
SECOND SUBSTITUTE SENATE BILL 6165

State of Washington

59th Legislature

2006 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Zarelli, McAuliffe, Esser, Doumit, Schmidt, Kohl-Welles, Benson, Keiser, Roach, Fairley, Weinstein, Rockefeller, Rasmussen, Franklin, Brown and Kline)

READ FIRST TIME 02/7/06.

1 AN ACT Relating to improving access to and the stability of quality
2 child care through providing collective bargaining and other
3 representation rights for family child care providers and licensees;
4 amending RCW 41.56.030, 41.56.113, 41.04.810, 43.01.047, and 74.15.030;
5 reenacting and amending RCW 74.15.020; adding a new section to chapter
6 41.56 RCW; adding a new section to chapter 74.15 RCW; creating new
7 sections; and declaring an emergency.

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

9 **PART I - FAMILY CHILD CARE PROVIDERS**

10 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.56 RCW
11 to read as follows:

12 (1) In addition to the entities listed in RCW 41.56.020, this
13 chapter applies to the governor with respect to family child care
14 providers. Solely for the purposes of collective bargaining and as
15 expressly limited under subsections (2) and (3) of this section, the
16 governor is the public employer of family child care providers who,
17 solely for the purposes of collective bargaining, are public employees.

1 The public employer shall be represented for bargaining purposes by the
2 governor or the governor's designee appointed under chapter 41.80 RCW.

3 (2) This chapter governs the collective bargaining relationship
4 between the governor and family child care providers, except as
5 follows:

6 (a) A statewide unit of all family child care providers is the only
7 unit appropriate for purposes of collective bargaining under RCW
8 41.56.060.

9 (b) The exclusive bargaining representative of family child care
10 providers in the unit specified in (a) of this subsection shall be the
11 representative chosen in an election pursuant to RCW 41.56.070.

12 (c) Notwithstanding the definition of "collective bargaining" in
13 RCW 41.56.030(4), "collective bargaining" for the purposes of this act
14 means the performance of the mutual obligations of the public employer
15 and the exclusive bargaining representative to meet at reasonable
16 times, to confer and negotiate in good faith, and to execute a written
17 agreement with respect to grievance procedures and collective
18 negotiations solely on economic-related personnel matters, including
19 but not limited to: (i) Compensation, such as manner and rate of
20 subsidy and reimbursement, including tiered reimbursements; (ii) health
21 and welfare benefits; (iii) professional development and training; and
22 (iv) labor-management committees. Retirement benefits shall not be
23 subject to collective bargaining. By such obligation neither party
24 shall be compelled to agree to a proposal or be required to make a
25 concession, unless otherwise provided in this chapter.

26 (d) The mediation and interest arbitration provisions of RCW
27 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

28 (i) With respect to commencement of negotiations between the
29 governor and the exclusive bargaining representative of family child
30 care providers, negotiations shall be commenced initially within five
31 days of the effective date of this section and, thereafter, by February
32 1st of any year prior to the year in which an existing collective
33 bargaining agreement expires;

34 (ii) In addition to the factors to be taken into consideration by
35 an interest arbitration panel under RCW 41.56.465, the panel shall
36 consider the financial ability of the state to pay for the compensation
37 and benefit provisions of a collective bargaining agreement; and

1 (iii) The decision of the arbitration panel is not binding on the
2 legislature and, if the legislature does not approve the request for
3 funds necessary to implement the compensation and benefit provisions of
4 the arbitrated collective bargaining agreement, is not binding on the
5 state.

6 (e) Family child care providers do not have the right to strike.

7 (3) Family child care providers who are public employees solely for
8 the purposes of collective bargaining under subsection (1) of this
9 section are not, for that reason, employees of the state for any
10 purpose. This section applies only to the governance of the collective
11 bargaining relationship between the employer and family child care
12 providers as provided in subsections (1) and (2) of this section.

13 (4) This section does not create or modify:

14 (a) The parents' or legal guardians' right to choose and terminate
15 the services of any family child care provider that provides care for
16 their child or children;

17 (b) The secretary of the department of social and health services'
18 right to adopt requirements under RCW 74.15.030, except for
19 requirements related to grievance procedures and collective
20 negotiations on personnel matters as specified in subsection (2)(c) of
21 this section;

22 (c) Chapter 26.44 RCW, RCW 43.43.832, 43.20A.205, and 74.15.130;
23 and

24 (d) The legislature's right to make programmatic modifications to
25 the delivery of state services through child care subsidy programs,
26 including standards of eligibility of parents, legal guardians, and
27 family child care providers participating in child care subsidy
28 programs, and the nature of services provided. The governor shall not
29 enter into, extend, or renew any agreement under this section that does
30 not expressly reserve the legislative rights described in this
31 subsection (4)(d).

32 (5) Upon meeting the requirements of subsection (6) of this
33 section, the governor must submit, as a part of the proposed biennial
34 or supplemental operating budget submitted to the legislature under RCW
35 43.88.030, a request for funds necessary to implement the compensation
36 and benefit provisions of a collective bargaining agreement entered
37 into under this section or for legislation necessary to implement such
38 agreement.

1 (6) Except as provided in subsection (7) of this section, a request
2 for funds necessary to implement the compensation and benefit
3 provisions of a collective bargaining agreement entered into under this
4 section shall not be submitted by the governor to the legislature
5 unless such request has been:

6 (a) Submitted to the director of financial management by October
7 1st before the legislative session in which the request is to be
8 considered, except that, for initial negotiations under this section,
9 the request must be submitted by November 15, 2006; and

10 (b) Certified by the director of financial management as being
11 feasible financially for the state or reflects the binding decision of
12 an arbitration panel reached under this section.

13 (7) The legislature must approve or reject the submission of the
14 request for funds as a whole. If the legislature rejects or fails to
15 act on the submission, any such agreement will be reopened solely for
16 the purpose of renegotiating the funds necessary to implement the
17 agreement.

18 (8) The governor shall periodically consult with the joint
19 committee on employment relations established by RCW 41.80.010
20 regarding appropriations necessary to implement the compensation and
21 benefit provisions of any collective bargaining agreement and, upon
22 completion of negotiations, advise the committee on the elements of the
23 agreement and on any legislation necessary to implement such agreement.

24 (9) After the expiration date of any collective bargaining
25 agreement entered into under this section, all of the terms and
26 conditions specified in any such agreement remain in effect until the
27 effective date of a subsequent agreement, not to exceed one year from
28 the expiration date stated in the agreement, except as provided in
29 subsection (4)(d) of this section.

30 (10) If, after the compensation and benefit provisions of an
31 agreement are approved by the legislature, a significant revenue
32 shortfall occurs resulting in reduced appropriations, as declared by
33 proclamation of the governor or by resolution of the legislature, both
34 parties shall immediately enter into collective bargaining for a
35 mutually agreed upon modification of the agreement.

36 (11) In enacting this section, the legislature intends to provide
37 state action immunity under federal and state antitrust laws for the

1 joint activities of family child care providers and their exclusive
2 bargaining representative to the extent such activities are authorized
3 by this chapter.

4 (12) The state shall not be liable based on any act or omission by
5 a family child care provider based on any claim that the family child
6 care provider is an employee of the state.

7 **Sec. 2.** RCW 41.56.030 and 2004 c 3 s 6 are each amended to read as
8 follows:

9 As used in this chapter:

10 (1) "Public employer" means any officer, board, commission,
11 council, or other person or body acting on behalf of any public body
12 governed by this chapter, or any subdivision of such public body. For
13 the purposes of this section, the public employer of district court or
14 superior court employees for wage-related matters is the respective
15 county legislative authority, or person or body acting on behalf of the
16 legislative authority, and the public employer for nonwage-related
17 matters is the judge or judge's designee of the respective district
18 court or superior court.

19 (2) "Public employee" means any employee of a public employer
20 except any person (a) elected by popular vote, or (b) appointed to
21 office pursuant to statute, ordinance or resolution for a specified
22 term of office as a member of a multimember board, commission, or
23 committee, whether appointed by the executive head or body of the
24 public employer, or (c) whose duties as deputy, administrative
25 assistant or secretary necessarily imply a confidential relationship to
26 (i) the executive head or body of the applicable bargaining unit, or
27 (ii) any person elected by popular vote, or (iii) any person appointed
28 to office pursuant to statute, ordinance or resolution for a specified
29 term of office as a member of a multimember board, commission, or
30 committee, whether appointed by the executive head or body of the
31 public employer, or (d) who is a court commissioner or a court
32 magistrate of superior court, district court, or a department of a
33 district court organized under chapter 3.46 RCW, or (e) who is a
34 personal assistant to a district court judge, superior court judge, or
35 court commissioner(~~(, or (f) excluded from a bargaining unit under RCW~~
36 ~~41.56.201(2)(a))~~). For the purpose of (e) of this subsection, no more

1 than one assistant for each judge or commissioner may be excluded from
2 a bargaining unit.

3 (3) "Bargaining representative" means any lawful organization which
4 has as one of its primary purposes the representation of employees in
5 their employment relations with employers.

6 (4) "Collective bargaining" means the performance of the mutual
7 obligations of the public employer and the exclusive bargaining
8 representative to meet at reasonable times, to confer and negotiate in
9 good faith, and to execute a written agreement with respect to
10 grievance procedures and collective negotiations on personnel matters,
11 including wages, hours and working conditions, which may be peculiar to
12 an appropriate bargaining unit of such public employer, except that by
13 such obligation neither party shall be compelled to agree to a proposal
14 or be required to make a concession unless otherwise provided in this
15 chapter.

16 (5) "Commission" means the public employment relations commission.

17 (6) "Executive director" means the executive director of the
18 commission.

19 (7) "Uniformed personnel" means: (a) Law enforcement officers as
20 defined in RCW 41.26.030 employed by the governing body of any city or
21 town with a population of two thousand five hundred or more and law
22 enforcement officers employed by the governing body of any county with
23 a population of ten thousand or more; (b) correctional employees who
24 are uniformed and nonuniformed, commissioned and noncommissioned
25 security personnel employed in a jail as defined in RCW 70.48.020(5),
26 by a county with a population of seventy thousand or more, and who are
27 trained for and charged with the responsibility of controlling and
28 maintaining custody of inmates in the jail and safeguarding inmates
29 from other inmates; (c) general authority Washington peace officers as
30 defined in RCW 10.93.020 employed by a port district in a county with
31 a population of one million or more; (d) security forces established
32 under RCW 43.52.520; (e) fire fighters as that term is defined in RCW
33 41.26.030; (f) employees of a port district in a county with a
34 population of one million or more whose duties include crash fire
35 rescue or other fire fighting duties; (g) employees of fire departments
36 of public employers who dispatch exclusively either fire or emergency
37 medical services, or both; or (h) employees in the several classes of

1 advanced life support technicians, as defined in RCW 18.71.200, who are
2 employed by a public employer.

3 (8) "Institution of higher education" means the University of
4 Washington, Washington State University, Central Washington University,
5 Eastern Washington University, Western Washington University, The
6 Evergreen State College, and the various state community colleges.

7 (9) "Home care quality authority" means the authority under chapter
8 74.39A RCW.

9 (10) "Individual provider" means an individual provider as defined
10 in RCW 74.39A.240(4) who, solely for the purposes of collective
11 bargaining, is a public employee as provided in RCW 74.39A.270.

12 (11) "Child care subsidy" means a payment from the state through a
13 child care subsidy program established pursuant to RCW 74.12.340 or any
14 successor program.

15 (12) "Family child care provider" means a person who: (a) Provides
16 regularly scheduled care for a child or children in the home of the
17 provider or in the home of the child or children for periods of less
18 than twenty-four hours or, if necessary due to the nature of the
19 parent's work, for periods equal to or greater than twenty-four hours;
20 (b) receives child care subsidies; and (c) is either licensed by the
21 state under RCW 74.15.030 or is exempt from licensing under chapter
22 74.15 RCW.

23 **Sec. 3.** RCW 41.56.113 and 2004 c 3 s 7 are each amended to read as
24 follows:

25 (1) Upon the written authorization of an individual provider or a
26 family child care provider within the bargaining unit and after the
27 certification or recognition of the bargaining unit's exclusive
28 bargaining representative, the state as payor, but not as the employer,
29 shall, subject to subsection (3) of this section, deduct from the
30 payments to an individual provider or a family child care provider the
31 monthly amount of dues as certified by the secretary of the exclusive
32 bargaining representative and shall transmit the same to the treasurer
33 of the exclusive bargaining representative.

34 (2) If the governor and the exclusive bargaining representative of
35 a bargaining unit of individual providers or family child care
36 providers enter into a collective bargaining agreement that:

1 (a) Includes a union security provision authorized in RCW
2 41.56.122, the state as payor, but not as the employer, shall, subject
3 to subsection (3) of this section, enforce the agreement by deducting
4 from the payments to bargaining unit members the dues required for
5 membership in the exclusive bargaining representative, or, for
6 nonmembers thereof, a fee equivalent to the dues; or

7 (b) Includes requirements for deductions of payments other than the
8 deduction under (a) of this subsection, the state, as payor, but not as
9 the employer, shall, subject to subsection (3) of this section, make
10 such deductions upon written authorization of the individual provider
11 or the family child care provider.

12 (3)(a) The initial additional costs to the state in making
13 deductions from the payments to individual providers or family child
14 care providers under this section shall be negotiated, agreed upon in
15 advance, and reimbursed to the state by the exclusive bargaining
16 representative.

17 (b) The allocation of ongoing additional costs to the state in
18 making deductions from the payments to individual providers or family
19 child care providers under this section shall be an appropriate subject
20 of collective bargaining between the exclusive bargaining
21 representative and the governor unless prohibited by another statute.
22 If no collective bargaining agreement containing a provision allocating
23 the ongoing additional cost is entered into between the exclusive
24 bargaining representative and the governor, or if the legislature does
25 not approve funding for the collective bargaining agreement as provided
26 in RCW 74.39A.300 or section 1 of this act, as applicable, the ongoing
27 additional costs to the state in making deductions from the payments to
28 individual providers or family child care providers under this section
29 shall be negotiated, agreed upon in advance, and reimbursed to the
30 state by the exclusive bargaining representative.

31 (4) The governor and the exclusive bargaining representative of a
32 bargaining unit of family child care providers may not enter into a
33 collective bargaining agreement that contains a union security
34 provision unless the agreement contains a process, to be administered
35 by the exclusive bargaining representative of a bargaining unit of
36 family child care providers, for hardship dispensation for license-
37 exempt family child care providers who are also temporary assistance
38 for needy families recipients or WorkFirst participants.

1 **Sec. 4.** RCW 41.04.810 and 2004 c 3 s 3 are each amended to read as
2 follows:

3 Individual providers, as defined in RCW 74.39A.240, and family
4 child care providers, as defined in RCW 41.56.030, are not employees of
5 the state or any of its political subdivisions and are specifically and
6 entirely excluded from all provisions of this title, except as provided
7 in RCW 74.39A.270 and section 1 of this act.

8 **Sec. 5.** RCW 43.01.047 and 2004 c 3 s 4 are each amended to read as
9 follows:

10 RCW 43.01.040 through 43.01.044 do not apply to individual
11 providers under RCW 74.39A.220 through 74.39A.300 or to family child
12 care providers under section 1 of this act.

13 **PART II - FAMILY CHILD CARE LICENSEES**

14 NEW SECTION. **Sec. 6.** A new section is added to chapter 74.15 RCW
15 to read as follows:

16 (1) Solely for the purposes of negotiated rule making pursuant to
17 RCW 34.05.310(2)(a) and 74.15.030, a statewide unit of all family child
18 care licensees is appropriate. As of the effective date of this
19 section, the exclusive representative of family child care licensees in
20 the statewide unit shall be the representative selected as the majority
21 representative in the election held under the directive of the governor
22 to the secretary of the department of social and health services, dated
23 September 16, 2005. If family child care licensees seek to select a
24 different representative thereafter, the family child care licensees
25 may request that the American arbitration association conduct an
26 election and certify the results of the election.

27 (2) In enacting this section, the legislature intends to provide
28 state action immunity under federal and state antitrust laws for the
29 joint activities of family child care licensees and their exclusive
30 representative to the extent such activities are authorized by this
31 chapter.

32 **Sec. 7.** RCW 74.15.020 and 2001 c 230 s 1, 2001 c 144 s 1, and 2001
33 c 137 s 3 are each reenacted and amended to read as follows:

1 For the purpose of this chapter ((~~74.15-RCW~~)) and RCW 74.13.031,
2 and unless otherwise clearly indicated by the context thereof, the
3 following terms shall mean:

4 (1) "Agency" means any person, firm, partnership, association,
5 corporation, or facility which receives children, expectant mothers, or
6 persons with developmental disabilities for control, care, or
7 maintenance outside their own homes, or which places, arranges the
8 placement of, or assists in the placement of children, expectant
9 mothers, or persons with developmental disabilities for foster care or
10 placement of children for adoption, and shall include the following
11 irrespective of whether there is compensation to the agency or to the
12 children, expectant mothers or persons with developmental disabilities
13 for services rendered:

14 (a) "Child day-care center" means an agency which regularly
15 provides care for a group of children for periods of less than twenty-
16 four hours;

17 (b) "Child-placing agency" means an agency which places a child or
18 children for temporary care, continued care, or for adoption;

19 (c) "Community facility" means a group care facility operated for
20 the care of juveniles committed to the department under RCW 13.40.185.
21 A county detention facility that houses juveniles committed to the
22 department under RCW 13.40.185 pursuant to a contract with the
23 department is not a community facility;

24 (d) "Crisis residential center" means an agency which is a
25 temporary protective residential facility operated to perform the
26 duties specified in chapter 13.32A RCW, in the manner provided in RCW
27 74.13.032 through 74.13.036;

28 (e) "Emergency respite center" is an agency that may be commonly
29 known as a crisis nursery, that provides emergency and crisis care for
30 up to seventy-two hours to children who have been admitted by their
31 parents or guardians to prevent abuse or neglect. Emergency respite
32 centers may operate for up to twenty-four hours a day, and for up to
33 seven days a week. Emergency respite centers may provide care for
34 children ages birth through seventeen, and for persons eighteen through
35 twenty with developmental disabilities who are admitted with a sibling
36 or siblings through age seventeen. Emergency respite centers may not
37 substitute for crisis residential centers or HOPE centers, or any other

1 services defined under this section, and may not substitute for
2 services which are required under chapter 13.32A or 13.34 RCW;

3 (f) "Family day-care provider" means a child day-care provider who
4 regularly provides child day care for not more than twelve children in
5 the provider's home in the family living quarters;

6 (g) "Foster-family home" means an agency which regularly provides
7 care on a twenty-four hour basis to one or more children, expectant
8 mothers, or persons with developmental disabilities in the family abode
9 of the person or persons under whose direct care and supervision the
10 child, expectant mother, or person with a developmental disability is
11 placed;

12 (h) "Group-care facility" means an agency, other than a foster-
13 family home, which is maintained and operated for the care of a group
14 of children on a twenty-four hour basis;

15 (i) "HOPE center" means an agency licensed by the secretary to
16 provide temporary residential placement and other services to street
17 youth. A street youth may remain in a HOPE center for thirty days
18 while services are arranged and permanent placement is coordinated. No
19 street youth may stay longer than thirty days unless approved by the
20 department and any additional days approved by the department must be
21 based on the unavailability of a long-term placement option. A street
22 youth whose parent wants him or her returned to home may remain in a
23 HOPE center until his or her parent arranges return of the youth, not
24 longer. All other street youth must have court approval under chapter
25 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

26 (j) "Maternity service" means an agency which provides or arranges
27 for care or services to expectant mothers, before or during
28 confinement, or which provides care as needed to mothers and their
29 infants after confinement;

30 (k) "Responsible living skills program" means an agency licensed by
31 the secretary that provides residential and transitional living
32 services to persons ages sixteen to eighteen who are dependent under
33 chapter 13.34 RCW and who have been unable to live in his or her
34 legally authorized residence and, as a result, the minor lived outdoors
35 or in another unsafe location not intended for occupancy by the minor.
36 Dependent minors ages fourteen and fifteen may be eligible if no other
37 placement alternative is available and the department approves the
38 placement;

1 (1) "Service provider" means the entity that operates a community
2 facility.

3 (2) "Agency" shall not include the following:

4 (a) Persons related to the child, expectant mother, or person with
5 developmental disability in the following ways:

6 (i) Any blood relative, including those of half-blood, and
7 including first cousins, nephews or nieces, and persons of preceding
8 generations as denoted by prefixes of grand, great, or great-great;

9 (ii) Stepfather, stepmother, stepbrother, and stepsister;

10 (iii) A person who legally adopts a child or the child's parent as
11 well as the natural and other legally adopted children of such persons,
12 and other relatives of the adoptive parents in accordance with state
13 law;

14 (iv) Spouses of any persons named in (i), (ii), or (iii) of this
15 subsection (2)(a), even after the marriage is terminated; or

16 (v) Extended family members, as defined by the law or custom of the
17 Indian child's tribe or, in the absence of such law or custom, a person
18 who has reached the age of eighteen and who is the Indian child's
19 grandparent, aunt or uncle, brother or sister, brother-in-law or
20 sister-in-law, niece or nephew, first or second cousin, or stepparent
21 who provides care in the family abode on a twenty-four-hour basis to an
22 Indian child as defined in 25 U.S.C. Sec. 1903(4);

23 (b) Persons who are legal guardians of the child, expectant mother,
24 or persons with developmental disabilities;

25 (c) Persons who care for a neighbor's or friend's child or
26 children, with or without compensation, where: (i) The person
27 providing care for periods of less than twenty-four hours does not
28 conduct such activity on an ongoing, regularly scheduled basis for the
29 purpose of engaging in business, which includes, but is not limited to,
30 advertising such care; or (ii) the parent and person providing care on
31 a twenty-four-hour basis have agreed to the placement in writing and
32 the state is not providing any payment for the care;

33 (d) Parents on a mutually cooperative basis exchange care of one
34 another's children;

35 (e) A person, partnership, corporation, or other entity that
36 provides placement or similar services to exchange students or
37 international student exchange visitors or persons who have the care of
38 an exchange student in their home;

1 (f) A person, partnership, corporation, or other entity that
2 provides placement or similar services to international children who
3 have entered the country by obtaining visas that meet the criteria for
4 medical care as established by the United States immigration and
5 naturalization service, or persons who have the care of such an
6 international child in their home;

7 (g) Nursery schools or kindergartens which are engaged primarily in
8 educational work with preschool children and in which no child is
9 enrolled on a regular basis for more than four hours per day;

10 (h) Schools, including boarding schools, which are engaged
11 primarily in education, operate on a definite school year schedule,
12 follow a stated academic curriculum, accept only school-age children
13 and do not accept custody of children;

14 (i) Seasonal camps of three months' or less duration engaged
15 primarily in recreational or educational activities;

16 (j) Hospitals licensed pursuant to chapter 70.41 RCW when
17 performing functions defined in chapter 70.41 RCW, nursing homes
18 licensed under chapter 18.51 RCW and boarding homes licensed under
19 chapter 18.20 RCW;

20 (k) Licensed physicians or lawyers;

21 (l) Facilities providing care to children for periods of less than
22 twenty-four hours whose parents remain on the premises to participate
23 in activities other than employment;

24 (m) Facilities approved and certified under chapter 71A.22 RCW;

25 (n) Any agency having been in operation in this state ten years
26 prior to June 8, 1967, and not seeking or accepting moneys or
27 assistance from any state or federal agency, and is supported in part
28 by an endowment or trust fund;

29 (o) Persons who have a child in their home for purposes of
30 adoption, if the child was placed in such home by a licensed child-
31 placing agency, an authorized public or tribal agency or court or if a
32 replacement report has been filed under chapter 26.33 RCW and the
33 placement has been approved by the court;

34 (p) An agency operated by any unit of local, state, or federal
35 government or an agency, located within the boundaries of a federally
36 recognized Indian reservation, licensed by the Indian tribe;

37 (q) A maximum or medium security program for juvenile offenders
38 operated by or under contract with the department;

1 (r) An agency located on a federal military reservation, except
2 where the military authorities request that such agency be subject to
3 the licensing requirements of this chapter.

4 (3) "Department" means the state department of social and health
5 services.

6 (4) "Family child care licensee" means a person who: (a) Provides
7 regularly scheduled care for a child or children in the home of the
8 provider for periods of less than twenty-four hours or, if necessary
9 due to the nature of the parent's work, for periods equal to or greater
10 than twenty-four hours; (b) does not receive child care subsidies; and
11 (c) is licensed by the state under RCW 74.15.030.

12 (5) "Juvenile" means a person under the age of twenty-one who has
13 been sentenced to a term of confinement under the supervision of the
14 department under RCW 13.40.185.

15 ((+5)) (6) "Probationary license" means a license issued as a
16 disciplinary measure to an agency that has previously been issued a
17 full license but is out of compliance with licensing standards.

18 ((+6)) (7) "Requirement" means any rule, regulation, or standard
19 of care to be maintained by an agency.

20 ((+7)) (8) "Secretary" means the secretary of social and health
21 services.

22 ((+8)) (9) "Street youth" means a person under the age of eighteen
23 who lives outdoors or in another unsafe location not intended for
24 occupancy by the minor and who is not residing with his or her parent
25 or at his or her legally authorized residence.

26 ((+9)) (10) "Transitional living services" means at a minimum, to
27 the extent funds are available, the following:

28 (a) Educational services, including basic literacy and
29 computational skills training, either in local alternative or public
30 high schools or in a high school equivalency program that leads to
31 obtaining a high school equivalency degree;

32 (b) Assistance and counseling related to obtaining vocational
33 training or higher education, job readiness, job search assistance, and
34 placement programs;

35 (c) Counseling and instruction in life skills such as money
36 management, home management, consumer skills, parenting, health care,
37 access to community resources, and transportation and housing options;

38 (d) Individual and group counseling; and

1 (e) Establishing networks with federal agencies and state and local
2 organizations such as the United States department of labor, employment
3 and training administration programs including the job training
4 partnership act which administers private industry councils and the job
5 corps; vocational rehabilitation; and volunteer programs.

6 **Sec. 8.** RCW 74.15.030 and 2005 c 490 s 11 are each amended to read
7 as follows:

8 The secretary shall have the power and it shall be the secretary's
9 duty:

10 (1) In consultation with the children's services advisory
11 committee, and with the advice and assistance of persons representative
12 of the various type agencies to be licensed, to designate categories of
13 facilities for which separate or different requirements shall be
14 developed as may be appropriate whether because of variations in the
15 ages, sex and other characteristics of persons served, variations in
16 the purposes and services offered or size or structure of the agencies
17 to be licensed hereunder, or because of any other factor relevant
18 thereto;

19 (2) In consultation with the children's services advisory
20 committee, and with the advice and assistance of persons representative
21 of the various type agencies to be licensed, to adopt and publish
22 minimum requirements for licensing applicable to each of the various
23 categories of agencies to be licensed.

24 The minimum requirements shall be limited to:

25 (a) The size and suitability of a facility and the plan of
26 operation for carrying out the purpose for which an applicant seeks a
27 license;

28 (b) The character, suitability and competence of an agency and
29 other persons associated with an agency directly responsible for the
30 care and treatment of children, expectant mothers or developmentally
31 disabled persons. In consultation with law enforcement personnel, the
32 secretary shall investigate the conviction record or pending charges
33 and dependency record information under chapter 43.43 RCW of each
34 agency and its staff seeking licensure or relicensure. No unfounded
35 allegation of child abuse or neglect as defined in RCW 26.44.020 may be
36 disclosed to a child-placing agency, private adoption agency, or any
37 other provider licensed under this chapter. In order to determine the

1 suitability of applicants for an agency license, licensees, their
2 employees, and other persons who have unsupervised access to children
3 in care, and who have not resided in the state of Washington during the
4 three-year period before being authorized to care for children shall be
5 fingerprinted. The fingerprints shall be forwarded to the Washington
6 state patrol and federal bureau of investigation for a criminal history
7 records check. The fingerprint criminal history records checks will be
8 at the expense of the licensee except that in the case of a foster
9 family home, if this expense would work a hardship on the licensee, the
10 department shall pay the expense. The licensee may not pass this cost
11 on to the employee or prospective employee, unless the employee is
12 determined to be unsuitable due to his or her criminal history record.
13 The secretary shall use the information solely for the purpose of
14 determining eligibility for a license and for determining the
15 character, suitability, and competence of those persons or agencies,
16 excluding parents, not required to be licensed who are authorized to
17 care for children, expectant mothers, and developmentally disabled
18 persons. Criminal justice agencies shall provide the secretary such
19 information as they may have and that the secretary may require for
20 such purpose;

21 (c) The number of qualified persons required to render the type of
22 care and treatment for which an agency seeks a license;

23 (d) The safety, cleanliness, and general adequacy of the premises
24 to provide for the comfort, care and well-being of children, expectant
25 mothers or developmentally disabled persons;

26 (e) The provision of necessary care, including food, clothing,
27 supervision and discipline; physical, mental and social well-being; and
28 educational, recreational and spiritual opportunities for those served;

29 (f) The financial ability of an agency to comply with minimum
30 requirements established pursuant to chapter 74.15 RCW and RCW
31 74.13.031; and

32 (g) The maintenance of records pertaining to the admission,
33 progress, health and discharge of persons served;

34 (3) To investigate any person, including relatives by blood or
35 marriage except for parents, for character, suitability, and competence
36 in the care and treatment of children, expectant mothers, and
37 developmentally disabled persons prior to authorizing that person to
38 care for children, expectant mothers, and developmentally disabled

1 persons. However, if a child is placed with a relative under RCW
2 13.34.065 or 13.34.130, and if such relative appears otherwise suitable
3 and competent to provide care and treatment the criminal history
4 background check required by this section need not be completed before
5 placement, but shall be completed as soon as possible after placement;

6 (4) On reports of alleged child abuse and neglect, to investigate
7 agencies in accordance with chapter 26.44 RCW, including child day-care
8 centers and family day-care homes, to determine whether the alleged
9 abuse or neglect has occurred, and whether child protective services or
10 referral to a law enforcement agency is appropriate;

11 (5) To issue, revoke, or deny licenses to agencies pursuant to
12 chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the
13 category of care which an agency is authorized to render and the ages,
14 sex and number of persons to be served;

15 (6) To prescribe the procedures and the form and contents of
16 reports necessary for the administration of chapter 74.15 RCW and RCW
17 74.13.031 and to require regular reports from each licensee;

18 (7) To inspect agencies periodically to determine whether or not
19 there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the
20 requirements adopted hereunder;

21 (8) To review requirements adopted hereunder at least every two
22 years and to adopt appropriate changes after consultation with affected
23 groups for child day-care requirements and with the children's services
24 advisory committee for requirements for other agencies; ~~((and))~~

25 (9) To engage in negotiated rule making pursuant to RCW
26 34.05.310(2)(a) with the exclusive representative of the family child
27 care licensees selected in accordance with section 6 of this act and
28 with other affected interests before adopting requirements that affect
29 family child care licensees; and

30 (10) To consult with public and private agencies in order to help
31 them improve their methods and facilities for the care of children,
32 expectant mothers and developmentally disabled persons.

33 PART III - GENERAL PROVISIONS

34 NEW SECTION. **Sec. 9.** Part headings used in this act are not any
35 part of the law.

1 NEW SECTION. **Sec. 10.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 11.** If any part of this act is found to be in
6 conflict with federal requirements that are a prescribed condition to
7 the allocation of federal funds to the state, the conflicting part of
8 this act is inoperative solely to the extent of the conflict and with
9 respect to the agencies directly affected, and this finding does not
10 affect the operation of the remainder of this act in its application to
11 the agencies concerned. Rules adopted under this act must meet federal
12 requirements that are a necessary condition to the receipt of federal
13 funds by the state.

14 NEW SECTION. **Sec. 12.** This act may be known and cited as the
15 access to quality family child care act.

16 NEW SECTION. **Sec. 13.** Sections 1 through 5 of this act are
17 necessary for the immediate preservation of the public peace, health,
18 or safety, or support of the state government and its existing public
19 institutions, and take effect immediately.

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