

AMENDED IN SENATE JUNE 16, 2016

AMENDED IN ASSEMBLY MAY 27, 2016

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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2036

**Introduced by Assembly Member Lopez
(Coauthor: Assembly Member Cristina Garcia)**

February 16, 2016

An act to add Chapter 2.3 (commencing with Section 18890) to Division 8 of the Business and Professions Code, relating to business.

LEGISLATIVE COUNSEL'S DIGEST

AB 2036, as amended, Lopez. Online child care job posting services: background check service providers: ~~consumer education~~. *enforcement*.

Existing law prohibits a person, firm, partnership, association, or corporation from operating, establishing, managing, conducting, or maintaining a child day care facility without a current valid license.

Existing law requires the Community Care Licensing Division of the State Department of Social Services to regulate child care licensees. Existing law requires the department to establish a registry of child care providers who are not required to be licensed, but who have undergone criminal background checks. These license-exempt providers are known as registered trustline child care providers. Existing law also requires a licensed child day care facility to make available to the public licensing reports and other licensing documents that pertain to a facility visit or a substantiated complaint investigation, among other licensing issues.

Existing law establishes in the State Treasury the Child Health and Safety Fund. Existing law authorizes the department to allocate these funds, upon appropriation by the Legislature, for purposes that include, among other things, technical assistance, orientation, training, and education of child day care facility providers.

~~This bill would require an online child care job posting service posting information on an Internet Web site in California to include, among other things, a statement about the trustline registry and, if the service provides access to a background check, a written description of the background check provided to it by the background check service provider.~~ *providing online information about nonlicensed potential child care providers to include a specified statement regarding the trustline registry on its Internet Web site in California. The bill would also require an online child care job posting service providing online information about licensed potential child care providers to include a specified statement regarding a parent’s right to specified complaint information on its Internet Web site. If an online child care job posting service provides access to a background check, the bill would require the service to include, on its Internet Web site, a written description of the background check provided by the background check service provider.* The bill would make a background check service provider responsible for providing the online child care job posting service with certain information. The bill would make the Attorney General responsible for the enforcement of these provisions, as specified. The bill would impose a fine of \$1,000 per violation for a 2nd or subsequent violation of these requirements, after written notice and an opportunity for a hearing. The bill would require fines to be deposited in the Child Health and Safety Fund and would authorize these fines to be available, upon appropriation, for, among other things, education and training of child day care facility providers. The bill would also authorize an individual damaged by willful violation of these provisions to bring a civil cause of action for damages, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Chapter 2.3 (commencing with Section 18890)
- 2 is added to Division 8 of the Business and Professions Code, to
- 3 read:

1 CHAPTER 2.3. ONLINE CHILD CARE JOB POSTING SERVICES

2
3 18890. For the purposes of this chapter, the following
4 definitions apply:

5 (a) “Online child care job posting service” means any person
6 or business that provides or offers to provide child care providers.

7 (b) “Background check service provider” means any person or
8 business that provides or offers to provide background check
9 services.

10 18890.2. (a) (1) An online child care job posting service
11 ~~posting information on an Internet Web site in California shall~~
12 ~~include a description of, or link to, the following statements: that~~
13 *provides online information about potential child care providers*
14 *who are not required to be licensed in California shall include the*
15 *following statement, which must be accessible no more than one*
16 *click away from the providers’ profile:*

17 ~~(1) Trustline~~

18
19 “Trustline is California’s official background check for
20 license-exempt child care providers (i.e. babysitters and nannies)
21 and the only authorized screening program in California with
22 access to fingerprint records at the California Department of Justice
23 and the Federal Bureau of Investigation and access to the California
24 Child Abuse Central Index. The Trustline registry toll-free
25 telephone number is ~~1-800-822-8490. 1-800-822-8490.~~”

26
27 ~~(2) Nonexempt family child care homes and child care centers~~
28 ~~are required to be licensed by the State of California. Pursuant An~~
29 *online child care job posting service that provides online*
30 *information in California about potential child care providers who*
31 *are required to be licensed in California shall include the following*
32 *statement on its Internet Web site in California, which shall be*
33 *accessible no more than one click away from the providers’ profile:*

34
35 “~~Pursuant to Oliver’s Law, Section 1596.859 of the Health and~~
36 *Safety Code, parents have the right to receive information regarding*
37 *any substantiated or inconclusive complaint about* ~~any licensed~~
38 *child care* ~~provider.~~ *providers. That information is public and can*
39 *be acquired by visiting the* ~~State California~~ *Department of Social*

1 Services' Internet Web site at ~~“www.celd.ca.gov.”~~
 2 “www.cclld.ca.gov.””

3
 4 (b) If the online child care job listing service provides access
 5 to a background check for the child care providers listed on its
 6 Internet Web site, it shall provide, by means of a one-click link on
 7 each California child care provider profile for which background
 8 checks are offered, the written description of the background check
 9 provided to it by the background check service provider. *it, as*
 10 *described in subdivision (c).*

11 (c) Background check service providers that ~~offer~~ *provide*
 12 background checks ~~through the Internet Web sites in California~~
 13 ~~of~~ *for* online child care job posting services in California shall
 14 provide to the online child care job posting services a written
 15 description of the background checks ~~offered by the background~~
 16 ~~check service provider~~ *conducted* that includes at a minimum:

17 (1) A detailed description of what is included in the background
 18 check.

19 (2) A chart that lists each county in California and the databases
 20 that are checked for each county, including the following
 21 information for each database, as applicable:

22 (A) The source of the data, the name of the database used, and
 23 a brief description of the data included in the database.

24 (B) The date range of the oldest data and the most recent data
 25 included.

26 (C) How often the information is updated.

27 (D) How the databases are checked (by name, social security
 28 number, fingerprints, etc.).

29 (E) A list of the counties for which no data is available.

30 18890.4. (a) Upon a complaint received by the Attorney
 31 General, the Attorney General shall review the online child care
 32 job posting service or background check service provider named
 33 in the complaint. If the Attorney General determines that an online
 34 child care job posting service or background check service provider
 35 is in violation of this chapter or any rules or regulations adopted
 36 under this chapter pursuant to the Administrative Procedure Act
 37 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
 38 Division 3 of Title 2 of the Government Code), a notice of violation
 39 shall be served upon the online child care job posting service or
 40 background check service provider. Each notice of violation shall

1 be in writing and shall specify the nature of the violation and the
2 statute, rule, or regulation alleged to have been violated, describe
3 the opportunity for a fair hearing pursuant to regulations adopted
4 by the Attorney General consistent with the requirements described
5 in subdivision (b), and specify the potential fine that may be
6 imposed for a second or third violation pursuant to subdivision
7 (c).

8 (b) In the first case of alleged noncompliance, the Attorney
9 General shall provide written notice of the violation to the online
10 child care job posting service or background check service
11 provider. The online child care job posting service or background
12 check service provider shall have 30 calendar days to correct the
13 violation or request a hearing on the matter. If the online child care
14 job posting service or background check service provider has
15 evidence that the Internet Web site in question is in compliance,
16 the online child care job posting service or background check
17 service provider shall submit proof of that compliance directly to
18 the Attorney General. Evidence of compliance may be in the form
19 of printouts, Internet Web site links, screenshots, or other means
20 determined to be acceptable to the Attorney General. Consistent
21 with due process, the Attorney General shall adopt regulations to
22 govern the notice, hearing, and the submission of evidence for
23 purposes of this section.

24 (c) For second and subsequent violations, after reasonable
25 written notice and time to correct the violation, and the opportunity
26 for a fair hearing on the matter, pursuant to regulations adopted
27 by the Attorney General, if the online child care job posting service
28 or background check service provider is found to be in violation
29 of this chapter, the Attorney General shall impose a fine of one
30 thousand dollars (\$1,000) per violation.

31 (d) Any fines imposed and collected pursuant to this section
32 shall be deposited into the Child Health and Safety Fund created
33 in Section 18285 of the Welfare and Institutions Code. These fines
34 and penalties shall be available, upon appropriation by the
35 Legislature, for the purposes described in subdivisions (d), (e),
36 and (f) of Section 18285 of the Welfare and Institutions Code.

37 18890.6. (a) In addition to the authority granted to the Attorney
38 General in Section 18890.4, an individual damaged by a willful
39 violation of the provisions of this chapter may bring a civil cause
40 of action against an online child care job posting service or

1 background check service provider for damages, including, but
2 not limited to, general damages, special damages, and punitive
3 damages.

4 (b) The court in an action pursuant to this section may award
5 equitable relief, including, but not limited to, an injunction, costs,
6 and any other relief the court deems proper.

7 (c) The rights and remedies provided in this chapter are in
8 addition to any other rights and remedies provided by law.