H-3495.2

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 2503**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 68th Legislature 2024 Regular Session**

**By** Representative Pollet

AN ACT Relating to improving the well-being of children in child care by enhancing transparency measures and modifying liability insurance requirements; amending RCW 43.216.325, 43.216.687, and 43.216.700; creating a new section; and providing an expiration date.

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

**Sec.**  RCW 43.216.325 and 2021 c 304 s 15 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~~)) 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 or outdoor nature-based child care programs. 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 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.

(4)(a) In addition to or in lieu of an enforcement action being taken, the department may place a child day care center, outdoor nature-based child care provider, 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, outdoor nature-based child care provider, or family day care provider is placed on nonreferral status, the department shall provide written notification to the child day care center, outdoor nature-based child care provider, 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, outdoor nature-based child care provider, or family day care provider; or (b) place or remove a child day care center, outdoor nature-based child care provider, or family day care provider on nonreferral status.

(6) Whenever the department suspends, revokes, or declines to renew the license of a child day care center, outdoor nature-based child care provider, or family day care provider, the department shall notify all parents and guardians of children enrolled with the center or provider of the suspension, revocation, or nonrenewal. The center or provider shall promptly provide the department with the contact information necessary for the department to fulfill this requirement.

**Sec.**  RCW 43.216.687 and 2021 c 304 s 24 are each amended to read as follows:

(1) Every child day care center, outdoor nature-based child care provider, and family day care provider shall prominently post the following items, in a manner that is clearly visible to and takes into account the linguistic needs of parents and staff:

(a) The license issued under this chapter;

(b) The department's toll-free telephone number established by RCW 43.216.685;

(c) The notice of any pending enforcement action. The notice must be posted immediately upon receipt. The notice must be posted for at least two weeks or until the violation causing the enforcement action is corrected, whichever is longer;

(d) A notice that inspection reports and any notices of enforcement actions for the previous three years are available from the licensee and the department; ((~~and~~))

(e) Proof of insurance coverage as described in RCW 43.216.700, if applicable, including liability limits under the policy or policies of the child day care center, outdoor nature-based child care provider, or family day care provider;

(f) The early achievers rating level of the child day care center, outdoor nature-based child care provider, or family day care provider, if any;

(g)(i) Subject to (g)(ii) of this subsection, a notice in the form of a poster designed by the department stating that licensing history, inspection reports, and early achievers ratings information for child day care centers, outdoor nature-based child care providers, and family day care providers is available through the department's website, along with clear instructions as to how to access that information;

(ii) Child day care centers, outdoor nature-based child care providers, and family day care providers shall post the notice required in this subsection (1)(g) within 30 days of receiving a standard poster from the department and within 30 days of receipt of any updated poster; and

(h) Any other information required by the department.

(2) Every child day care center, outdoor nature-based child care provider, and family day care provider that maintains a website shall provide a link on the website to the department's web page displaying or linking to provider licensing history, inspection reports, and early achievers ratings.

(3) Outdoor nature-based child care providers without a suitable physical location for posting may post the information required in this section at the host park headquarters or visitor center, or at another location likely to be observed by parents and guardians, and shall publish the information on any website maintained by the provider.

(4) The department shall disclose the receipt, general nature, and resolution or current status of all complaints on record with the department after July 24, 2005, against a child day care center or family day care provider that result in an enforcement action. Information may be posted:

(a) On a website; or

(b) In a physical location that is easily accessed by parents and potential employers.

((~~(3)~~)) (5) This section shall not be construed to require the disclosure of any information that is exempt from public disclosure under chapter 42.56 RCW.

**Sec.**  RCW 43.216.700 and 2021 c 304 s 27 are each amended to read as follows:

(1) Every licensed child day care center and outdoor nature-based child care provider shall, at the time of licensure or renewal and at any inspection, provide to the department proof that the licensee has day care insurance as defined in RCW 48.88.020, or is self-insured pursuant to chapter 48.90 RCW.

(a) Every licensed child day care center and outdoor nature-based child care provider shall comply with the following requirements:

(i) Notify the department when coverage has been terminated;

(ii) ((~~Post~~)) In addition to posting proof of insurance coverage as required in RCW 43.216.687, post at the day care center or outdoor nature-based child care location, in a manner likely to be observed by patrons, any notice that coverage has lapsed or been terminated. Outdoor nature-based child care providers without a suitable physical location for posting may fulfill this requirement in the manner described in RCW 43.216.687(3);

(iii) Provide written notice to parents ((~~that~~)) of insurance coverage as required by this section with preenrollment materials, including liability limits under the licensee's policy or policies, and written notice if coverage has lapsed or terminated within thirty days of lapse or termination; and

(iv) Post notice of insurance coverage as required by this section, including liability limits under the licensee's policy or policies and a link to review the policy or policies, on any website maintained by the licensee.

(b) Liability limits under this subsection shall be ((~~the same as set forth in RCW 48.88.050~~)) determined by the department in rule.

(c) The department may take action as provided in RCW 43.216.325 if the licensee fails to maintain in full force and effect the insurance required by this subsection.

(d) This subsection applies to child day care centers and outdoor nature-based child care providers holding licenses, initial licenses, and probationary licenses under this chapter.

((~~(e) A child day care center holding a license under this chapter on July 24, 2005, is not required to be in compliance with this subsection until the time of renewal of the license or until January 1, 2006, whichever is sooner.~~))

(2)(a) Every licensed family day care provider shall, at the time of licensure or renewal either:

(i) Provide to the department proof that the licensee has day care insurance as defined in RCW 48.88.020, or other applicable insurance; or

(ii) Provide written notice of their insurance status on a standard form developed by the department to parents with a child enrolled in family day care and keep a copy of the notice to each parent on file. Family day care providers may choose to opt out of the requirement to have day care or other applicable insurance but must provide written notice of their insurance status to parents with a child enrolled and shall not be subject to the requirements of (b) or (c) of this subsection.

(b) Any licensed family day care provider that provides to the department proof that the licensee has insurance as provided under (a)(i) of this subsection shall comply with the following requirements:

(i) Notify the department when coverage has been terminated;

(ii) ((~~Post~~)) In addition to posting proof of insurance coverage as required in RCW 43.216.687, post at the day care home, in a manner likely to be observed by patrons, any notice that coverage has lapsed or been terminated;

(iii) Provide written notice to parents ((~~that~~)) of insurance coverage with preenrollment materials, including liability limits under the licensee's policy or policies, and written notice if coverage has lapsed or terminated within thirty days of lapse or termination; and

(iv) Post notice of insurance coverage, including liability limits under the licensee's policy or policies and a link to review the policy or policies, on any website maintained by the licensee.

(c) Liability limits under (a)(i) of this subsection shall be ((~~the same as set forth in RCW 48.88.050~~)) determined by the department in rule.

(d) The department may take action as provided in RCW 43.216.325 if the licensee fails to comply with the requirements of this subsection.

((~~(e) A family day care provider holding a license under this chapter on July 24, 2005, is not required to be in compliance with this subsection until the time of renewal of the license or until January 1, 2006, whichever is sooner.~~))

(3) Noncompliance or compliance with the provisions of this section shall not constitute evidence of liability or nonliability in any injury litigation.

NEW SECTION. **Sec.**  (1) By September 1, 2024, the department of children, youth, and families shall:

(a) Assess its website for the accessibility of information pertaining to child care provider and center licensing history, inspection reports, and early achievers ratings, and take steps to make associated information and applicable links easier to locate for parents and guardians; and

(b) Design and make available a standard notice for the posting required by RCW 43.216.687(1)(g).

(2) The department of children, youth, and families must review the minimum liability limits for day care insurance identified in RCW 48.88.050 and recommend updated limits that take into account insurance product availability, inflation, and average and potential liability coverage needs of child care entities. By December 1, 2024, and in accordance with RCW 43.01.036, the department of children, youth, and families must report to the appropriate committees of the legislature with its recommendations.

(3) This section expires July 1, 2026.

**--- END ---**