

# HOUSE BILL REPORT

## ESSB 5317

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**As Reported by House Committee On:**  
Early Learning & Children's Services

**Title:** An act relating to child care safety.

**Brief Description:** Creating additional safeguards for child care.

**Sponsors:** Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Brandland, Hargrove, Stevens, Regala and McAuliffe).

**Brief History:**

**Committee Activity:**

Early Learning & Children's Services: 3/29/07 [DPA].

**Brief Summary of Engrossed Substitute Bill**  
**(As Amended by House Committee)**

- Expands the purpose of the Department of Early Learning (DEL) statutes to include providing information to promote the hiring of suitable providers of child care.
- Directs the DEL to establish a publically-accessible website for posting information regarding licensing enforcement actions.
- Requires notification within 48 hours to the parent of a child who is the alleged victim of abuse by a child care provider or employee.
- Authorizes the DEL to take licensing enforcement action related to provider liability insurance coverage notice requirements.
- Directs the DEL to develop a standard form for notifying parents of the status of day-care liability insurance coverage of a provider.

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### HOUSE COMMITTEE ON EARLY LEARNING & CHILDREN'S SERVICES

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*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.*

**Majority Report:** Do pass as amended. Signed by 6 members: Representatives Kagi, Chair; Haler, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Appleton, Pettigrew and Roberts.

**Staff:** Sydney Forrester (786-7120).

**Background:**

Types of Background Information

Background check information is available from several sources. For example, information about misdemeanor and felony convictions is available through the Washington State Patrol (WSP) and the Federal Bureau of Investigation (FBI). Misdemeanor conviction information is available from local jurisdictions as well. Information about child abuse and neglect allegations, related findings, and dependency cases is maintained by the Children's Administration (CA) within the Department of Social and Health Services (DSHS). County court systems and local law enforcement offices maintain information about domestic violence protection orders and other protective orders. Other industry -- or occupation -- specific databases at the state and national level maintain information regarding disciplinary actions against professional licenses such as teaching certificates and various health care provider licenses.

Department of Early Learning Licensing and Approval Processes

The Department of Early Learning (DEL) licenses child care centers and family day-care homes. Minimum licensing requirements include a determination by the DEL regarding the individual's character, suitability, and competence, as well as a criminal background check of the individual seeking the license, employees of the licensee, and others who have unsupervised access to children in care.

The DEL also approves some unlicensed persons to provide childcare subsidized by the state under the Working Connections Child Care Program (WCCC). Approval of unlicensed providers also includes a criminal background check on the provider and persons over the age of 16 years residing in the home.

Types of Background Checks

For persons who have lived in Washington three or more years, the criminal background check is conducted through the WSP using the individual's name and date of birth matched against the state's criminal conviction database. For others who have resided in Washington less than three years, the criminal background check is conducted through the WSP and the FBI using the individual's fingerprints matched against a national criminal conviction database.

As part of its licensing process and for the approval of unlicensed providers under WCCC, the DEL also investigates child abuse and neglect records maintained by the CA. The DEL may consider this information but may not disclose the information, except for founded allegations.

Access to Information About Licensed Child Care Providers

One of the focuses of recent early learning policy developments is providing parents with information about the quality of care, including information about complaints and enforcement actions against providers. Upon request, the DEL is required to disclose information about complaints on record that have resulted in enforcement actions against a providers license.

#### Child Care Liability Insurance

Child care providers licensed by the state are required to carry liability insurance in the form of:

- (1) day-care insurance;
- (2) self-insurance through membership in an association formed for the purpose of operating a self-insurance program and approved by the Office of the Insurance Commissioner; or
- (3) other applicable insurance, for a licensed family day-care providers.

Insurance policies must have a liability limit of at least \$100,000 per occurrence. At the time of licensure, inspection, and/or renewal, providers must provide the DEL proof of such coverage.

Licensed family day-care providers may opt out of the requirement to carry insurance coverage but must provide parents with written notice of their lack of liability insurance coverage and must inform the DEL and parents if prior coverage lapses or is terminated.

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#### **Summary of Amended Bill:**

The express purposes for which the DEL chapter is intended to function are amended to include the additional purpose of providing tools to promote the hiring of suitable providers of child care. This purpose is to be achieved by:

- (1) providing parents with access to information about providers;
- (2) providing parents with licensing complaint histories regarding providers; and
- (3) requiring background checks of applicants for employment in all licensed and regulated child care facilities.

The DEL is directed to disclose licensing complaint information resulting in enforcement actions regardless of whether the information has been requested. The DEL is authorized to make this information and information about enforcement actions and inspections accessible via a public website. Upon development of an early learning information system, the DEL must post to its website licensing actions, including suspension, stays of suspension, surrender, revocation, denial, and reinstatement.

The DEL and child care providers must notify the parent or guardian of a child alleged to be the victim, target, or recipient of sexual misconduct or other abuse at the first opportunity and within 48 hours of receiving such a report. Parents also must be provided information at least annually regarding their rights under the Public Records Disclosure Act to request records regarding child care employees.

The DEL is authorized to take enforcement action for license violations relating to liability insurance coverage notice requirements. The DEL must develop a standard form for family day-care providers to notify parents of the status of the provider's liability insurance coverage.

**Amended Bill Compared to Engrossed Substitute Bill:**

States that promoting the health, safety, and well-being of children receiving child care and early learning assistance is paramount over the right of any person to provide care.

Directs the DEL to conduct background checks on all persons who will have unsupervised access to children in care.

Authorizes the DEL to consider child abuse and neglect history information regarding prospective child care providers.

Requires the DEL to include parents and guardians in the groups of persons with whom the DEL consults when adopting and publishing minimum requirements for licensing of child care agencies.

Clarifies that child care inspection reports and licensing action histories, as compared to all complaints, are to be provided to parents and accessible to the public.

Specifies that the duty to post inspection reports and licensing action reports on a publically accessible website begins when the early learning information system is implemented.

Makes two housekeeping corrections to the DEL's licensing enforcement authority.

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**Appropriation:** None.

**Fiscal Note:** Requested on March 29, 2007.

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

**Staff Summary of Public Testimony:**

(In support) We support the proposed striking amendment and like how the website posting of information is addressed. If the DEL is going to post compliance agreements on the website, it also is important that actions the provider has taken to correct problems be posted in a timely way. For the posting of surrendered licenses, the reason for surrender should also be considered inasmuch as a voluntary surrender without any licensing or disciplinary action could be misconstrued if not properly explained. Some providers surrender their license simply because they have decided to stop providing licensed in-home child care.

(In support with concerns) We are concerned that notifying a parent that his/her child is the alleged victim of abuse or sexual misconduct while in care could impact the investigation by CPS or law enforcement. The timing of notice to parents should be consistent with CPS or law enforcement processes.

There is no reason to post every licensing violation, especially if the provider corrects the problem. Liability insurance coverage is hard to get for some providers, especially if you live in a mobile trailer or work more than 14 hours per day. There is no coverage available through the liability insurance pool.

(Opposed) None.

**Persons Testifying:** (In support) Senator Kohl-Welles, prime sponsor; and Sue Winn, Washington State Family Child Care Association and Service Employees International Union.

(In support with concerns) Pat Dickason, League of Women Voters; and Donna Horne, Washington State Families Child Care Association and Service Employees International Union.

**Persons Signed In To Testify But Not Testifying:** None.