
**Early Learning & Human Services
Committee**

HB 1611

Brief Description: Clarifying the department of early learning's authority with respect to licensed child care facilities.

Sponsors: Representatives Short, Orwall, McCune, Walsh and Rolfes.

Brief Summary of Bill

- Requires the Department of Early Learning (DEL) to provide a written offer to enter into an informal dispute resolution process with a licensee before issuing a probationary license to the licensee.
- Requires a higher standard of review for a DEL decision to deny, modify, suspend, or revoke an agency license.
- Requires the DEL to develop and make available to child care centers a quality improvement consultation program.

Hearing Date: 2/10/11

Staff: Linda Merelle (786-7092).

Background:

The Department of Early Learning (DEL) is responsible for child care quality and licensing. The DEL may issue a license to a family day care provider or a child care center. A family day care provider provides child care for not more than 12 children. A child care center provides day care for more than 12 children for periods of less than 24 hours.

Once a license has been issued, the DEL may issue a probationary license for a licensee who is temporarily unable to comply with a rule or if the licensee has been the subject of multiple complaints or concerns about his or her noncompliance. The probationary license may be issued if the licensee's noncompliance does not present an immediate threat to the health and well-being

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.

of the children but such threat may occur if conditions are allowed to continue. The probationary license is also contingent upon the development of a licensee's plan, approved by the DEL, to correct an area of noncompliance within the probationary period. A probationary license may be issued for up to 6 months and may, at the DEL's discretion, be extended for 6 months. An existing license is invalidated when a probationary license is issued.

In any adjudicative proceeding where the DEL has issued a denial, revocation, suspension, or modification of an agency's license, the DEL's decision will be upheld if it is supported by a preponderance of the evidence; i.e., the factual evidence weighed in favor of the DEL's decision.

Summary of Bill:

Probationary Licenses.

Under this bill, the DEL must meet an additional criterion before it issues a probationary license to a licensee. The DEL must have offered in writing to enter into an informal dispute resolution process with the licensee to be convened by the Office of the Family and Children's Ombudsman (OFCO) and one of the following must have occurred:

- the licensee has refused, in writing, to participate in the formal dispute resolution process or failed to respond within 15 working days of the date of the DEL's written offer; or
- the licensee agrees, in writing to the DEL's offer within 15 working days of the written offer and the OFCO certifies in writing that the DEL and the licensee participated in the informal dispute resolution process and they were not able to informally resolve their dispute.

Adjudicative Hearings.

In any adjudicative hearing regarding the DEL's denial, modification, suspension, or revocation of a license, the DEL's decision will be upheld if it is supported by clear and convincing evidence.

Quality Improvement Consultation Program.

The DEL must develop and make available to child care centers a quality improvement consultation program using the following principles:

- it must be a separate process from the facility licensing compliance agreement process and must be voluntary;
- child care centers must be supported in their efforts to improve quality and address problems, as identified by the licensee; and
- the consultation program staff may not simultaneously serve as licensors for the DEL, complaint investigators, or participate in any enforcement-related decisions, within the region in which they perform consultation activities.

Any records or information gained as a result of work on the consultation program may not be disclosed or shared with non-managerial DEL licensing or complaint investigation staff unless necessary to carry out duties regarding the abuse of children.

Appropriation: None.

Fiscal Note: Requested on February 2, 2011.

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