

HOUSE BILL REPORT

SSB 5151

As Passed House - Amended:

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:

Children, Youth & Families: 3/11/21, 3/17/21 [DPA];

Appropriations: 3/30/21, 3/31/21 [DPA(CYF)].

Floor Activity:

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

Brief Summary of Substitute Bill (As Amended By House)

- Makes the outdoor nature-based child care pilot program permanent.
- Amends provisions related to child care licensing.
- 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 for obtaining a child care license until June 30, 2023.

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.

HOUSE COMMITTEE ON CHILDREN, YOUTH & FAMILIES

Majority Report: Do pass as amended. Signed by 11 members: Representatives Senn, Chair; Harris-Talley, Vice Chair; Rule, Vice Chair; Dent, Ranking Minority Member; Chase, Assistant Ranking Minority Member; Callan, Eslick, Goodman, Klippert, Ortiz-Self and Wicks.

Minority Report: Without recommendation. Signed by 1 member: Representative Young.

Staff: Lena Brodsky (786-7192).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Children, Youth & Families. Signed by 28 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Caldier, Chopp, Cody, Dolan, Fitzgibbon, Frame, Hansen, Harris, Hoff, Jacobsen, Johnson, J., Lekanoff, Pollet, Rude, Ryu, Senn, Springer, Steele, Stonier, Sullivan and Tharinger.

Minority Report: Without recommendation. Signed by 5 members: Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Chandler, Dye and Schmick.

Staff: Jordan Clarke (786-7123).

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 expire 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.

Any person seeking a child care license or employment in any licensed or regulated child care facility must submit certain information including background check applications.

Internal Review Process and Facility Licensing Compliance Agreements.

The 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 10 days of the development of an agreement.

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

- a description of the violation and the rule or law that was violated;
- a statement from the licensee regarding the proposed plan to comply with the rule or law;
- the date the violation must be corrected;
- information regarding other licensing action that may be imposed if compliance does not occur by the required date; and
- the signature of the licensor and licensee.

Relative Care.

State law provides the Secretary of the DCYF (Secretary) 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. The 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 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 the DCYF for the licensure of the activity and may include costs of necessary inspection. The 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 Amended 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 the 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.

The Early Achievers (EA) program is applied to outdoor nature-based child care, and the DCYF must adopt rules to implement and apply the EA program. The DCYF may waive or adapt licensing and the EA requirements when necessary to allow for the operation of outdoor classrooms.

A federally recognized tribe may participate in an outdoor nature-based child care program through an interlocal agreement between the tribe and the DCYF. Subject to the availability of funds, the DCYF may convene an advisory group of practitioners to inform and support implementation of the outdoor nature-based child care program. Outdoor nature-based child care program is added to various provisions including:

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

Child Care Licensing Exemptions.

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

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.

Background Checks.

All current employees of the child care agency must submit background check applications

into the DCYF's electronic workforce registry.

Internal Review Process and Inspection Reports.

The internal review process and appeals process is amended so that it 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 the 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 the 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.

The 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 the DCYF's care, custody, and control. Such individuals must meet all minimum licensing requirements and other criteria the 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.

The 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.

The DCYF is prohibited from charging fees to obtain a child care license until June 30, 2023.

Appropriation: None.

Fiscal Note: Available.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 4, relating to recognizing outdoor nature-based child care

and inspection reports, which takes effect December 31, 2021. However, section 29 is null and void unless funded in the budget.

Staff Summary of Public Testimony (Children, Youth & Families):

(In support) Outdoor nature-based programs are proven to help children's academic progress. These programs help children learn more about the environment and the world in which they live. The outdoor preschool programs have the potential to improve health equity in early childhood. Many studies have shown that access to nature has great benefits for children, including increased physical activity, reducing obesity rates, decreased stress, and improved mental health. The access to nature for children has compounded positive impacts. Exposure to nature changes lives.

There is a lot of support for the outdoor preschool pilot program to be made permanent. The bill ensures that families have more options, and these policy changes have already been vetted in the past four years with the pilot program. Expanding the outdoor nature-based child care licensing opens the door for more children across the state who have not had access to these programs to have these experiences. Providing child care in public spaces reduces the cost of child care facilities. The bill allows programs to obtain these licenses and maintain the licenses they have. Expanding these programs to longer, fuller days will ensure that more families can access these programs.

Child-specific foster care licensing focuses on the child and what is in the best interest of the child. The bill allows the DCYF to grant a child-specific license for a child's relative, and in that way the child can remain in that family. It is known that children who stay with their families are more successful. Relatives are vital to children in crisis. Children who are removed from their homes fare better when placed with relatives. The proposal in the bill is about family preservation. Families currently providing kinship care, because they do not have licenses and the benefits from those licenses, are struggling. The state needs to provide better access to licensing for these family members. There is support for the child-specific license, but kinship caregivers need to be a part of the process. This bill does not create a requirement for relatives to get licensed for foster care, rather, it provides an option for them to do so. There is a big disparity between rates provided by the Temporary Assistance for Needy Families program and foster care supports, so providing these licensed foster care supports for the child-specific licensees would be incredibly beneficial. The child-specific license would be voluntary.

The provision in the bill that eliminates some of the licensing fees for child care providers gives immediate assistance to child care providers who have continued to care for children throughout the pandemic. This is one way to support providers who have closed to come back and opens the door for more prospective child care providers. The bill will foster growth in the child care industry. Waiving child care licensing fees until 2023 is critical for the economic recovery of the state.

(Opposed) The bill creates regulations on grandparents and does not address the children who are already in the system. There is a need to get children back from the system. There are concerns over the child-specific license. The license could appear to create new regulations of the family, friends, and neighbors network due to vague language. There is concern that the foster care system is not the proper place to oversee relatives.

Section 30, subsection 7 of the bill should be removed, so that grandparents, aunts, and uncles are treated separately from foster care parents. This section of the bill is invasive to family privacy and places additional burdens on the family unit. It also increases the tax burden for everyone.

(Other) Kinship care needs support but should not be subject to licensing regulations. There is concern about vaccination requirements, and personal and religious exemptions to those requirements should be added for foster care families and child care workers.

Staff Summary of Public Testimony (Appropriations):

(In support) This bill is for people who are fighting to take care of their grandchildren and who are overwhelmed or lost in the licensing system. The Black Lives Matter (BLM) Alliance sees this bill as one of the most important equity related bills this session. It establishes a child-specific license for a relative or suitable person who offers to become licensed for placement of a child and that child's siblings or relatives in the DCYF's care or custody or to prevent them from going into the care or custody of the state. The BLM Alliance and other stakeholders have been advocating directly to the DCYF for this option, and it is long overdue. Black and indigenous families and families of color are more likely to come into care and are more likely to have backgrounds that under current law preclude them from caring for their family members, even though they can care for children with the proper support. The state should provide an opportunity for grandparents to care for their family members and to maintain connection, culture, and community. It is in the best interest for families and for Washington to pass and fund this bill.

Grandparents want to care for their children and do not want them to be cared for by someone else. There is a necessity for community and culture when raising children, and this would allow grandparents to provide that. The experience of working with the DCYF is challenging. When a child enters a home, the caregiver must make a lot of changes to their life in order to care for an infant. Eventually, the caregiver might be required to do a homestead. The process is time and resource consuming, is incredibly intrusive, and can wear out a caregiver. A less intrusive option like this would allow a person to choose guardianship instead of adoption. This bill is about many things, but mainly it is about saving families.

Out of the 35 to 45 percent of children placed with relatives by the DCYF, only 12 percent of those relatives are licensed. This bill does not require licensing. Instead, it offers it with the hope of addressing longstanding issues and providing financial supports. Overcoming

obstacles that have stood in the way for relatives hoping to become licensed will not be easy, but the language for the DCYF to work with stakeholders will improve and ensure the success of the process.

No one is against kids learning outside. This bill is cost effective because it increases early learning and child care providers without adding facilities costs and will make these programs eligible for federal funding and grants that they are currently ineligible for. Outdoor learning options are critical at this time as a way to provide safe, healthy, and high quality options for families seeking care. There is support for the provision to temporarily remove licensing fees as a way to remove barriers to support young children when it is most critical.

(Opposed) There is opposition to the child-specific license portion of the bill which is in section 30, subsection 7. This program is a duplication of the kinship program that already exists today. If the Legislature wants to expand funding or resources, then it should be done under the current kinship program and not under a new license procedure. When grandparents, aunts, and uncles are taking in their own relatives, they are not looking to get money from the state like a foster care parent. They are looking to get their relatives back and under their care. This portion of the bill should be amended.

Section 30, subsection 7 makes a new license procedure for a grandmother to raise her grandchildren. The state will offer a grandparent money if she goes through background checks, training, working with caseworkers, and home visits. But then once a grandmother goes through these hoops, there is no guarantee that her grandchild will be placed with her. Based on that, who will pay to go through this licensing process? Expand the kinship program instead of creating a new licensing program. This bill creates more bureaucracy and more unfunded mandates for relatives.

Persons Testifying (Children, Youth & Families): (In support) Senator Wilson, prime sponsor; Amy Anderson, Association of Washington Business; Laurie Lippold, Partners for Our Children; Sakara Remmu, Washington Black Lives Matter Alliance; Shrounda Selivanoff, Children's Home Society of Washington; Sibyl Maer-Fillo, Washington Outdoor School; Kati Brown, Washington Association of Child Advocate Programs; Barb Taylor, Catholic Community Services; Allison Krutsinger, Department of Children, Youth, and Families; Cathy Callahan, Sound Mental Health; Kellie Morrill; Khavin Debbs, Tiny Trees Preschool; and Amber Fyfe Johnson, Washington State University.

(Opposed) Sharon Hanek; Margaret Lee; Kimberlee Elbon; Marilyn Dickenson; and Berit Schweiss.

(Other) Bernadette Pajer.

Persons Testifying (Appropriations): (In support) Sakara Remmu, Washington Black Lives Matter Alliance; Shrounda Selivanoff, Children's Home Society of Washington; Laurie Lippold, Partners for Our Children; and Kellie Morrill, Tiny Trees Preschool.

(Opposed) Margaret Lee; and Val Mullen.

Persons Signed In To Testify But Not Testifying (Children, Youth & Families): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.