

HOUSE BILL REPORT

HB 1611

As Reported by House Committee On:
Early Learning & Human Services

Title: An act relating to clarifying the department of early learning's authority with respect to licensed child care facilities.

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 History:

Committee Activity:

Early Learning & Human Services: 2/10/11, 2/17/11 [DPS].

Brief Summary of Substitute Bill

- Requires the Department of Early Learning to make available to child care centers a voluntary quality improvement consultation program separate from the licensing and enforcement programs.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Kagi, Chair; Roberts, Vice Chair; Walsh, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Dickerson, Goodman, Johnson, Orwall and Overstreet.

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.

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.

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 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.

Summary of Substitute Bill:

The DEL must coordinate with the statewide Child Care Resource and Referral Network to provide a quality improvement consultation program which supports child care centers in their efforts to improve quality and address problems as identified by the child care provider. The consultation program must be a separate process from the facility licensing and compliance process. Records or information gained as a result of a child care center's work under the quality improvement consultation program may not be disclosed or shared with non-managerial licensing or complaint investigation staff unless such disclosure is within the DEL's mandatory reporting duties.

Substitute Bill Compared to Original Bill:

The informal dispute resolution provision has been removed from the bill. The substitute bill does not contain the provision regarding the heightened burden of proof for the DEL in adjudicatory proceedings. The DEL is not required to create a quality improvement consultation program, but it must coordinate with the statewide Child Care Resource and Referral Network to provide a consultation service.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute 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) The most critical aspect of this bill is the provision regarding licensing. When a licensee is placed on probation, there is no due process. They either accept or reject it. Often licensees are not given notice that DEL feels that there are problems. This is an attempt to put due process into the system. There is a lack of an ability to take steps in a non-regulatory

setting. Some centers have relocated or closed because they have felt that they did not have due process. It is important to increase DEL's burden of proof at the adjudicatory hearings. Providers have tried to find a system because for many years they have felt that they did not have a voice. The current system does not offer a third or neutral party. Without due process, families run the risk of losing child care and providers run the risk of losing their license. We think that there can be a balance between health and safety for children and due process for the providers.

(In support with concerns) There have been instances when large child care centers have been shut down almost without warning. Funding cuts have reduced the capacity of the Child Care Resource and Referral Network to provide outreach for child care centers. A lot of consultation is referred by the DEL, and the DEL is only informed about the specific issue for which the provider was referred. Section 3 is duplicative of the work of the Child Care Resource and Referral Network.

(Opposed) The DEL could move away from the concept of a probation license and move toward a conditional license, but it cannot support increasing the burden of proof from "preponderance of evidence" to "clear and convincing evidence." The courts have upheld that preponderance is the appropriate level. Section 3 of the bill requires a bifurcated system. It is a good idea in theory, but the DEL would need more staff. The DEL may also be able to develop options that will not require additional staff.

Persons Testifying: (In support) Representative Short, prime sponsor; Mary Jo Shannon, American Federation of Teachers and Washington Educators in Early Learning; and Kursten Holabird, Service Employees International Union 925.

(In support with concerns) Ryan Pricco, Washington State Child Care Resource and Referral Network.

(Opposed) Amy Blondin, Department of Early Learning.

Persons Signed In To Testify But Not Testifying: None.