

SECOND SUBSTITUTE HOUSE BILL 2353

State of Washington

59th Legislature

2006 Regular Session

By House Committee on Appropriations (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 2/7/06.

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 conducted pursuant to RCW
12 41.56.070.

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

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

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

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

37 (iii) The decision of the arbitration panel is not binding on the
38 legislature and, if the legislature does not approve the request for

1 funds necessary to implement the compensation and benefit provisions of
2 the arbitrated collective bargaining agreement, is not binding on the
3 state.

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

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

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

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

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

20 (c) Chapter 26.44 RCW, RCW 43.43.832, 43.20A.205, and 74.15.130;
21 and

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

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

37 (6) Except as provided in subsection (7) of this section, a request
38 for funds necessary to implement the compensation and benefit

1 provisions of a collective bargaining agreement entered into under this
2 section shall not be submitted by the governor to the legislature
3 unless such request has been:

4 (a) Submitted to the director of financial management by October
5 1st before the legislative session at which the request is to be
6 considered, except that, for initial negotiations under this section,
7 the request must be submitted by November 15, 2006; and

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

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

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

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

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

34 (11) In enacting this section, the legislature intends to provide
35 state action immunity under federal and state antitrust laws for the
36 joint activities of family child care providers and their exclusive
37 bargaining representative to the extent such activities are authorized
38 by this chapter.

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

3 As used in this chapter:

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

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

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

36 (4) "Collective bargaining" means the performance of the mutual
37 obligations of the public employer and the exclusive bargaining
38 representative to meet at reasonable times, to confer and negotiate in

1 good faith, and to execute a written agreement with respect to
2 grievance procedures and collective negotiations on personnel matters,
3 including wages, hours and working conditions, which may be peculiar to
4 an appropriate bargaining unit of such public employer, except that by
5 such obligation neither party shall be compelled to agree to a proposal
6 or be required to make a concession unless otherwise provided in this
7 chapter.

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

9 (6) "Executive director" means the executive director of the
10 commission.

11 (7) "Uniformed personnel" means: (a) Law enforcement officers as
12 defined in RCW 41.26.030 employed by the governing body of any city or
13 town with a population of two thousand five hundred or more and law
14 enforcement officers employed by the governing body of any county with
15 a population of ten thousand or more; (b) correctional employees who
16 are uniformed and nonuniformed, commissioned and noncommissioned
17 security personnel employed in a jail as defined in RCW 70.48.020(5),
18 by a county with a population of seventy thousand or more, and who are
19 trained for and charged with the responsibility of controlling and
20 maintaining custody of inmates in the jail and safeguarding inmates
21 from other inmates; (c) general authority Washington peace officers as
22 defined in RCW 10.93.020 employed by a port district in a county with
23 a population of one million or more; (d) security forces established
24 under RCW 43.52.520; (e) fire fighters as that term is defined in RCW
25 41.26.030; (f) employees of a port district in a county with a
26 population of one million or more whose duties include crash fire
27 rescue or other fire fighting duties; (g) employees of fire departments
28 of public employers who dispatch exclusively either fire or emergency
29 medical services, or both; or (h) employees in the several classes of
30 advanced life support technicians, as defined in RCW 18.71.200, who are
31 employed by a public employer.

32 (8) "Institution of higher education" means the University of
33 Washington, Washington State University, Central Washington University,
34 Eastern Washington University, Western Washington University, The
35 Evergreen State College, and the various state community colleges.

36 (9) "Home care quality authority" means the authority under chapter
37 74.39A RCW.

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

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

7 (12) "Family child care provider" means a person who: (a) Provides
8 regularly scheduled care for a child or children in the home of the
9 provider or in the home of the child or children for periods of less
10 than twenty-four hours or, if necessary due to the nature of the
11 parent's work, for periods equal to or greater than twenty-four hours;
12 (b) receives child care subsidies; and (c) is either licensed by the
13 state under RCW 74.15.030 or is exempt from licensing under chapter
14 74.15 RCW.

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

17 (1) Upon the written authorization of an individual provider or a
18 family child care provider within the bargaining unit and after the
19 certification or recognition of the bargaining unit's exclusive
20 bargaining representative, the state as payor, but not as the employer,
21 shall, subject to subsection (3) of this section, deduct from the
22 payments to an individual provider or a family child care provider the
23 monthly amount of dues as certified by the secretary of the exclusive
24 bargaining representative and shall transmit the same to the treasurer
25 of the exclusive bargaining representative.

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

29 (a) Includes a union security provision authorized in RCW
30 41.56.122, the state as payor, but not as the employer, shall, subject
31 to subsection (3) of this section, enforce the agreement by deducting
32 from the payments to bargaining unit members the dues required for
33 membership in the exclusive bargaining representative, or, for
34 nonmembers thereof, a fee equivalent to the dues; or

35 (b) Includes requirements for deductions of payments other than the
36 deduction under (a) of this subsection, the state, as payor, but not as

1 the employer, shall, subject to subsection (3) of this section, make
2 such deductions upon written authorization of the individual provider
3 or the family child care provider.

4 (3)(a) The initial additional costs to the state in making
5 deductions from the payments to individual providers or family child
6 care providers under this section shall be negotiated, agreed upon in
7 advance, and reimbursed to the state by the exclusive bargaining
8 representative.

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

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

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

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

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

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.

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

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