

**SUBSTITUTE HOUSE BILL 2353**

**State of Washington**

**59th Legislature**

**2006 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by Representatives Pettigrew, Shabro, Kessler, Priest, Cox, Conway, Haler, P. Sullivan, Appleton, Walsh, Kenney, Green, Armstrong, Hasegawa, Kagi, Hunt, McCoy, Buri, Fromhold, Strow, Curtis, McDermott, Williams, Hudgins, Moeller, Sells, Lantz, Kilmer, Chase, McDonald, Morrell, Murray, Linville, Santos, Springer, Wallace, Dickerson, Roberts, Cody, B. Sullivan, Simpson, Ericks, Upthegrove, Campbell, Ormsby and O'Brien)

READ FIRST TIME 02/02/06.

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; and creating new  
7 sections.

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) As of the effective date of this act, the exclusive bargaining  
10 representative of family child care providers in the unit specified in  
11 (a) of this subsection shall be the representative selected as the  
12 majority representative in the election held pursuant to the directive  
13 of the governor to the secretary of the department of social and health  
14 services, dated September 16, 2005. If family child care providers  
15 seek to select a different representative thereafter, the procedures  
16 specified in RCW 41.56.040 through 41.56.080 apply.

17 (c) "Collective bargaining" means the performance of the mutual  
18 obligations of the public employer and the exclusive bargaining  
19 representative to meet at reasonable times, to confer and negotiate in  
20 good faith, and to execute a written agreement with respect to  
21 grievance procedures and collective negotiations on personnel matters,  
22 including but not limited to: (i) Economic compensation, such as  
23 manner and rate of subsidy and reimbursement, including tiered  
24 reimbursements; (ii) health and welfare benefits; (iii) professional  
25 development and training; and (iv) labor-management committees. By  
26 such obligation neither party shall be compelled to agree to a proposal  
27 or be required to make a concession unless otherwise provided in this  
28 chapter.

29 (d) The mediation and interest arbitration provisions of RCW  
30 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

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

37 (ii) In addition to the factors to be taken into consideration by

1 an interest arbitration panel under RCW 41.56.465, the panel shall  
2 consider the financial ability of the state to pay for the compensation  
3 and benefit provisions of a collective bargaining agreement; and

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

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

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

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

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

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

25 (c) Chapter 26.44 RCW, RCW 43.43.832, 43.20A.205, and 74.15.130;  
26 and

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

35 (5) Upon meeting the requirements of subsection (6) of this  
36 section, the governor must submit, as a part of the proposed biennial  
37 or supplemental operating budget submitted to the legislature under RCW  
38 43.88.030, a request for funds necessary to implement the compensation

1 and benefit provisions of a collective bargaining agreement entered  
2 into under this section or for legislation necessary to implement such  
3 agreement.

4 (6) Except as provided in subsections (7) and (8) of this section,  
5 a request for funds necessary to implement the compensation and benefit  
6 provisions of a collective bargaining agreement entered into under this  
7 section shall not be submitted by the governor to the legislature  
8 unless such request has been:

9 (a) Submitted to the director of financial management by October  
10 1st before the legislative session at which the request is to be  
11 considered; and

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

15 (7) The October 1st deadline under subsection (6)(a) of this  
16 section is suspended, however, if one or both of the parties to an  
17 agreement make application before that date to the commission for  
18 appointment of a mediator to assist in the resolution of differences  
19 that occur during the negotiation of an agreement for compensation and  
20 benefits or if the parties are engaged in the interest arbitration  
21 process provided for in subsection (2)(d) of this section. If the  
22 October 1st deadline is suspended, a request for funds necessary to  
23 implement the compensation and benefit provisions of a collective  
24 bargaining agreement entered into under this section shall not be  
25 submitted by the governor to the legislature unless:

26 (a) An agreement or a binding decision is reached on the  
27 compensation and benefit provisions of a collective bargaining  
28 agreement before final action on the biennial or supplemental state  
29 budget;

30 (b) Such request has been submitted to the director of financial  
31 management; and

32 (c) Such request has been certified by the director of financial  
33 management as being feasible financially for the state or reflects the  
34 binding decision of an arbitration panel reached under this section.

35 (8) The legislature must approve or reject the submission of the  
36 request for funds as a whole. If the legislature rejects or fails to  
37 act on the submission, any such agreement will be reopened solely for

1 the purpose of renegotiating the funds necessary to implement the  
2 agreement.

3 (9) The governor shall periodically consult with the joint  
4 committee on employment relations established by RCW 41.80.010  
5 regarding appropriations necessary to implement the compensation and  
6 benefit provisions of any collective bargaining agreement and, upon  
7 completion of negotiations, advise the committee on the elements of the  
8 agreement and on any legislation necessary to implement such agreement.

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

15 (11) If, after the compensation and benefit provisions of an  
16 agreement are approved by the legislature, a significant revenue  
17 shortfall occurs resulting in reduced appropriations, as declared by  
18 proclamation of the governor or by resolution of the legislature, both  
19 parties shall immediately enter into collective bargaining for a  
20 mutually agreed upon modification of the agreement.

21 (12) In enacting this section, the legislature intends to provide  
22 state action immunity under federal and state antitrust laws for the  
23 joint activities of family child care providers and their exclusive  
24 bargaining representative to the extent such activities are authorized  
25 by this chapter.

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

28 As used in this chapter:

29 (1) "Public employer" means any officer, board, commission,  
30 council, or other person or body acting on behalf of any public body  
31 governed by this chapter, or any subdivision of such public body. For  
32 the purposes of this section, the public employer of district court or  
33 superior court employees for wage-related matters is the respective  
34 county legislative authority, or person or body acting on behalf of the  
35 legislative authority, and the public employer for nonwage-related  
36 matters is the judge or judge's designee of the respective district  
37 court or superior court.

1 (2) "Public employee" means any employee of a public employer  
2 except any person (a) elected by popular vote, or (b) appointed to  
3 office pursuant to statute, ordinance or resolution for a specified  
4 term of office as a member of a multimember board, commission, or  
5 committee, whether appointed by the executive head or body of the  
6 public employer, or (c) whose duties as deputy, administrative  
7 assistant or secretary necessarily imply a confidential relationship to  
8 (i) the executive head or body of the applicable bargaining unit, or  
9 (ii) any person elected by popular vote, or (iii) any person appointed  
10 to office pursuant to statute, ordinance or resolution for a specified  
11 term of office as a member of a multimember board, commission, or  
12 committee, whether appointed by the executive head or body of the  
13 public employer, or (d) who is a court commissioner or a court  
14 magistrate of superior court, district court, or a department of a  
15 district court organized under chapter 3.46 RCW, or (e) who is a  
16 personal assistant to a district court judge, superior court judge, or  
17 court commissioner(~~(, or (f) excluded from a bargaining unit under RCW~~  
18 ~~41.56.201(2)(a))~~). For the purpose of (e) of this subsection, no more  
19 than one assistant for each judge or commissioner may be excluded from  
20 a bargaining unit.

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

24 (4) "Collective bargaining" means the performance of the mutual  
25 obligations of the public employer and the exclusive bargaining  
26 representative to meet at reasonable times, to confer and negotiate in  
27 good faith, and to execute a written agreement with respect to  
28 grievance procedures and collective negotiations on personnel matters,  
29 including wages, hours and working conditions, which may be peculiar to  
30 an appropriate bargaining unit of such public employer, except that by  
31 such obligation neither party shall be compelled to agree to a proposal  
32 or be required to make a concession unless otherwise provided in this  
33 chapter.

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

35 (6) "Executive director" means the executive director of the  
36 commission.

37 (7) "Uniformed personnel" means: (a) Law enforcement officers as  
38 defined in RCW 41.26.030 employed by the governing body of any city or

1 town with a population of two thousand five hundred or more and law  
2 enforcement officers employed by the governing body of any county with  
3 a population of ten thousand or more; (b) correctional employees who  
4 are uniformed and nonuniformed, commissioned and noncommissioned  
5 security personnel employed in a jail as defined in RCW 70.48.020(5),  
6 by a county with a population of seventy thousand or more, and who are  
7 trained for and charged with the responsibility of controlling and  
8 maintaining custody of inmates in the jail and safeguarding inmates  
9 from other inmates; (c) general authority Washington peace officers as  
10 defined in RCW 10.93.020 employed by a port district in a county with  
11 a population of one million or more; (d) security forces established  
12 under RCW 43.52.520; (e) fire fighters as that term is defined in RCW  
13 41.26.030; (f) employees of a port district in a county with a  
14 population of one million or more whose duties include crash fire  
15 rescue or other fire fighting duties; (g) employees of fire departments  
16 of public employers who dispatch exclusively either fire or emergency  
17 medical services, or both; or (h) employees in the several classes of  
18 advanced life support technicians, as defined in RCW 18.71.200, who are  
19 employed by a public employer.

20 (8) "Institution of higher education" means the University of  
21 Washington, Washington State University, Central Washington University,  
22 Eastern Washington University, Western Washington University, The  
23 Evergreen State College, and the various state community colleges.

24 (9) "Home care quality authority" means the authority under chapter  
25 74.39A RCW.

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

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

32 (12) "Family child care provider" means a person who: (a) Provides  
33 regularly scheduled care for a child or children in the home of the  
34 provider or in the home of the child or children for periods of less  
35 than twenty-four hours or, if necessary due to the nature of the  
36 parent's work, for periods equal to or greater than twenty-four hours;  
37 (b) receives child care subsidies; and (c) is either licensed by the

1 state under RCW 74.15.030 or is exempt from licensing under chapter  
2 74.15 RCW.

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

5 (1) Upon the written authorization of an individual provider or a  
6 family child care provider within the bargaining unit and after the  
7 certification or recognition of the bargaining unit's exclusive  
8 bargaining representative, the state as payor, but not as the employer,  
9 shall, subject to subsection (3) of this section, deduct from the  
10 payments to an individual provider or a family child care provider the  
11 monthly amount of dues as certified by the secretary of the exclusive  
12 bargaining representative and shall transmit the same to the treasurer  
13 of the exclusive bargaining representative.

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

17 (a) Includes a union security provision authorized in RCW  
18 41.56.122, the state as payor, but not as the employer, shall, subject  
19 to subsection (3) of this section, enforce the agreement by deducting  
20 from the payments to bargaining unit members the dues required for  
21 membership in the exclusive bargaining representative, or, for  
22 nonmembers thereof, a fee equivalent to the dues; or

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

28 (3)(a) The initial additional costs to the state in making  
29 deductions from the payments to individual providers or family child  
30 care providers under this section shall be negotiated, agreed upon in  
31 advance, and reimbursed to the state by the exclusive bargaining  
32 representative.

33 (b) The allocation of ongoing additional costs to the state in  
34 making deductions from the payments to individual providers or family  
35 child care providers under this section shall be an appropriate subject  
36 of collective bargaining between the exclusive bargaining  
37 representative and the governor unless prohibited by another statute.

1 If no collective bargaining agreement containing a provision allocating  
2 the ongoing additional cost is entered into between the exclusive  
3 bargaining representative and the governor, or if the legislature does  
4 not approve funding for the collective bargaining agreement as provided  
5 in RCW 74.39A.300 or section 1 of this act, as applicable, the ongoing  
6 additional costs to the state in making deductions from the payments to  
7 individual providers or family child care providers under this section  
8 shall be negotiated, agreed upon in advance, and reimbursed to the  
9 state by the exclusive bargaining representative.

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

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

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

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

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

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

25 (1) Solely for the purposes of negotiated rule making pursuant to  
26 RCW 34.05.310(2)(a) and 74.15.030, a statewide unit of all family child  
27 care licensees is appropriate. As of the effective date of this act,  
28 the exclusive representative of family child care licensees in the  
29 statewide unit shall be the representative selected as the majority  
30 representative in the election held under the directive of the governor  
31 to the secretary of the department of social and health services, dated  
32 September 16, 2005. If family child care licensees seek to select a  
33 different representative thereafter, the family child care licensees

1 may request that the American arbitration association conduct an  
2 election and certify the results of the election.

3 (2) In enacting this section, the legislature intends to provide  
4 state action immunity under federal and state antitrust laws for the  
5 joint activities of family child care licensees and their exclusive  
6 representative to the extent such activities are authorized by this  
7 chapter.

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

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

13 (1) "Agency" means any person, firm, partnership, association,  
14 corporation, or facility which receives children, expectant mothers, or  
15 persons with developmental disabilities for control, care, or  
16 maintenance outside their own homes, or which places, arranges the  
17 placement of, or assists in the placement of children, expectant  
18 mothers, or persons with developmental disabilities for foster care or  
19 placement of children for adoption, and shall include the following  
20 irrespective of whether there is compensation to the agency or to the  
21 children, expectant mothers or persons with developmental disabilities  
22 for services rendered:

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

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

28 (c) "Community facility" means a group care facility operated for  
29 the care of juveniles committed to the department under RCW 13.40.185.  
30 A county detention facility that houses juveniles committed to the  
31 department under RCW 13.40.185 pursuant to a contract with the  
32 department is not a community facility;

33 (d) "Crisis residential center" means an agency which is a  
34 temporary protective residential facility operated to perform the  
35 duties specified in chapter 13.32A RCW, in the manner provided in RCW  
36 74.13.032 through 74.13.036;

1 (e) "Emergency respite center" is an agency that may be commonly  
2 known as a crisis nursery, that provides emergency and crisis care for  
3 up to seventy-two hours to children who have been admitted by their  
4 parents or guardians to prevent abuse or neglect. Emergency respite  
5 centers may operate for up to twenty-four hours a day, and for up to  
6 seven days a week. Emergency respite centers may provide care for  
7 children ages birth through seventeen, and for persons eighteen through  
8 twenty with developmental disabilities who are admitted with a sibling  
9 or siblings through age seventeen. Emergency respite centers may not  
10 substitute for crisis residential centers or HOPE centers, or any other  
11 services defined under this section, and may not substitute for  
12 services which are required under chapter 13.32A or 13.34 RCW;

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

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

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

25 (i) "HOPE center" means an agency licensed by the secretary to  
26 provide temporary residential placement and other services to street  
27 youth. A street youth may remain in a HOPE center for thirty days  
28 while services are arranged and permanent placement is coordinated. No  
29 street youth may stay longer than thirty days unless approved by the  
30 department and any additional days approved by the department must be  
31 based on the unavailability of a long-term placement option. A street  
32 youth whose parent wants him or her returned to home may remain in a  
33 HOPE center until his or her parent arranges return of the youth, not  
34 longer. All other street youth must have court approval under chapter  
35 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

36 (j) "Maternity service" means an agency which provides or arranges  
37 for care or services to expectant mothers, before or during

1 confinement, or which provides care as needed to mothers and their  
2 infants after confinement;

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

12 (l) "Service provider" means the entity that operates a community  
13 facility.

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

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

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

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

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

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

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

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

36 (c) Persons who care for a neighbor's or friend's child or  
37 children, with or without compensation, where: (i) The person  
38 providing care for periods of less than twenty-four hours does not

1 conduct such activity on an ongoing, regularly scheduled basis for the  
2 purpose of engaging in business, which includes, but is not limited to,  
3 advertising such care; or (ii) the parent and person providing care on  
4 a twenty-four-hour basis have agreed to the placement in writing and  
5 the state is not providing any payment for the care;

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

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

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

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

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

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

27 (j) Hospitals licensed pursuant to chapter 70.41 RCW when  
28 performing functions defined in chapter 70.41 RCW, nursing homes  
29 licensed under chapter 18.51 RCW and boarding homes licensed under  
30 chapter 18.20 RCW;

31 (k) Licensed physicians or lawyers;

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

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

36 (n) Any agency having been in operation in this state ten years  
37 prior to June 8, 1967, and not seeking or accepting moneys or

1 assistance from any state or federal agency, and is supported in part  
2 by an endowment or trust fund;

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

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

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

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

16 (3) "Department" means the state department of social and health  
17 services.

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

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

27 ((+5)) (6) "Probationary license" means a license issued as a  
28 disciplinary measure to an agency that has previously been issued a  
29 full license but is out of compliance with licensing standards.

30 ((+6)) (7) "Requirement" means any rule, regulation, or standard  
31 of care to be maintained by an agency.

32 ((+7)) (8) "Secretary" means the secretary of social and health  
33 services.

34 ((+8)) (9) "Street youth" means a person under the age of eighteen  
35 who lives outdoors or in another unsafe location not intended for  
36 occupancy by the minor and who is not residing with his or her parent  
37 or at his or her legally authorized residence.

1       (~~(9)~~) (10) "Transitional living services" means at a minimum, to  
2 the extent funds are available, the following:

3       (a) Educational services, including basic literacy and  
4 computational skills training, either in local alternative or public  
5 high schools or in a high school equivalency program that leads to  
6 obtaining a high school equivalency degree;

7       (b) Assistance and counseling related to obtaining vocational  
8 training or higher education, job readiness, job search assistance, and  
9 placement programs;

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

13       (d) Individual and group counseling; and

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

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

21       The secretary shall have the power and it shall be the secretary's  
22 duty:

23       (1) In consultation with the children's services advisory  
24 committee, and with the advice and assistance of persons representative  
25 of the various type agencies to be licensed, to designate categories of  
26 facilities for which separate or different requirements shall be  
27 developed as may be appropriate whether because of variations in the  
28 ages, sex and other characteristics of persons served, variations in  
29 the purposes and services offered or size or structure of the agencies  
30 to be licensed hereunder, or because of any other factor relevant  
31 thereto;

32       (2) In consultation with the children's services advisory  
33 committee, and with the advice and assistance of persons representative  
34 of the various type agencies to be licensed, to adopt and publish  
35 minimum requirements for licensing applicable to each of the various  
36 categories of agencies to be licensed.

37       The minimum requirements shall be limited to:

1 (a) The size and suitability of a facility and the plan of  
2 operation for carrying out the purpose for which an applicant seeks a  
3 license;

4 (b) The character, suitability and competence of an agency and  
5 other persons associated with an agency directly responsible for the  
6 care and treatment of children, expectant mothers or developmentally  
7 disabled persons. In consultation with law enforcement personnel, the  
8 secretary shall investigate the conviction record or pending charges  
9 and dependency record information under chapter 43.43 RCW of each  
10 agency and its staff seeking licensure or relicensure. No unfounded  
11 allegation of child abuse or neglect as defined in RCW 26.44.020 may be  
12 disclosed to a child-placing agency, private adoption agency, or any  
13 other provider licensed under this chapter. In order to determine the  
14 suitability of applicants for an agency license, licensees, their  
15 employees, and other persons who have unsupervised access to children  
16 in care, and who have not resided in the state of Washington during the  
17 three-year period before being authorized to care for children shall be  
18 fingerprinted. The fingerprints shall be forwarded to the Washington  
19 state patrol and federal bureau of investigation for a criminal history  
20 records check. The fingerprint criminal history records checks will be  
21 at the expense of the licensee except that in the case of a foster  
22 family home, if this expense would work a hardship on the licensee, the  
23 department shall pay the expense. The licensee may not pass this cost  
24 on to the employee or prospective employee, unless the employee is  
25 determined to be unsuitable due to his or her criminal history record.  
26 The secretary shall use the information solely for the purpose of  
27 determining eligibility for a license and for determining the  
28 character, suitability, and competence of those persons or agencies,  
29 excluding parents, not required to be licensed who are authorized to  
30 care for children, expectant mothers, and developmentally disabled  
31 persons. Criminal justice agencies shall provide the secretary such  
32 information as they may have and that the secretary may require for  
33 such purpose;

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

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

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

4 (f) The financial ability of an agency to comply with minimum  
5 requirements established pursuant to chapter 74.15 RCW and RCW  
6 74.13.031; and

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

9 (3) To investigate any person, including relatives by blood or  
10 marriage except for parents, for character, suitability, and competence  
11 in the care and treatment of children, expectant mothers, and  
12 developmentally disabled persons prior to authorizing that person to  
13 care for children, expectant mothers, and developmentally disabled  
14 persons. However, if a child is placed with a relative under RCW  
15 13.34.065 or 13.34.130, and if such relative appears otherwise suitable  
16 and competent to provide care and treatment the criminal history  
17 background check required by this section need not be completed before  
18 placement, but shall be completed as soon as possible after placement;

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

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

28 (6) To prescribe the procedures and the form and contents of  
29 reports necessary for the administration of chapter 74.15 RCW and RCW  
30 74.13.031 and to require regular reports from each licensee;

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

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

