

# HOUSE BILL REPORT

## 2ESSB 5157

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**As Passed House:**  
June 27, 2013

**Title:** An act relating to child care.

**Brief Description:** Regulating child care subsidies.) (REVISED FOR SECOND ENGROSSED: Concerning child care subsidy fraud.

**Sponsors:** Senate Committee on Human Services & Corrections (originally sponsored by Senators Carrell, Pearson, Schoesler, Hill and Fain).

**Brief History:**

**Committee Activity:**

Early Learning & Human Services: 3/19/13, 4/2/13 [DPA].

**Second Special Session**

**Floor Activity:**

Passed House: 6/27/13, 89-0.

**Brief Summary of Second Engrossed Substitute Bill**

- Requires the Department of Early Learning to refer all incidents of suspected child care subsidy fraud to the Department of Social and Health Services Office of Fraud and Accountability for appropriate investigation and action.
- Establishes that the term "fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or herself or some other person.
- Specifies that the Department of Early Learning and the Department of Social and Health Services may establish and collect overpayments consistent with federal regulations or seek other remedies that may be legally available.

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**HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES**

**Majority Report:** Do pass as amended. Signed by 8 members: Representatives Kagi, Chair; Walsh, Ranking Minority Member; Farrell, Goodman, MacEwen, Roberts, Sawyer and Zeiger.

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*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.*

**Minority Report:** Do not pass. Signed by 2 members: Representatives Scott, Assistant Ranking Minority Member; Overstreet.

**Staff:** Lindsay Lanham (786-7120).

**Background:**

In Washington, there are several early learning, child care, and parent education programs. Each program has unique objectives, eligibility requirements, processes for enrollment, hours of operation, and funding streams. Home visiting programs, the Working Connections Child Care Program (WCCC), the Early Childhood Education and Assistance Program (ECEAP), and Seasonal Child Care (SCC) are all examples of early learning programs offered in the state.

The Department of Early Learning (DEL) establishes the rules and policies for all child care subsidy programs and trains, licenses, and monitors child care centers and family home child care providers for safety and compliance with agency rules. The DEL is also responsible for reporting to the federal government on child care subsidy and state expenditures. The Department of Social and Health Services (DSHS) determines family eligibility, authorizes child care, and pays providers for subsidized programming. The DSHS is also required to assess overpayments and underpayments made (or not made) to child care providers.

If it is determined that a family is eligible for subsidized early learning assistance, parents are required to pay a portion of the child care costs in the form of a copayment, while the DSHS also pays a portion of the child care costs directly to the child care provider. Child care providers are given information on correct payment and billing procedures from the DEL at the time of licensure. If a child care provider is found to have received an overpayment, the overpayment must be reported. The child care provider will then receive a vendor overpayment notice which outlines how to dispute the overpayment or the process for repayment. In the event of overpayments, child care providers are responsible for repayment and the DSHS and the DEL have the legal authority and multiple avenues in which to collect monies owed to the state.

**Summary of Second Engrossed Substitute Bill:**

The Department of Early Learning (DEL) is required to refer all suspected incidents of child care subsidy fraud to the Department of Social and Health Services (DSHS) Office of Fraud and Accountability for appropriate investigation and action. The term "fraud" is defined as an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or herself or some other person. This is the same definition of "fraud" that is utilized throughout the public assistance section RCW 74.04. Finally, it is specified that the DEL and the DSHS are not limited from establishing and collecting overpayments consistent with federal regulations or seek other remedies that may be legally available.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Second Engrossed Sunstitute 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) None.

(Opposed) The suggested policy changes do not address the concerns presented in the 2012 audit. Fraud is not the underlying problem causing errors in child care payments. Overpayments and underpayments are caused by a payment system that is antiquated, an eligibility system that does not offer accurate information pertaining to enrollment in the Working Connections Child Care Program, and the state's lack of capacity to provide child care owners with updated information on policy changes pertaining to billing and payment.

There is further concern that child care providers are not provided with guidance on how to create a form that accurately captures and tracks information considered necessary. Parameters are not clear and the only way to contact the Department of Social and Health Services for additional guidance is through electronic mail because it is too difficult to reach a person via the phone. Only through the audit process, was one child care owner able to learn how to properly keep records. The lack of a limitation in time and scope is also of concern to child care business providers.

In addition to concerns relating to suggested policy changes, there is worry that new subsidy rules may have unintended consequences. It is a common practice in a difficult economy for providers to support parents by not requiring a co-payment. In fact, one child care program serving families experiencing homelessness does not require copayments; rather, the program offers scholarships so that parents may utilize monies for other necessities. The collection of copayments does not fiscally impact the state. However, if a provider elects to not collect a co-payment they would be found in violation of the new policy and could face losing their business. Finally, all providers are already required to take a billing and payment class every two years.

Alternative options to address payment errors include the following: expediting the development and implementation of a new billing and payment system; streamlining all applications so that families can have accurate information; and increasing outreach to unlicensed providers so that they receive pertinent information. Finally, in an effort to maintain costs, it is suggested that exempt providers receive copies of billing and payment rules electronically, unless a provider requests a hard copy.

**Persons Testifying:** Amy Blondin, Department of Early Learning; Lani Todd, Service Employees International Union 925; Diane Gaile, Mariah Arts School; Ryan Pricco, Child Care Aware; and Melanie Smith, Wellspring Family Services.

**Persons Signed In To Testify But Not Testifying:** None.