
ENGROSSED 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, except that in the initial election conducted under this
13 act, if more than one labor organization is on the ballot and none of
14 the choices receives a majority of the votes cast, a run-off election
15 shall be held.

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

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

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

36 (ii) In addition to the factors to be taken into consideration by
37 an interest arbitration panel under RCW 41.56.465, the panel shall

1 consider the financial ability of the state to pay for the compensation
2 and benefit provisions of a collective bargaining agreement; and

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

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

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

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

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

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

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

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

34 (5) Upon meeting the requirements of subsection (6) of this
35 section, the governor must submit, as a part of the proposed biennial
36 or supplemental operating budget submitted to the legislature under RCW
37 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) A request for funds necessary to implement the compensation and
5 benefit provisions of a collective bargaining agreement entered into
6 under this section shall not be submitted by the governor to the
7 legislature unless such request has been:

8 (a) Submitted to the director of financial management by October
9 1st before the legislative session at which the request is to be
10 considered, except that, for initial negotiations under this section,
11 the request must be submitted by November 15, 2006; 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 legislature must approve or reject the submission of the
16 request for funds as a whole. If the legislature rejects or fails to
17 act on the submission, any such agreement will be reopened solely for
18 the purpose of renegotiating the funds necessary to implement the
19 agreement.

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

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

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

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

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

8 As used in this chapter:

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

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

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

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

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

15 (6) "Executive director" means the executive director of the
16 commission.

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

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

5 (9) "Home care quality authority" means the authority under chapter
6 74.39A RCW.

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

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

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

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

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

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

35 (a) Includes a union security provision authorized in RCW
36 41.56.122, the state as payor, but not as the employer, shall, subject
37 to subsection (3) of this section, enforce the agreement by deducting

1 from the payments to bargaining unit members the dues required for
2 membership in the exclusive bargaining representative, or, for
3 nonmembers thereof, a fee equivalent to the dues; or

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (1) "Agency" means any person, firm, partnership, association,
29 corporation, or facility which receives children, expectant mothers, or
30 persons with developmental disabilities for control, care, or
31 maintenance outside their own homes, or which places, arranges the
32 placement of, or assists in the placement of children, expectant
33 mothers, or persons with developmental disabilities for foster care or
34 placement of children for adoption, and shall include the following

1 irrespective of whether there is compensation to the agency or to the
2 children, expectant mothers or persons with developmental disabilities
3 for services rendered:

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

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

9 (c) "Community facility" means a group care facility operated for
10 the care of juveniles committed to the department under RCW 13.40.185.
11 A county detention facility that houses juveniles committed to the
12 department under RCW 13.40.185 pursuant to a contract with the
13 department is not a community facility;

14 (d) "Crisis residential center" means an agency which is a
15 temporary protective residential facility operated to perform the
16 duties specified in chapter 13.32A RCW, in the manner provided in RCW
17 74.13.032 through 74.13.036;

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

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

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

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

4 (i) "HOPE center" means an agency licensed by the secretary to
5 provide temporary residential placement and other services to street
6 youth. A street youth may remain in a HOPE center for thirty days
7 while services are arranged and permanent placement is coordinated. No
8 street youth may stay longer than thirty days unless approved by the
9 department and any additional days approved by the department must be
10 based on the unavailability of a long-term placement option. A street
11 youth whose parent wants him or her returned to home may remain in a
12 HOPE center until his or her parent arranges return of the youth, not
13 longer. All other street youth must have court approval under chapter
14 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

15 (j) "Maternity service" means an agency which provides or arranges
16 for care or services to expectant mothers, before or during
17 confinement, or which provides care as needed to mothers and their
18 infants after confinement;

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

28 (l) "Service provider" means the entity that operates a community
29 facility.

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

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

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

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

37 (iii) A person who legally adopts a child or the child's parent as

1 well as the natural and other legally adopted children of such persons,
2 and other relatives of the adoptive parents in accordance with state
3 law;

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

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

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

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

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

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

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

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

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

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

7 (j) Hospitals licensed pursuant to chapter 70.41 RCW when
8 performing functions defined in chapter 70.41 RCW, nursing homes
9 licensed under chapter 18.51 RCW and boarding homes licensed under
10 chapter 18.20 RCW;

11 (k) Licensed physicians or lawyers;

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

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

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

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

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

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

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

33 (3) "Department" means the state department of social and health
34 services.

35 (4) "Family child care licensee" means a person who: (a) Provides
36 regularly scheduled care for a child or children in the home of the
37 provider for periods of less than twenty-four hours or, if necessary

1 due to the nature of the parent's work, for periods equal to or greater
2 than twenty-four hours; (b) does not receive child care subsidies; and
3 (c) is licensed by the state under RCW 74.15.030.

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

7 ~~((+5))~~ (6) "Probationary license" means a license issued as a
8 disciplinary measure to an agency that has previously been issued a
9 full license but is out of compliance with licensing standards.

10 ~~((+6))~~ (7) "Requirement" means any rule, regulation, or standard
11 of care to be maintained by an agency.

12 ~~((+7))~~ (8) "Secretary" means the secretary of social and health
13 services.

14 ~~((+8))~~ (9) "Street youth" means a person under the age of eighteen
15 who lives outdoors or in another unsafe location not intended for
16 occupancy by the minor and who is not residing with his or her parent
17 or at his or her legally authorized residence.

18 ~~((+9))~~ (10) "Transitional living services" means at a minimum, to
19 the extent funds are available, the following:

20 (a) Educational services, including basic literacy and
21 computational skills training, either in local alternative or public
22 high schools or in a high school equivalency program that leads to
23 obtaining a high school equivalency degree;

24 (b) Assistance and counseling related to obtaining vocational
25 training or higher education, job readiness, job search assistance, and
26 placement programs;

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

30 (d) Individual and group counseling; and

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

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

1 The secretary shall have the power and it shall be the secretary's
2 duty:

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

12 (2) In consultation with the children's services advisory
13 committee, and with the advice and assistance of persons representative
14 of the various type agencies to be licensed, to adopt and publish
15 minimum requirements for licensing applicable to each of the various
16 categories of agencies to be licensed.

17 The minimum requirements shall be limited to:

18 (a) The size and suitability of a facility and the plan of
19 operation for carrying out the purpose for which an applicant seeks a
20 license;

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

1 family home, if this expense would work a hardship on the licensee, the
2 department shall pay the expense. The licensee may not pass this cost
3 on to the employee or prospective employee, unless the employee is
4 determined to be unsuitable due to his or her criminal history record.
5 The secretary shall use the information solely for the purpose of
6 determining eligibility for a license and for determining the
7 character, suitability, and competence of those persons or agencies,
8 excluding parents, not required to be licensed who are authorized to
9 care for children, expectant mothers, and developmentally disabled
10 persons. Criminal justice agencies shall provide the secretary such
11 information as they may have and that the secretary may require for
12 such purpose;

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

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

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

21 (f) The financial ability of an agency to comply with minimum
22 requirements established pursuant to chapter 74.15 RCW and RCW
23 74.13.031; and

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

26 (3) To investigate any person, including relatives by blood or
27 marriage except for parents, for character, suitability, and competence
28 in the care and treatment of children, expectant mothers, and
29 developmentally disabled persons prior to authorizing that person to
30 care for children, expectant mothers, and developmentally disabled
31 persons. However, if a child is placed with a relative under RCW
32 13.34.065 or 13.34.130, and if such relative appears otherwise suitable
33 and competent to provide care and treatment the criminal history
34 background check required by this section need not be completed before
35 placement, but shall be completed as soon as possible after placement;

36 (4) On reports of alleged child abuse and neglect, to investigate
37 agencies in accordance with chapter 26.44 RCW, including child day-care

1 centers and family day-care homes, to determine whether the alleged
2 abuse or neglect has occurred, and whether child protective services or
3 referral to a law enforcement agency is appropriate;

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

8 (6) To prescribe the procedures and the form and contents of
9 reports necessary for the administration of chapter 74.15 RCW and RCW
10 74.13.031 and to require regular reports from each licensee;

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

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

18 (9) To engage in negotiated rule making pursuant to RCW
19 34.05.310(2)(a) with the exclusive representative of the family child
20 care licensees selected in accordance with section 6 of this act and
21 with other affected interests before adopting requirements that affect
22 family child care licensees; and

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

26 PART III - GENERAL PROVISIONS

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

29 NEW SECTION. **Sec. 10.** If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected.

33 NEW SECTION. **Sec. 11.** If any part of this act is found to be in
34 conflict with federal requirements that are a prescribed condition to

1 the allocation of federal funds to the state, the conflicting part of
2 this act is inoperative solely to the extent of the conflict and with
3 respect to the agencies directly affected, and this finding does not
4 affect the operation of the remainder of this act in its application to
5 the agencies concerned. Rules adopted under this act must meet federal
6 requirements that are a necessary condition to the receipt of federal
7 funds by the state.

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

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

--- END ---