

HOUSE BILL REPORT

ESHB 2191

As Passed House:
February 11, 2014

Title: An act relating to compliance with inspections of child care facilities.

Brief Description: Concerning compliance with inspections of child care facilities.

Sponsors: House Committee on Early Learning & Human Services (originally sponsored by Representatives Scott, Shea, Taylor, Short and Overstreet).

Brief History:

Committee Activity:

Early Learning & Human Services: 1/22/14, 1/29/14 [DPS].

Floor Activity:

Passed House: 2/11/14, 98-0.

Brief Summary of Engrossed Substitute Bill

- Requires the Department of Early Learning (DEL) to consult with a city or county enforcement official and receive written verification prior to requiring any alterations to a child care facility due to building code inconsistencies.
- Specifies that the DEL consultation is limited to licensed child care space.
- Specifies that the DEL may not modify, suspend, or revoke child care license or business activities while the DEL is waiting for appropriate agency consultation, unless there is imminent danger for children and staff.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Kagi, Chair; Freeman, Vice Chair; Walsh, Ranking Minority Member; Scott, Assistant Ranking Minority Member; Fagan, Goodman, MacEwen, Ortiz-Self, Roberts, Senn, Young and Zeiger.

Minority Report: Do not pass. Signed by 1 member: Representative Sawyer.

Staff: Lindsay Lanham (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:

The Department of Early Learning (DEL) licenses child care family homes and child care centers. Licensing activities include trainings, first aid and CPR training, criminal background checks, and health and safety checks. The stated purpose of licensing requirements is to promote the health and safety of children attending child care programs.

Family home child care providers offer care in the home where they live. Family home providers can care for up to 12 children through age 12. Prior to becoming licensed a family home provider must obtain a business license, comply with locally established city ordinances, and make a request to the local fire department to seek assistance in planning evaluations and emergency procedures. If the local fire department does not provide this service, the child care family home licensee must provide documentation that the request was made. Family home providers receive licensing monitoring visits every 18 months. Only areas of the home that are used for child care are licensed. Areas of the home that are not used for the purpose of child care are considered unlicensed and are not subject to licensing inspections. Family home providers, however, are asked to declare that they are in compliance with the DEL requirements for furnaces, guns and weapons, smoke detectors, and medication storage in all unlicensed spaces. The DEL stated purpose for the aforementioned declaration is to help ensure the safety of children receiving care in the home.

Child care centers offer care in commercial, privately owned, school or faith-based spaces. Child care center providers serve ages one month through 12 years of age. Prior to becoming licensed, a child care center must obtain a Certificate of Occupancy through the city or county building department, register the business, and receive a certificate of compliance from the director of fire protection. Child care centers receive licensing monitoring visits annually.

Summary of Engrossed Substitute Bill:

Before requiring any alterations to a child care facility due to building code inconsistencies, the DEL is required to consult with a city or county enforcement official and receive written verification from the enforcement official that the alteration is required. Additionally, the DEL's consultation is limited to licensed child care space. While the DEL is waiting for consultation or to receive written notification, the DEL may not modify, suspend, or revoke child care license or business activities unless there is imminent danger to children or staff. Child care facility is defined to mean a family day care home, school-ages care, and child day care center.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Consistency with building codes and regulations helps daycares achieve the goal of being safe, loving, and intellectually stimulating environments for children.

Many providers have been forced out of business as they try to comply with building and fire codes that have been incorrectly interpreted by social workers. There are many irregularities and conflicts in the DEL licensing and codes and regulations established by local authorities. For example, one provider has an outside fence that is the maximum city code height; however, the DEL mandated a taller height fence. Such a circumstance makes it impossible to both comply with city ordinances and licensing requirements. Additionally, the DEL required expensive modifications to another daycare facility's windows that did not improve the safety of the children, but rather the rules are burdensome and confusing for child care providers. The DEL also required a provider to drain a 20-year-old water feature that did not pose a safety risk to children. Despite the fact that the provider offered a series of remedies to comply with regulations, the DEL did not consider any of the solutions.

Local departments have trained professionals who are qualified to interpret the codes. The DEL should focus only on the basic health and safety of children. Due to the growth of the DEL, regulations, and licensing standards, many family homes have been forced to close and almost 50,000 less children are attending licensed child care. Families are being forced into unlicensed care that has no oversight or standards.

This bill represents a stop-gap against the DELs expansion toward universal oversight of all children from birth. It is important to preserve parental choice. Parents know what is safe for their children. Parents should be able to send their children to a child care program of their choice.

(Other) As the bill was originally written, the DEL did have some concerns about tort liability and child safety. Section two of the bill aligns with the DEL's practice as the agency currently pays the fire marshal fees. Additionally, the DEL's licensure process only applies to licensed space.

(Opposed) None.

Persons Testifying: (In support) Tim Benn; and Gib Kocherhans.

(Other) Amy Blondin, Department of Early Learning.

Persons Signed In To Testify But Not Testifying: None.