
HOUSE BILL 2954

State of Washington

65th Legislature

2018 Regular Session

By Representatives Dent, Kilduff, and Haler

Read first time 01/29/18. Referred to Committee on Early Learning & Human Services.

1 AN ACT Relating to regulatory relief for licensed child care
2 providers; amending RCW 43.216.015, 43.216.065, and 19.85.020; adding
3 a new section to chapter 43.216 RCW; and providing an effective date.

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

5 **Sec. 1.** RCW 43.216.015 and 2017 3rd sp.s. c 6 s 101 are each
6 amended to read as follows:

7 (1)(a) The department of children, youth, and families is created
8 as an executive branch agency. The department is vested with all
9 powers and duties transferred to it under chapter 6, Laws of 2017 3rd
10 sp. sess. and such other powers and duties as may be authorized by
11 law. The vision for the department is that Washington state's
12 children and youth grow up safe and ((~~health~~[~~healthy~~—]) healthy—
13 thriving physically, emotionally, and academically, nurtured by
14 family and community.

15 (b) The department, in partnership with state and local agencies,
16 tribes, and communities, shall protect children and youth from harm
17 and promote healthy development with effective, high quality
18 prevention, intervention, and early education services delivered in
19 an equitable manner. An important role for the department shall be to
20 provide preventative services to help secure and preserve families in
21 crisis. The department shall partner with the federally recognized

1 Indian tribes to develop effective services for youth and families
2 while respecting the sovereignty of those tribes and the government-
3 to-government relationship. Nothing in chapter 6, Laws of 2017 3rd
4 sp. sess. alters the duties, requirements, and policies of the
5 federal Indian child welfare act, 25 U.S.C. Secs. 1901 through 1963,
6 as amended, or the Indian child welfare act, chapter 13.38 RCW.

7 (2) Beginning July 1, 2018, the department must develop
8 definitions for, work plans to address, and metrics to measure the
9 outcomes for children, youth, and families served by the department
10 and must work with state agencies to ensure services for children,
11 youth, and families are science-based, outcome-driven, data-informed,
12 and collaborative.

13 (3)(a) Beginning July 1, 2018, the department must establish
14 short and long-term population level outcome measure goals, including
15 metrics regarding reducing disparities by family income, race, and
16 ethnicity in each outcome.

17 (b) The department must report to the legislature on outcome
18 measures, actions taken, progress toward these goals, and plans for
19 the future year, no less than annually, beginning December 1, 2018.

20 (c) The outcome measures must include, but are not limited to:

21 (i) Improving child development and school readiness through
22 voluntary, high quality early learning opportunities as measured by:
23 (A) Increasing the number and proportion of children kindergarten-
24 ready as measured by the Washington kindergarten inventory of
25 developing skills (WAKids) assessment including mathematics; (B)
26 increasing the proportion of children in early learning programs that
27 have achieved the level 3 or higher early achievers quality standard;
28 and (C) increasing the available supply of licensed child care in
29 both child care centers and family homes, including providers not
30 receiving state subsidy;

31 (ii) Preventing child abuse and neglect;

32 (iii) Improving child and youth safety, permanency, and well-
33 being as measured by: (A) Reducing the number of children entering
34 out-of-home care; (B) reducing a child's length of stay in out-of-
35 home care; (C) reducing maltreatment of youth while in out-of-home
36 care; (D) licensing more foster homes than there are children in
37 foster care; (E) reducing the number of children that reenter out-of-
38 home care within twelve months; (F) increasing the stability of
39 placements for children in out-of-home care; and (G) developing
40 strategies to demonstrate to foster families that their service and

1 involvement is highly valued by the department, as demonstrated by
2 the development of strategies to consult with foster families
3 regarding future placement of a foster child currently placed with a
4 foster family;

5 (iv) Improving reconciliation of children and youth with their
6 families as measured by: (A) Increasing family reunification; and (B)
7 increasing the number of youth who are reunified with their family of
8 origin;

9 (v) In collaboration with county juvenile justice programs,
10 improving adolescent outcomes including reducing multisystem
11 involvement and homelessness; and increasing school graduation rates
12 and successful transitions to adulthood for youth involved in the
13 child welfare and juvenile justice systems;

14 (vi) Reducing future demand for mental health and substance use
15 disorder treatment for youth involved in the child welfare and
16 juvenile justice systems;

17 (vii) In collaboration with county juvenile justice programs,
18 reducing criminal justice involvement and recidivism as measured by:
19 (A) An increase in the number of youth who successfully complete the
20 terms of diversion or alternative sentencing options; (B) a decrease
21 in the number of youth who commit subsequent crimes; and (C)
22 eliminating the discharge of youth from institutional settings into
23 homelessness; and

24 (viii) Reducing racial and ethnic disproportionality and
25 disparities in system involvement and across child and youth outcomes
26 in collaboration with other state agencies.

27 (4) Beginning July 1, 2018, the department must:

28 (a) Lead ongoing collaborative work to minimize or eliminate
29 systemic barriers to effective, integrated services in collaboration
30 with state agencies serving children, youth, and families;

31 (b) Identify necessary improvements and updates to statutes
32 relevant to their responsibilities and proposing legislative changes
33 to the governor no less than biennially;

34 (c) Help create a data-focused environment in which there are
35 aligned outcomes and shared accountability for achieving those
36 outcomes, with shared, real-time data that is accessible to
37 authorized persons interacting with the family, child, or youth to
38 identify what is needed and which services would be effective;

39 (d) Lead the provision of state services to adolescents, focusing
40 on key transition points for youth, including exiting foster care and

1 institutions, and coordinating with the office of homeless youth
2 prevention and protection programs to address the unique needs of
3 homeless youth; and

4 (e) Create and annually update a list of the rights and
5 responsibilities of foster parents in partnership with foster parent
6 representatives. The list of foster parent rights and
7 responsibilities must be posted on the department's web site and
8 provided to foster parents in writing at the time of licensure.

9 (5) The department is accountable to the public. To ensure
10 transparency, beginning December 30, 2018, agency performance data
11 for the services provided by the department, including outcome data
12 for contracted services, must be available to the public, consistent
13 with confidentiality laws, federal protections, and individual rights
14 to privacy. Publicly available data must include budget and funding
15 decisions, performance-based contracting data, including data for
16 contracted services, and performance data on metrics identified in
17 this section. The oversight board for children, youth, and families
18 must work with the secretary and director to develop the most
19 effective and cost-efficient ways to make department data available
20 to the public, including making this data readily available on the
21 department's web site.

22 (6) The department shall ensure that all new and renewed
23 contracts for services are performance-based.

24 (7) As used in this section, "performance-based contract" means
25 results-oriented contracting that focuses on the quality or outcomes
26 that tie at least a portion of the contractor's payment, contract
27 extensions, or contract renewals to the achievement of specific
28 measurable performance standards and requirements.

29 (8) The department must execute all new and renewed contracts for
30 services in accordance with this section and consistent with RCW
31 74.13B.020. When contracted services are managed through a network
32 administrator or other third party, the department must execute data-
33 sharing agreements with the entities managing the contracts to track
34 provider performance measures. Contracts with network administrators
35 or other third parties must provide the contract administrator the
36 ability to shift resources from one provider to another, to evaluate
37 individual provider performance, to add or delete services in
38 consultation with the department, and to reinvest savings from
39 increased efficiencies into new or improved services in their
40 catchment area. Whenever possible, contractor performance data must

1 be made available to the public, consistent with confidentiality laws
2 and individual rights to privacy.

3 (9)(a) The oversight board for children, youth, and families
4 shall begin its work and call the first meeting of the board on or
5 after July 1, 2018. The oversight board shall immediately assume the
6 duties of the legislative children's oversight committee, as provided
7 for in RCW 74.13.570 and assume the full functions of the board as
8 provided for in this section by July 1, 2019. The office of
9 innovation, alignment, and accountability shall provide quarterly
10 updates regarding the implementation of the department of children,
11 youth, and families to the board between July 1, 2018, and July 1,
12 2019.

13 (b) The ombuds shall establish the oversight board for children,
14 youth, and families. The board is authorized for the purpose of
15 monitoring and ensuring that the department of children, youth, and
16 families achieves the stated outcomes of chapter 6, Laws of 2017 3rd
17 sp. sess., and complies with administrative acts, relevant statutes,
18 rules, and policies pertaining to early learning, juvenile
19 rehabilitation, juvenile justice, and children and family services.

20 (10)(a) The oversight board for children, youth, and families
21 shall consist of two senators and two representatives from the
22 legislature with one member from each major caucus, one nonvoting
23 representative from the governor's office, one subject matter expert
24 in early learning, one subject matter expert in child welfare, one
25 subject matter expert in juvenile rehabilitation and justice, one
26 subject matter expert in reducing disparities in child outcomes by
27 family income and race and ethnicity, one tribal representative from
28 the west of the crest of the Cascade mountains, one tribal
29 representative from the east of the crest of the Cascade mountains,
30 one current or former foster parent representative, one
31 representative of an organization that advocates for the best
32 interest of the child, one parent stakeholder group representative,
33 one law enforcement representative, one child welfare caseworker
34 representative, one early childhood learning program implementation
35 practitioner, and one judicial representative presiding over child
36 welfare court proceedings or other children's matters.

37 (b) The senate members of the board shall be appointed by the
38 leaders of the two major caucuses of the senate. The house of
39 representatives members of the board shall be appointed by the
40 leaders of the two major caucuses of the house of representatives.

1 Members shall be appointed before the close of each regular session
2 of the legislature during an odd-numbered year.

3 (c) The remaining board members shall be nominated by the
4 governor, subject to the approval of the appointed legislators by
5 majority vote of the four legislators, and serve four-year terms.

6 (11) The oversight board for children, youth, and families has
7 the following powers, which may be exercised by majority vote of the
8 board:

9 (a) To receive reports of the family and children's ombuds;

10 (b) To obtain access to all relevant records in the possession of
11 the family and children's ombuds, except as prohibited by law;

12 ~~(c) ((To select its officers and adoption of rules for orderly
13 procedure;~~

14 ~~(d))~~ To request investigations by the family and children's
15 ombuds of administrative acts;

16 ~~((e))~~ (d) To request and receive information, outcome data,
17 documents, materials, and records from the department of children,
18 youth, and families relating to children and family welfare, juvenile
19 rehabilitation, juvenile justice, and early learning;

20 ~~((f))~~ (e) To determine whether the department of children,
21 youth, and families is achieving the performance measures;

22 ~~((g))~~ (f) If final review is requested by a licensee, to review
23 whether department of children, youth, and families' licensors
24 appropriately and consistently applied agency rules in child care
25 facility licensing compliance agreements as defined in RCW 43.216.395
26 that do not involve a violation of health and safety standards as
27 defined in RCW 43.216.395 in cases that have already been reviewed by
28 the internal review process described in RCW 43.216.395 with the
29 authority to overturn, change, or uphold such decisions;

30 ~~((h))~~ (g) To conduct annual reviews of a sample of department
31 of children, youth, and families contracts for services from a
32 variety of program and service areas to ensure that those contracts
33 are performance-based and to assess the measures included in each
34 contract; and

35 ~~((i))~~ (h) Upon receipt of records or data from the family and
36 children's ombuds or the department of children, youth, and families,
37 the oversight board for children, youth, and families is subject to
38 the same confidentiality restrictions as the family and children's
39 ombuds is under RCW 43.06A.050. The provisions of RCW 43.06A.060 also
40 apply to the oversight board for children, youth, and families.

1 (12) The oversight board for children, youth, and families has
2 the power to select its officers and adopt all rules and regulations
3 for orderly procedure and service delivery. All rules must be
4 approved by a two-thirds vote of the board.

5 (13) The oversight board for children, youth, and families has
6 general oversight over the performance and policies of the department
7 and shall provide advice and input to the department and the
8 governor.

9 (~~(13)~~) (14) The oversight board for children, youth, and
10 families must no less than twice per year convene stakeholder
11 meetings to allow feedback to the board regarding department rule
12 making and regulations, contracting with the department of children,
13 youth, and families, departmental use of local, state, private, and
14 federal funds, and other matters as relating to promulgating rules
15 and carrying out the duties of the department.

16 (~~(14)~~) (15) The oversight board for children, youth, and
17 families shall review existing surveys of providers, customers,
18 parent groups, and external services to assess whether the department
19 of children, youth, and families is effectively delivering services,
20 and shall conduct additional surveys as needed to assess whether the
21 department is effectively delivering services.

22 (~~(15)~~) (16) The oversight board for children, youth, and
23 families is subject to the open public meetings act, chapter 42.30
24 RCW.

25 (~~(16)~~) (17) Records or information received by the oversight
26 board for children, youth, and families is confidential to the extent
27 permitted by state or federal law. This subsection does not create an
28 exception for records covered by RCW 13.50.100.

29 (~~(17)~~) (18) The oversight board for children, youth, and
30 families members shall receive no compensation for their service on
31 the board, but shall be reimbursed for travel expenses incurred while
32 attending meetings of the board when authorized by the board in
33 accordance with RCW 43.03.050 and 43.03.060.

34 (~~(18)~~) (19) The oversight board for children, youth, and
35 families shall select, by majority vote, an executive director who
36 shall be the chief administrative officer of the board and shall be
37 responsible for carrying out the policies adopted by the board. The
38 executive director is exempt from the provisions of the state civil
39 service law, chapter 41.06 RCW, and shall serve at the pleasure of
40 the board established in this section.

1 (~~(19)~~) (20) The oversight board for children, youth, and
2 families shall maintain a staff not to exceed one full-time
3 equivalent employee. The board-selected executive director of the
4 board is responsible for coordinating staff appointments.

5 (~~(20)~~) (21) The oversight board for children, youth, and
6 families shall issue an annual report to the governor and legislature
7 by December 1st of each year with an initial report delivered by
8 December 1, 2019. The report must review the department of children,
9 youth, and families' progress towards meeting stated performance
10 measures and desired performance outcomes, and must also include a
11 review of the department's strategic plan, policies, and rules.

12 (~~(21)~~) (22) As used in this section, "department" means the
13 department of children, youth, and families, "director" means the
14 director of the office of innovation, alignment, and accountability,
15 and "secretary" means the secretary of the department.

16 (~~(22)~~) (23) The governor must appoint the secretary of the
17 department within thirty days of July 6, 2017.

18 **Sec. 2.** RCW 43.216.065 and 2017 3rd sp.s. c 6 s 204 are each
19 amended to read as follows:

20 (1) In addition to other duties under this chapter, the secretary
21 shall actively participate in a nongovernmental private-public
22 partnership focused on supporting government's investments in early
23 learning and ensuring that every child in the state is prepared to
24 succeed in school and in life. Except for licensing as required by
25 Washington state law and to the extent permitted by federal law, the
26 secretary shall grant waivers from the rules of state agencies for
27 the operation of early learning programs requested by the
28 nongovernmental private-public partnership to allow for flexibility
29 to pursue market-based approaches to achieving the best outcomes for
30 children and families.

31 (2) In addition to other powers granted to the secretary, the
32 secretary may:

33 (a) Enter into contracts on behalf of the department to carry out
34 the purposes of this chapter;

35 (b) Accept gifts, grants, or other funds for the purposes of this
36 chapter; and

37 (c) Adopt, in accordance with chapter 34.05 RCW and subject to
38 the oversight board's approval under RCW 43.216.015(12), rules
39 necessary to implement this chapter, including rules governing child

1 day care and early learning programs under this chapter. This section
2 does not expand the rule-making authority of the (~~director~~)
3 secretary beyond that necessary to implement and administer programs
4 and services existing July 1, 2006, as transferred to the department
5 of early learning under section 501, chapter 265, Laws of 2006. The
6 rule-making authority does not include any authority to set mandatory
7 curriculum or establish what must be taught in child day care centers
8 or by family day care providers.

9 **Sec. 3.** RCW 19.85.020 and 2007 c 239 s 2 are each amended to
10 read as follows:

11 The definitions in this section apply through this chapter unless
12 the context clearly requires otherwise.

13 (1) "Industry" means all of the businesses in this state in any
14 one four-digit standard industrial classification as published by the
15 United States department of commerce, or the North American industry
16 classification system as published by the executive office of the
17 president and the office of management and budget. However, if the
18 use of a four-digit standard industrial classification or North
19 American industry classification system would result in the release
20 of data that would violate state confidentiality laws, "industry"
21 means all businesses in a three-digit standard industrial
22 classification or the North American industry classification system.

23 (2) "Minor cost" means a cost per business that is less than
24 three-tenths of one percent of annual revenue or income, or one
25 hundred dollars, whichever is greater, or one percent of annual
26 payroll. However, for the rules of the department of social and
27 health services and department of children, youth, and families,
28 "minor cost" means cost per business that is less than fifty dollars
29 of annual cost per client, provider, or other appropriate unit of
30 service.

31 (3) "Small business" means any business entity, including a sole
32 proprietorship, corporation, partnership, or other legal entity, that
33 is owned and operated independently from all other businesses, and
34 that has fifty or fewer employees.

35 (4) "Small business economic impact statement" means a statement
36 meeting the requirements of RCW 19.85.040 prepared by a state agency
37 pursuant to RCW 19.85.030.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.216
2 RCW to read as follows:

3 (1) By December 1, 2018, within current appropriations, the
4 department shall complete a review of all rules issued by the
5 department and its predecessor department since January 1, 2016,
6 relating to licensed family day care and child care center providers
7 that create potential operational cost increases for licensed child
8 care providers.

9 (2) The department must report its findings to the legislature by
10 December 1, 2018.

11 NEW SECTION. **Sec. 5.** This act takes effect July 1, 2018.

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