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**HOUSE BILL 1454**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Representatives Gregerson, Leavitt, Lekanoff, Ormsby, Bronoske, Hackney, and Harris-Talley

AN ACT Relating to illegal, unlicensed child care; amending RCW 43.216.325; adding a new section to chapter 43.216 RCW; and providing an expiration date.

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

**Sec.**  RCW 43.216.325 and 2018 c 58 s 38 are each amended to read as follows:

(1) An agency may be denied a license, or any license issued pursuant to this chapter may be suspended, revoked, modified, or not renewed by the secretary upon proof (a) that the agency has failed or refused to comply with the provisions of this chapter or the requirements adopted pursuant to this chapter; or (b) that the conditions required for the issuance of a license under this chapter have ceased to exist with respect to such licenses. RCW 43.216.327 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

(2) In any adjudicative proceeding regarding the denial, modification, suspension, or revocation of any license under this chapter, the department's decision shall be upheld if it is supported by a preponderance of the evidence.

(3)(a) The department may assess civil monetary penalties upon proof that an agency has failed or refused to comply with the rules adopted under this chapter or that an agency subject to licensing under this chapter is operating without a license except that civil monetary penalties shall not be levied against a licensed foster home.

(b) Monetary penalties levied against unlicensed agencies that submit an application for licensure within thirty days of notification and subsequently become licensed will be forgiven. These penalties may be assessed in addition to or in lieu of other disciplinary actions. Civil monetary penalties, if imposed, may be assessed and collected, with interest, for each day an agency is or was out of compliance.

(c) Civil monetary penalties shall not exceed one hundred fifty dollars per violation for a family day care home and two hundred fifty dollars per violation for child day care centers. Each day upon which the same or substantially similar action occurs is a separate violation subject to the assessment of a separate penalty.

(d) The department shall provide a notification period as provided under RCW 43.216.360 before a monetary penalty is effective and may forgive the penalty levied if the agency comes into compliance during this period.

(e) The department may suspend, revoke, or not renew a license for failure to pay a civil monetary penalty it has assessed pursuant to this chapter within ten days after such assessment becomes final. RCW 43.216.335 governs notice of a civil monetary penalty and provides the right to an adjudicative proceeding. The preponderance of evidence standard shall apply in adjudicative proceedings related to assessment of civil monetary penalties.

(f) The department may request that an agency subject to licensing under this chapter that is operating without a license voluntarily provide the names of parents whose children received child care from that agency so that the department can contact these parents to inform them about licensed child care providers in the area. If an agency does voluntarily provide the names of parents whose children received child care under this subsection within 30 days of receiving this request, the department shall waive any penalties assessed against the agency if:

(i) The agency is no longer operating without a license or subject to licensure; and

(ii) No children were harmed while in the care of the agency.

(4)(a) In addition to or in lieu of an enforcement action being taken, the department may place a child day care center or family day care provider on nonreferral status if the center or provider has failed or refused to comply with this chapter or rules adopted under this chapter or an enforcement action has been taken. The nonreferral status may continue until the department determines that: (i) No enforcement action is appropriate; or (ii) a corrective action plan has been successfully concluded.

(b) Whenever a child day care center or family day care provider is placed on nonreferral status, the department shall provide written notification to the child day care center or family day care provider.

(5) The department shall notify appropriate public and private child care resource and referral agencies of the department's decision to: (a) Take an enforcement action against a child day care center or family day care provider; or (b) place or remove a child day care center or family day care provider on nonreferral status.

(6) In addition to the civil penalties authorized under this section, if the department makes a final determination that a person was an agency subject to licensing under this chapter that operated without a license, the department may:

(a) Issue a cease and desist order;

(b) Post a notice on the premises of the agency subject to licensing under this chapter that is operating without a license indicating that child care services were provided on those premises without a license when licensure is required under this chapter.

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

(1) The department, the Washington association of sheriffs and police chiefs, and the Washington association of prosecuting attorneys shall jointly develop a model policy related to responding to complaints alleging that an agency subject to licensure under this chapter is operating without a license. The model policy must, at a minimum, include the appropriate:

(a) Roles for the department and law enforcement in responding to complaints alleging that an agency subject to licensure under this chapter is operating without a license;

(b) Occasions when the department should involve law enforcement when responding to complaints alleging that an agency subject to licensure under this chapter is operating without a license; and

(c) Criteria to use in determining whether penalties should be assessed as provided under RCW 43.216.325 or criminal charges should be pursued as provided under RCW 43.216.365 against an agency subject to licensure under this chapter that is operating without a license.

(2) By November 1, 2021, and in compliance with RCW 43.01.036, the department and the Washington association of sheriffs and police chiefs shall submit a report to the governor and the appropriate committees of the legislature that details the model policy required under subsection (1) of this section.

(3) This section expires June 20, 2022.

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