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**SUBSTITUTE SENATE BILL 6165**

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**State of Washington**

**59th Legislature**

**2006 Regular Session**

**By** Senate Committee on Human Services & Corrections (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 02/03/06.

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

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

31 As used in this chapter:

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

1 legislative authority, and the public employer for nonwage-related  
2 matters is the judge or judge's designee of the respective district  
3 court or superior court.

4 (2) "Public employee" means any employee of a public employer  
5 except any person (a) elected by popular vote, or (b) appointed to  
6 office pursuant to statute, ordinance or resolution for a specified  
7 term of office as a member of a multimember board, commission, or  
8 committee, whether appointed by the executive head or body of the  
9 public employer, or (c) whose duties as deputy, administrative  
10 assistant or secretary necessarily imply a confidential relationship to  
11 (i) the executive head or body of the applicable bargaining unit, or  
12 (ii) any person elected by popular vote, or (iii) any person appointed  
13 to office pursuant to statute, ordinance or resolution for a specified  
14 term of office as a member of a multimember board, commission, or  
15 committee, whether appointed by the executive head or body of the  
16 public employer, or (d) who is a court commissioner or a court  
17 magistrate of superior court, district court, or a department of a  
18 district court organized under chapter 3.46 RCW, or (e) who is a  
19 personal assistant to a district court judge, superior court judge, or  
20 court commissioner(~~(, or (f) excluded from a bargaining unit under RCW~~  
21 ~~41.56.201(2)(a))~~). For the purpose of (e) of this subsection, no more  
22 than one assistant for each judge or commissioner may be excluded from  
23 a bargaining unit.

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

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

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

1 (6) "Executive director" means the executive director of the  
2 commission.

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

24 (8) "Institution of higher education" means the University of  
25 Washington, Washington State University, Central Washington University,  
26 Eastern Washington University, Western Washington University, The  
27 Evergreen State College, and the various state community colleges.

28 (9) "Home care quality authority" means the authority under chapter  
29 74.39A RCW.

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

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

36 (12) "Family child care provider" means a person who: (a) Provides  
37 regularly scheduled care for a child or children in the home of the  
38 provider or in the home of the child or children for periods of less

1 than twenty-four hours or, if necessary due to the nature of the  
2 parent's work, for periods equal to or greater than twenty-four hours;  
3 (b) receives child care subsidies; and (c) is either licensed by the  
4 state under RCW 74.15.030 or is exempt from licensing under chapter  
5 74.15 RCW.

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

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

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

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

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

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

36 (b) The allocation of ongoing additional costs to the state in  
37 making deductions from the payments to individual providers or family

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

13 (4) The governor and the exclusive bargaining representative of a  
14 bargaining unit of family child care providers may not enter into a  
15 collective bargaining agreement that contains a union security  
16 provision unless the agreement contains a process, to be administered  
17 by the exclusive bargaining representative of a bargaining unit of  
18 family child care providers, for hardship dispensation for license-  
19 exempt family child care providers who are also temporary assistance  
20 for needy families recipients or WorkFirst participants.

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

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

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

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

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

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

3        (1) Solely for the purposes of negotiated rule making pursuant to  
4 RCW 34.05.310(2)(a) and 74.15.030, a statewide unit of all family child  
5 care licensees is appropriate. As of the effective date of this act,  
6 the exclusive representative of family child care licensees in the  
7 statewide unit shall be the representative selected as the majority  
8 representative in the election held under the directive of the governor  
9 to the secretary of the department of social and health services, dated  
10 September 16, 2005. If family child care licensees seek to select a  
11 different representative thereafter, the family child care licensees  
12 may request that the American arbitration association conduct an  
13 election and certify the results of the election.

14        (2) In enacting this section, the legislature intends to provide  
15 state action immunity under federal and state antitrust laws for the  
16 joint activities of family child care licensees and their exclusive  
17 representative to the extent such activities are authorized by this  
18 chapter.

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

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

24        (1) "Agency" means any person, firm, partnership, association,  
25 corporation, or facility which receives children, expectant mothers, or  
26 persons with developmental disabilities for control, care, or  
27 maintenance outside their own homes, or which places, arranges the  
28 placement of, or assists in the placement of children, expectant  
29 mothers, or persons with developmental disabilities for foster care or  
30 placement of children for adoption, and shall include the following  
31 irrespective of whether there is compensation to the agency or to the  
32 children, expectant mothers or persons with developmental disabilities  
33 for services rendered:

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

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

3 (c) "Community facility" means a group care facility operated for  
4 the care of juveniles committed to the department under RCW 13.40.185.  
5 A county detention facility that houses juveniles committed to the  
6 department under RCW 13.40.185 pursuant to a contract with the  
7 department is not a community facility;

8 (d) "Crisis residential center" means an agency which is a  
9 temporary protective residential facility operated to perform the  
10 duties specified in chapter 13.32A RCW, in the manner provided in RCW  
11 74.13.032 through 74.13.036;

12 (e) "Emergency respite center" is an agency that may be commonly  
13 known as a crisis nursery, that provides emergency and crisis care for  
14 up to seventy-two hours to children who have been admitted by their  
15 parents or guardians to prevent abuse or neglect. Emergency respite  
16 centers may operate for up to twenty-four hours a day, and for up to  
17 seven days a week. Emergency respite centers may provide care for  
18 children ages birth through seventeen, and for persons eighteen through  
19 twenty with developmental disabilities who are admitted with a sibling  
20 or siblings through age seventeen. Emergency respite centers may not  
21 substitute for crisis residential centers or HOPE centers, or any other  
22 services defined under this section, and may not substitute for  
23 services which are required under chapter 13.32A or 13.34 RCW;

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

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

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

36 (i) "HOPE center" means an agency licensed by the secretary to  
37 provide temporary residential placement and other services to street  
38 youth. A street youth may remain in a HOPE center for thirty days

1 while services are arranged and permanent placement is coordinated. No  
2 street youth may stay longer than thirty days unless approved by the  
3 department and any additional days approved by the department must be  
4 based on the unavailability of a long-term placement option. A street  
5 youth whose parent wants him or her returned to home may remain in a  
6 HOPE center until his or her parent arranges return of the youth, not  
7 longer. All other street youth must have court approval under chapter  
8 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

9 (j) "Maternity service" means an agency which provides or arranges  
10 for care or services to expectant mothers, before or during  
11 confinement, or which provides care as needed to mothers and their  
12 infants after confinement;

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

22 (l) "Service provider" means the entity that operates a community  
23 facility.

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

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

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

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

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

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

37 (v) Extended family members, as defined by the law or custom of the  
38 Indian child's tribe or, in the absence of such law or custom, a person

1 who has reached the age of eighteen and who is the Indian child's  
2 grandparent, aunt or uncle, brother or sister, brother-in-law or  
3 sister-in-law, niece or nephew, first or second cousin, or stepparent  
4 who provides care in the family abode on a twenty-four-hour basis to an  
5 Indian child as defined in 25 U.S.C. Sec. 1903(4);

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

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

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

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

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

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

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

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

37 (j) Hospitals licensed pursuant to chapter 70.41 RCW when

1 performing functions defined in chapter 70.41 RCW, nursing homes  
2 licensed under chapter 18.51 RCW and boarding homes licensed under  
3 chapter 18.20 RCW;

4 (k) Licensed physicians or lawyers;

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

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

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

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

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

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

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

26 (3) "Department" means the state department of social and health  
27 services.

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

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

37 ((+5)) (6) "Probationary license" means a license issued as a

1 disciplinary measure to an agency that has previously been issued a  
2 full license but is out of compliance with licensing standards.

3 ~~((+6))~~ (7) "Requirement" means any rule, regulation, or standard  
4 of care to be maintained by an agency.

5 ~~((+7))~~ (8) "Secretary" means the secretary of social and health  
6 services.

7 ~~((+8))~~ (9) "Street youth" means a person under the age of eighteen  
8 who lives outdoors or in another unsafe location not intended for  
9 occupancy by the minor and who is not residing with his or her parent  
10 or at his or her legally authorized residence.

11 ~~((+9))~~ (10) "Transitional living services" means at a minimum, to  
12 the extent funds are available, the following:

13 (a) Educational services, including basic literacy and  
14 computational skills training, either in local alternative or public  
15 high schools or in a high school equivalency program that leads to  
16 obtaining a high school equivalency degree;

17 (b) Assistance and counseling related to obtaining vocational  
18 training or higher education, job readiness, job search assistance, and  
19 placement programs;

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

23 (d) Individual and group counseling; and

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

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

31 The secretary shall have the power and it shall be the secretary's  
32 duty:

33 (1) In consultation with the children's services advisory  
34 committee, and with the advice and assistance of persons representative  
35 of the various type agencies to be licensed, to designate categories of  
36 facilities for which separate or different requirements shall be  
37 developed as may be appropriate whether because of variations in the

1 ages, sex and other characteristics of persons served, variations in  
2 the purposes and services offered or size or structure of the agencies  
3 to be licensed hereunder, or because of any other factor relevant  
4 thereto;

5 (2) In consultation with the children's services advisory  
6 committee, and with the advice and assistance of persons representative  
7 of the various type agencies to be licensed, to adopt and publish  
8 minimum requirements for licensing applicable to each of the various  
9 categories of agencies to be licensed.

10 The minimum requirements shall be limited to:

11 (a) The size and suitability of a facility and the plan of  
12 operation for carrying out the purpose for which an applicant seeks a  
13 license;

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

1 excluding parents, not required to be licensed who are authorized to  
2 care for children, expectant mothers, and developmentally disabled  
3 persons. Criminal justice agencies shall provide the secretary such  
4 information as they may have and that the secretary may require for  
5 such purpose;

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

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

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

14 (f) The financial ability of an agency to comply with minimum  
15 requirements established pursuant to chapter 74.15 RCW and RCW  
16 74.13.031; and

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

19 (3) To investigate any person, including relatives by blood or  
20 marriage except for parents, for character, suitability, and competence  
21 in the care and treatment of children, expectant mothers, and  
22 developmentally disabled persons prior to authorizing that person to  
23 care for children, expectant mothers, and developmentally disabled  
24 persons. However, if a child is placed with a relative under RCW  
25 13.34.065 or 13.34.130, and if such relative appears otherwise suitable  
26 and competent to provide care and treatment the criminal history  
27 background check required by this section need not be completed before  
28 placement, but shall be completed as soon as possible after placement;

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

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

1 (6) To prescribe the procedures and the form and contents of  
2 reports necessary for the administration of chapter 74.15 RCW and RCW  
3 74.13.031 and to require regular reports from each licensee;

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

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

11 (9) To engage in negotiated rule making pursuant to RCW  
12 34.05.310(2)(a) with the exclusive representative of the family child  
13 care licensees selected in accordance with section 6 of this act and  
14 with other affected interests before adopting requirements that affect  
15 family child care licensees; and

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

19 **PART III - GENERAL PROVISIONS**

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

22 NEW SECTION. **Sec. 10.** If any provision of this act or its  
23 application to any person or circumstance is held invalid, the  
24 remainder of the act or the application of the provision to other  
25 persons or circumstances is not affected.

26 NEW SECTION. **Sec. 11.** If any part of this act is found to be in  
27 conflict with federal requirements that are a prescribed condition to  
28 the allocation of federal funds to the state, the conflicting part of  
29 this act is inoperative solely to the extent of the conflict and with  
30 respect to the agencies directly affected, and this finding does not  
31 affect the operation of the remainder of this act in its application to  
32 the agencies concerned. Rules adopted under this act must meet federal  
33 requirements that are a necessary condition to the receipt of federal  
34 funds by the state.

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

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