

Assembly Bill No. 2036

Passed the Assembly August 29, 2016

Chief Clerk of the Assembly

Passed the Senate August 23, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, Lopez. Online child care job posting services: background check service providers: 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 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 statement regarding a parent's right to specified complaint information on its Internet Web site in California. 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 in California, 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 authorize an online child care job posting service or background check service provider to be liable for a civil penalty for failing to comply with these requirements and would authorize the Attorney General, a city attorney, or a county counsel to bring such an action if certain requirements are met. 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.

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

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

CHAPTER 2.3. ONLINE CHILD CARE JOB POSTING SERVICES

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

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

(b) "Background check service provider" means any person or business that provides or offers to provide background check services.

18890.2. (a) (1) An online child care job posting service that provides online information about potential child care providers who are not required to be licensed in California shall include the following statement on its Internet Web site in California, which shall be accessible no more than one click away from the providers' profile:

"Trustline is California's official background check for license-exempt child care providers (i.e. babysitters and nannies) and the only authorized screening program in California with access to fingerprint records at the California Department of Justice and the Federal Bureau of Investigation and access to the California

Child Abuse Central Index. The Trustline registry toll-free telephone number is 1-800-822-8490.”

(2) An online child care job posting service that provides online information in California about potential child care providers who are required to be licensed in California shall include the following statement on its Internet Web site in California, which shall be accessible no more than one click away from the providers’ profile:

“Pursuant to Section 1596.859 of the Health and Safety Code, parents have the right to receive information regarding any substantiated or inconclusive complaint about licensed child care providers. That information is public and can be acquired by visiting the California Department of Social Services’ Internet Web site at “www.cclid.ca.gov.””

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

(c) Background check service providers that provide background checks for online child care job posting services in California shall provide to the online child care job posting services a written description of the background checks conducted that includes at a minimum:

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

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

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

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

(C) How often the information is updated.

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

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

18890.4. (a) An online child care job posting service or background check service provider that fails to comply with the requirements of this chapter may be liable for a civil penalty of one thousand dollars (\$1,000) for each offense. The Attorney General, a city attorney, or a county counsel may bring an action to impose a civil penalty pursuant to this section after doing both of the following:

(1) Providing the online job posting service or background check service provider with reasonable notice of noncompliance. The notice shall inform the online job posting service or background check service provider that it will be subject to a civil penalty if it does not correct the violation within 30 days from the date the notice is sent to the online job posting service or background check service provider.

(2) Verifying that the violation was not corrected within the 30-day period described in paragraph (1).

(b) The civil penalty shall be deposited into the General Fund if the action is brought by the Attorney General. If the action is brought by a city attorney, the civil penalty shall be paid to the treasurer of the city in which the judgment is entered. If the action is brought by a county counsel, the civil penalty shall be paid to the treasurer of the county in which the judgment is entered.

18890.6. (a) In addition to the authority granted to the Attorney General, a city attorney, or a county counsel in Section 18890.4, an individual damaged by a willful violation of the provisions of this chapter may bring a civil cause of action against an online child care job posting service or background check service provider for damages, including, but not limited to, general damages, special damages, and punitive damages.

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

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

Approved _____, 2016

Governor