150 per day for each day a family home day care provided child care without being licensed and \$250 per day for each day a child day care center provided care without being licensed; and
- that if the agency does not initiate the licensing process within 30 days of the date of the notice, the DEL will post on its website that the agency is providing child care without a license.

The maximum civil monetary penalty the DEL may impose per violation for family home day care is increased to \$150.

The DEL must post on its website agencies subject to licensure that have not initiated the licensing process within the 30-day period following notification by the DEL.

This act is referred to as the Colby Thompson Act.

Amended Bill Compared to Substitute Bill:

The amended bill clarifies, in the DEL's required notice to agencies suspected of providing unlicensed child care, that family home day care may be fined up to \$150 per day and child day care centers may be fined up to \$250 per day.

Appropriation: None.

Fiscal Note: Requested on March 22, 2011.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Colby Thompson was the victim of shaken baby syndrome at the hands of an unlicensed child care provider. Colby is now severely disabled. Unlicensed child care leaves children at risk. Unlicensed providers are not required to have education or training, may

have too many children on-site, and are not subject to background checks, monitoring, or oversight. The strategies in this bill are a good way to address unlicensed care. The DEL can include information about unlicensed child care providers on its website without additional cost. Section 3(4) should be amended to address fines for daycare centers.

(Opposed) None.

Persons Testifying: Jamie Thompson; Mark Horey; Joan Aarts, Washington State Family Child Care Association and Child Care Action Council; Agda Burchard, Washington Association for the Education of Young Children; and Amy Blondin, Department of Early Learning.

Persons Signed In To Testify But Not Testifying: None.