

SENATE BILL REPORT

ESSB 5317

As Amended by House, April 18, 2007

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: Human Services & Corrections: 1/30/07, 2/23/07 [DPS].
Passed Senate: 3/10/07, 47-0.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5317 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Marr and McAuliffe.

Staff: Kiki Keizer (786-7430)

Background: The Department of Early Learning (DEL) investigates the conviction record and pending charges of day-care providers and their staff as part of its licensing function. Most of these criminal history checks are performed by running the name and date of birth of a person through the criminal history database maintained by the Washington State Patrol (WSP). However, if a person will have unsupervised access to children and has not been a resident of the state of Washington during the three-year period before the criminal history check, then that person is subject to a fingerprint check through the WSP and the Federal Bureau of Investigation. The day-care provider must pay for the criminal history check.

The DEL must also determine whether a particular day-care provider (or person associated with a provider who is expected to be directly responsible for the care of children) has the appropriate character, suitability, and competence to work with very young children. The DEL checks records concerning allegations of child abuse and neglect against providers and their staff. No unfounded allegations of abuse or neglect may be disclosed to a provider.

Summary of Engrossed Substitute Bill: Disclosing allegations to parents: The DEL and a child care provider must notify parents at the first opportunity, but in all cases within 48 hours, of any report of sexual misconduct or abuse by any employee of the provider.

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.

Changes to the licensing and hiring process: When determining a person is of appropriate character, suitability, and competence to provide child care services, the DEL is authorized to consider founded allegations of child abuse and neglect.

Applications for licensure must require certain information that was previously established as the minimum requirement for licensure. For example, applications must inquire about the character, suitability, and competence of an agency and persons associated with the agency who are directly responsible for the care of children, as well as the cleanliness of the premises.

Posting information about complaints on a web site or in an easily accessible physical location: Rather than requiring the DEL to disclose information about complaints upon request, as under current law, information must be posted on a web site or in a physical location that is easily accessible by parents and potential employers. If the DEL makes inspection reports and notices of enforcement actions available on a publicly accessible web site, the inspection reports must include a statement of the corrective measures taken by the child care center or provider.

The web site must include information about license suspensions, surrender, revocation, denial, stayed suspension, or reinstatement of a license, as well as written reprimands related to abuse or sexual misconduct.

Adding elements to the statutory section that establishes the purpose of the Department of Early Learning: The section of law stating the purpose of the chapter on early learning is amended to include statements about providing parents and providers with information about applicants' sexual misconduct or other abusive conduct, as well as information about licensing complaints.

Agency rulemaking: The DEL must adopt rules defining the terms "verbal abuse," "physical abuse," and "sexual misconduct" by September 1 of this year.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The background check task force recommended making changes to how child care providers' backgrounds are checked. It is important to protect vulnerable children, even as we protect the due process and privacy rights of individuals. The provisions requiring past and current employers to disclose certain information mirror requirements for schools. The bill incorporates important safety features but certain revisions to the language are suggested to make it even stronger.

Persons Testifying: PRO: Senator Kohl-Welles, prime sponsor; Margo Logan, Washington Parents Safe Day Care.

House Amendment(s): Language is added to the legislative findings section to the effect that safeguarding children is paramount over the right of any person to provide care. In the same

section, the intent is expressed to provide parents with access to information regarding child care providers, rather than information on applicants' sexual misconduct or other abusive behavior.

In the section regarding the Director's duty with regard to licensure, language is added to include the duty to investigate other persons having unsupervised access to children, in addition to persons seeking licensure or relicensure.

In determining a person's character, suitability, and competence to provide child care, certain child abuse and neglect history information or criminal history information regarding a potential child care provider may be considered by the Department of Social and Health Services, as opposed to limiting the information under consideration to all founded child abuse and neglect history.

A reference in the section on the publicly accessible web site is changed from "enforcement actions" to "licensing actions."

Parental notification within 48 hours of an allegation of sexual misconduct or abuse must be made to a parent or guardian, rather than simply to a parent. Posting of actions taken against agency licensees on the DEL's web site is contingent on the development of an early learning information system.

Certain references to RCW 74.15.130 are changed to refer to RCW 43.215.300.