

# SENATE BILL REPORT

## SSB 5151

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As Amended by House, April 6, 2021

**Title:** An act relating to foster care and child care licensing by the department of children, youth, and families.

**Brief Description:** Concerning foster care and child care licensing by the department of children, youth, and families.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Wilson, C., Das, Kuderer, Nobles and Saldaña; by request of Department of Children, Youth, and Families).

**Brief History:**

**Committee Activity:** Early Learning & K-12 Education: 1/22/21, 1/27/21 [DP-WM, w/oRec].

Ways & Means: 2/09/21, 2/16/21 [DPS, DNP, w/oRec].

**Floor Activity:** Passed Senate: 2/25/21, 29-18.

Passed House: 4/6/21, 88-10.

### Brief Summary of First Substitute Bill

- Makes an outdoor nature-based child care pilot program permanent and adds this program to various provisions.
- Amends provisions related to child care licensing including the definition of seasonal camps, programs in private schools, background check submissions, and an internal review process.
- Makes changes to foster care licensing including creating a child-specific license and amending the definition of a qualified residential treatment program.
- Prohibits the secretary of the Department of Children, Youth, and Families from charging fees to the licensee for obtaining a child care license until June 30, 2023.

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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 part of the legislation nor does it constitute a statement of legislative intent.*

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**SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION**

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

Signed by Senators Wellman, Chair; Nobles, Vice Chair, K-12; Wilson, C., Vice Chair, Early Learning; Hunt, Mullet and Pedersen.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Hawkins, Ranking Member; Dozier and McCune.

**Staff:** Ailey Kato (786-7434)

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**SENATE COMMITTEE ON WAYS & MEANS**

**Majority Report:** That Substitute Senate Bill No. 5151 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Carlyle, Conway, Darneille, Dhingra, Hasegawa, Hunt, Keiser, Lias, Mullet, Pedersen, Van De Wege and Wellman.

**Minority Report:** Do not pass.

Signed by Senators Honeyford, Assistant Ranking Member, Capital; Schoesler, Assistant Ranking Member, Capital.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Braun, Gildon, Muzzall, Rivers, Wagoner and Warnick.

**Staff:** Sarah Emmans (786-7478)

**Background:** Outdoor Nature-Based Child Care Pilot Project. In 2017, the Department of Children, Youth, and Families (DCYF) was directed to establish a pilot project to license outdoor nature-based early learning and child care programs. The pilot project is set to conclude on June 30, 2021.

Child Care Licensing Exemptions. It is unlawful for any agency to care for children unless the agency is licensed. The term agency does not include a number of entities including:

- seasonal camps of three months' or less duration engaged primarily in recreational or educational activities; and
- schools, including boarding schools, that are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, and accept only school age children.

Background Checks. To qualify for a non-expiring full child care license, a licensee must submit certain information including background check applications.

Internal Review Process and Facility Licensing Compliance Agreements. DCYF must develop an internal review process to determine whether licensors have appropriately and consistently applied agency rules in child care facility license compliance agreements that do not involve a violation of health and safety standards. A licensee must request a review under the internal review process within ten days of the development of an agreement.

Child care facility licensing compliance agreement means an agreement issued by DCYF in lieu of enforcement action against a child care provider that contains certain elements.

Relative Care. State law provides the secretary of DCYF with the power and duty to adopt and publish minimum requirements for licensing foster family homes. Kinship care is the full-time care of children by relatives. DCYF is responsible for planning, designing and implementing strategies to prioritize placing children with willing and able kin when out-of-home placement is required.

Qualified Residential Treatment Programs. The Family First Prevention Services Act (FFPSA) modified the way that Title IV-E funds may be spent. The FFPSA places restrictions on the use of congregate or group care for a child by generally not reimbursing the state for a child placed in a group care setting for more than two weeks that is not a foster home or a qualified residential treatment program (QRTP). A QRTP must:

- use a trauma-informed treatment model that is designed to address the needs of children with serious emotional or behavioral disorders or disturbances, and
- be able to implement treatment that meets certain requirements.

Child Care Licensing Fees. Current law requires the secretary of the DCYF to charge fees to the licensee for obtaining a child care license. The secretary has the discretion to waive fees if the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state. Fees charged must be based on, but must not exceed, the cost to DCYF for the licensure of the activity and may include costs of necessary inspection. DCYF must establish the fees in rule. The annual fee for family home providers is \$30, and the annual fee for child care centers is \$125 for the first 12 children plus \$12 for each additional child.

**Summary of First Substitute Bill:** Outdoor Nature-Based Child Care. The outdoor nature-based child care program is made permanent. It is defined as an agency or any agency-offered program that:

- enrolls preschool or school-age children;
- provides early learning services in an outdoor natural space approved by DCYF for not less than four hours per day or 50 percent of the daily program hours, whichever is less; and
- teaches a nature-based curriculum.

DCYF must adopt rules to implement and apply Early Achievers to this program. DCYF may waive or adapt licensing and Early Achievers requirements when necessary.

A federally recognized tribe may participate in an outdoor nature-based child care program through an interlocal agreement between the tribe and DCYF.

Subject to the availability of funds, DCYF may convene an advisory group of practitioners to inform and support implementation of the program.

Outdoor nature-based child care program adds to various provisions including:

- Early Achievers requirements;
- certain reports;
- various licensing and insurance requirements;
- ability to provide Early Childhood Education and Assistance Program; and
- pesticide use and immunization requirements.

Child Care Licensing Exemptions. The definition of "seasonal camps" is amended to mean a program that:

- operates for three months or less within a period of 12 consecutive months;
- is engaged primarily in recreational or educational activities conducted on a closely supervised basis; and
- is owned by any person, organization, association, or corporation, or is operated by a federal, state, county, or municipal government.

Private schools that operate early learning programs and do not receive state subsidy payments are subject to the minimum health and safety developed by DCYF to protect the health and safety of children against substantial risk of bodily injury, illness, or death and any other health and safety requirements on private schools.

Background Checks. All current employees of the child care agency must submit background check applications into DCYF's electronic workforce registry.

Internal Review Process and Inspection Reports. The internal review process and appeals process is used to determine whether licensors have appropriately and consistently applied agency rules in inspection reports instead of child care facility licensing compliance agreements. Inspection report means a written or digital record or report by DCYF that identifies or describes licensing violations or conditions within an agency.

The internal review process must be completed within 60, instead of 30, days after the request from the licensee.

The prohibition that DCYF not develop a child care facility licensing compliance agreement for first-time violations of rules that do not relate to health and safety standards is removed.

Child-Specific Foster Care Licenses. DCYF may issue a child-specific license to a relative or a suitable person who opts to become licensed for placement of a specific child and that

child's siblings or relatives in DCYF's care, custody, and control. Such individuals must meet all minimum licensing requirements and other criteria DCYF establishes by rule.

For purposes of federal funding, a child-specific license is considered a full license with all of the rights and responsibilities of a foster family home license except that the licensee may only receive placement of specific children. Placement with a person who holds a child-specific license is subject to DCYF's sole discretion.

DCYF must seek input from certain stakeholders during the development and adoption of rules necessary to implement this license.

Qualified Residential Treatment Program. The definition of QRTP is amended to mean a program that meets certain state requirements, qualifies for funding under the FFPSA, and, if located within the state, is licensed as a group care facility.

Prohibition on Licensing Fees. DCYF is prohibited from charging fees to the licensee for obtaining a child care license until June 30, 2023.

**Appropriation:** The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill contains several effective dates. Please refer to the bill.

**Staff Summary of Public Testimony on Original Bill (Early Learning & K-12 Education):** PRO: This bill addresses licensing by DCYF, which includes outdoor nature-based child care and a new child-specific license for when out-of-home placement is required. Outdoor learning provides children with the opportunity to meaningfully connect with the land they inhabit. Young children who have regular experiences outdoors have improved academic, mental health, physical health, and resiliency outcomes. The pilot program for licensing outdoor nature-based programs should be permanent and expands to include school-age child care. Licensing will allow for longer hours and increase equity and access. Outdoor programs partner with public parks, so they can operate with low facility costs and utilize public spaces that are empty during the week. Outdoor programs provide a safer option during COVID-19. Outdoor programs serve a disproportionate number of white households. This bill would open the door for more children throughout the state to experience valuable outdoor opportunities. Outcomes for dependent children placed with kin are much better, but there is little financial assistance for these caregivers. Child-specific licenses for a relative or suitable persons would provide an abbreviated and improved process to obtain a license and allow them to receive state support. It is in the best interest of kids to keep families together and addressing the systematic racism that

exists. It is important to seek input from families when creating the child-specific license.

CON: There is concern about adding more regulations to kinship care, and it could be an intrusion on privacy and correction of parenting styles. One size fits all will have a negative influence, especially with cultural differences.

**Persons Testifying (Early Learning & K-12 Education):** PRO: Senator Claire Wilson, Prime Sponsor; Laurie Lippold, Partners for Our Children; Allison Krutsinger, Department of Children, Youth and Families; Kellie Morrill, Tiny Trees Preschool; David Beard, School's Out Washington; Nicole Corbo, Washington Nature Preschool Association; Sheri Hill, Sheri L. Hill PHD LLC; Sakara Remmu, The Washington Black Lives Matter Alliance; Sibyl Maer-Fillo, Washington Outdoor School; Catherine Callahan-Clem, Kinship Caregiver; Dawn Rains, Treehouse; Shacre D. Norris, citizen; Barb Taylor, King County Kinship Collaboration; Khavin Debbs, Tiny Trees Preschool; Geeta Naidu, Tiny Trees Preschool.

CON: Sharon Hanek, citizen.

**Persons Signed In To Testify But Not Testifying (Early Learning & K-12 Education):**  
No one.

**Staff Summary of Public Testimony on Original Bill (Ways & Means):** *The committee recommended a different version of the bill than what was heard.* PRO: This bill allows DCYF to improve their practices. Most of the changes in the bill do not cost money and will improve efficiency. The child specific licenses may have a fiscal impact but that is unknown. This bill will advance equity and access to high quality childcare. Outdoor education is proven to be safer for children right now, and has many other educational benefits. Child specific licenses will allow youth who are raised with kin to stay with their families. This bill will help children and families, especially families of color, to have better outcomes.

**Persons Testifying (Ways & Means):** PRO: Allison Krutsinger, Department of Children, Youth, and Families; Sheri Hill, Sheri L Hill PHD LLC; Sibyl Maer-Fillo, Washington Outdoor School; Sakara Remmu, The Washington Black Lives Matter Alliance; Barb Taylor, King County Kinship Collaboration.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.

#### **EFFECT OF HOUSE AMENDMENT(S):**

- Removes language providing that placement of a child with a relative or suitable person who holds a child-specific license is subject to the sole discretion of DCYF.