
HOUSE BILL 1454

State of Washington

67th Legislature

2021 Regular Session

By Representatives Gregerson and Leavitt

1 AN ACT Relating to illegal, unlicensed child care; amending RCW
2 43.216.325; adding a new section to chapter 43.216 RCW; and providing
3 an expiration date.

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

5 **Sec. 1.** RCW 43.216.325 and 2018 c 58 s 38 are each amended to
6 read as follows:

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

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

20 (3) (a) The department may assess civil monetary penalties upon
21 proof that an agency has failed or refused to comply with the rules

1 adopted under this chapter or that an agency subject to licensing
2 under this chapter is operating without a license except that civil
3 monetary penalties shall not be levied against a licensed foster
4 home.

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

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

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

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

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

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

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

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

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

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

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

22 (a) Issue a cease and desist order;

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

27 NEW SECTION. Sec. 2. A new section is added to chapter 43.216
28 RCW to read as follows:

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

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

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

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

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

13 (3) This section expires June 20, 2022.

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