
By: **Senators Dyson, Astle, Brinkley, Britt, Brochin, Colburn, Currie, Della, Forehand, Frosh, Garagiola, Green, Hafer, Hollinger, Jacobs, Jimeno, Kelley, Klausmeier, Lawlah, McFadden, Pinsky, Ruben, Stone, and Teitelbaum**

Introduced and read first time: February 3, 2006

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Quality Child Care Access and Affordability Act**

3 FOR the purpose of authorizing family child care providers to form, join, and
4 participate in the activities of provider organizations; specifying that a provider
5 may refuse to join or participate in the activities of provider organizations;
6 authorizing providers to designate which provider organizations, if any, shall be
7 the joint negotiating representative of all Purchase of Child Care Subsidy
8 Program (POC) providers and the joint rulemaking representative of all
9 non-Purchase of Child Care Subsidy Program (non-POC) providers; limiting
10 the number of statewide provider units; establishing certain procedures for
11 petitioning of a provider organization for recognition as exclusive representative
12 of providers; establishing certain procedures for the election of provider
13 organizations; establishing a certain minimum period of representation for the
14 initial designation of a provider organization; requiring that a certain
15 percentage of providers petition to request an election after the initial
16 designation period of a provider organization; requiring provider organizations
17 designated as exclusive representative to represent all providers in the unit
18 fairly, without regard to whether or not the provider is a member of the provider
19 organization; requiring the State Department of Education and the Department
20 of Human Resources to negotiate with the exclusive representative of POC
21 providers on certain matters; authorizing the State Department of Education
22 and the Department of Human Resources to negotiate with the exclusive joint
23 negotiating representative of POC providers on certain matters; limiting the
24 service or representation fee of the members of the POC provider unit;
25 authorizing a certain deduction in the membership dues of POC providers;
26 requiring the State Department of Education to meet and confer with the
27 exclusive joint rulemaking representative of non-POC providers on certain
28 matters; authorizing the State Department of Education to meet and confer with
29 the exclusive joint rulemaking representative of non-POC providers on certain
30 matters; establishing certain procedures for the appointment of a third party
31 when there is an impasse; specifying that if certain issues agreed on by certain
32 parties would require modifications of existing regulations, the issues may not

1 become effective until the modifications to the regulations have been made in a
2 certain manner; specifying that the designation of certain State representatives
3 under this Act does not prevent provider organizations from appearing before or
4 making proposals to certain State agencies at a public meeting or hearing;
5 prohibiting the State and provider organizations from certain actions against
6 providers because of the exercise of the providers' rights to join or refuse to join
7 a provider organization; prohibiting a provider organization from calling or
8 directing a strike; altering the calculation of a certain credit allowed against the
9 State income tax for certain child care and dependent care expenses; altering
10 certain income levels determining eligibility for the credit and the amount of the
11 credit allowed; declaring the legislative intent of the General Assembly as it
12 relates to the application of a certain exemption to State and federal antitrust
13 laws; providing for the application and construction of this Act; defining certain
14 terms; making certain technical changes; declaring that the provisions of this
15 Act are not severable; and generally relating to the organization of family child
16 care providers and tax credits for child care and dependent care expenses.

17 BY adding to

18 Article - Education

19 Section 27-101 through 27-113, inclusive, to be under the new title "Title 27.

20 Organization of Family Child Care Providers"

21 Annotated Code of Maryland

22 (2004 Replacement Volume and 2005 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article - Tax - General

25 Section 10-716

26 Annotated Code of Maryland

27 (2004 Replacement Volume and 2005 Supplement)

28 Preamble

29 WHEREAS, This Act shall be known and may be cited as the "Quality Child
30 Care Access and Affordability Act"; and

31 WHEREAS, Quality child care is a fundamental need for Maryland families
32 with the majority of children under 6 years of age having both parents, or their sole
33 parent, in the workforce; and

34 WHEREAS, Family child care providers play a crucial role in providing quality
35 and affordable child care for young children and working parents; and

36 WHEREAS, Wages and training opportunities need to be increased in order to
37 attract a sufficient number of providers to meet a growing statewide demand for
38 family child care services; and

1 WHEREAS, The number of registered family child care providers in Maryland is
2 projected to drop from 11,000 in 2001 to 8,600 in 2007, thus limiting parents' choices
3 for quality child care; and

4 WHEREAS, Families receiving assistance through the State's Purchase of Child
5 Care Subsidy Program do not control the economic and other terms of delivery of
6 services, and therefore cannot effectively address concerns common to family child
7 care providers throughout the State; and

8 WHEREAS, Individual family child care providers cannot effectively voice their
9 common concerns regarding the terms and conditions of both their provision of
10 services under the State's Purchase of Child Care Subsidy Program and the
11 development of rules and regulations that govern the provision of services in
12 Maryland family child care homes; and

13 WHEREAS, Empowering family child care providers to negotiate jointly with
14 the State will improve the efficiency and effectiveness of communication between
15 family child care providers and the State and help restore the competitive balance in
16 the market for family child care services, thereby providing benefits for parents and
17 the community; and

18 WHEREAS, Currently under State law, many low-income and middle-income
19 Maryland individuals and families are not eligible under the State's Purchase of Child
20 Care Subsidy Program or the State's child and dependent care tax credit, and
21 therefore do not qualify for meaningful State assistance to offset the cost of investing
22 in quality child care for their children; now, therefore,

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article - Education**

26 TITLE 27. ORGANIZATION OF FAMILY CHILD CARE PROVIDERS.

27 27-101.

28 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

29 (B) "FAMILY CHILD CARE PROVIDER" MEANS:

30 (1) A FAMILY DAY CARE PROVIDER AS DEFINED IN § 5-550 OF THE
31 FAMILY LAW ARTICLE; OR

32 (2) AN INDIVIDUAL WHO CARES FOR NO MORE THAN EIGHT CHILDREN
33 IN A FAMILY DAY CARE HOME THAT IS EXEMPT FROM THE REGISTRATION
34 REQUIREMENTS UNDER § 5-552(B) OF THE FAMILY LAW ARTICLE.

35 (C) "NON-POC PROVIDER" MEANS A FAMILY CHILD CARE PROVIDER WHO
36 DOES NOT PARTICIPATE IN THE POC PROGRAM.

1 (D) "POC PROGRAM" MEANS THE STATE PURCHASE OF CHILD CARE SUBSIDY
2 PROGRAM.

3 (E) "POC PROVIDER" MEANS A FAMILY CHILD CARE PROVIDER WHO
4 PARTICIPATES IN THE POC PROGRAM.

5 (F) "PROVIDER ORGANIZATION" MEANS AN ORGANIZATION THAT:

6 (1) INCLUDES FAMILY CHILD CARE PROVIDERS; AND

7 (2) HAS AS ONE OF ITS MAIN PURPOSES THE REPRESENTATION OF
8 FAMILY CHILD CARE PROVIDERS IN THEIR RELATIONS WITH THE STATE.

9 27-102.

10 IN ACCORDING FAMILY CHILD CARE PROVIDERS AND THEIR REPRESENTATIVES
11 RIGHTS UNDER THIS TITLE, IT IS THE LEGISLATIVE INTENT OF THE GENERAL
12 ASSEMBLY THAT THE STATE ACTION EXEMPTION TO THE APPLICATION OF FEDERAL
13 AND STATE ANTITRUST LAWS BE FULLY AVAILABLE TO THE EXTENT THAT THE
14 ACTIVITIES OF THE FAMILY CHILD CARE PROVIDERS AND THEIR REPRESENTATIVES
15 ARE AUTHORIZED UNDER THIS TITLE.

16 27-103.

17 (A) FAMILY CHILD CARE PROVIDERS MAY FORM, JOIN, AND PARTICIPATE IN
18 THE ACTIVITIES OF PROVIDER ORGANIZATIONS OF THEIR OWN CHOICE FOR THE
19 PURPOSE OF BEING REPRESENTED ON ALL MATTERS THAT INCLUDE, AS
20 APPLICABLE, RATES OF REIMBURSEMENTS, REGULATION, AND OTHER WORKING
21 CONDITIONS.

22 (B) A FAMILY CHILD CARE PROVIDER MAY REFUSE TO JOIN OR PARTICIPATE
23 IN THE ACTIVITIES OF PROVIDER ORGANIZATIONS.

24 27-104.

25 (A) FAMILY CHILD CARE PROVIDERS MAY DESIGNATE, IN ACCORDANCE WITH
26 THE PROVISIONS OF THIS TITLE, WHICH PROVIDER ORGANIZATION, IF ANY, SHALL
27 BE:

28 (1) THE JOINT NEGOTIATING REPRESENTATIVE OF ALL POC PROVIDERS
29 IN THE STATE; AND

30 (2) THE JOINT RULEMAKING REPRESENTATIVE OF ALL NON-POC
31 PROVIDERS IN THE STATE.

32 (B) (1) THERE MAY BE ONLY ONE STATEWIDE UNIT THAT INCLUDES ALL
33 POC PROVIDERS.

34 (2) THERE MAY BE ONLY ONE STATEWIDE UNIT THAT INCLUDES ALL
35 NON-POC PROVIDERS.

1 (3) THERE MAY NOT BE MORE THAN TWO UNITS IN THE STATE.

2 (C) ALL FAMILY CHILD CARE PROVIDERS:

3 (1) MAY BE INCLUDED IN ONE OF THESE UNITS; AND

4 (2) HAVE THE RIGHTS GRANTED IN THIS TITLE.

5 27-105.

6 (A) (1) IF A PROVIDER ORGANIZATION PETITIONS THE DEPARTMENT AND
7 THE DEPARTMENT OF HUMAN RESOURCES WITH WRITTEN AUTHORIZATION TO
8 SERVE AS JOINT NEGOTIATING REPRESENTATIVE FROM AT LEAST 30 PERCENT OF
9 THE TOTAL NUMBER OF POC PROVIDERS IN THE UNIT AS OF AUGUST 1 OF THE YEAR
10 IN WHICH THE PETITION IS MADE, THIS PETITION IS A REQUEST FOR RECOGNITION
11 AS REPRESENTATIVE OF ALL POC PROVIDERS IN THE UNIT.

12 (2) IF A PROVIDER ORGANIZATION PETITIONS THE DEPARTMENT WITH
13 WRITTEN AUTHORIZATION TO SERVE AS JOINT RULEMAKING REPRESENTATIVE
14 FROM AT LEAST 30 PERCENT OF THE TOTAL NUMBER OF NON-POC PROVIDERS IN
15 THE UNIT AS OF AUGUST 1 OF THE YEAR IN WHICH THE PETITION IS MADE, THIS
16 PETITION IS A REQUEST FOR RECOGNITION AS REPRESENTATIVE OF ALL NON-POC
17 PROVIDERS IN THE UNIT.

18 (B) (1) IF ANOTHER PROVIDER ORGANIZATION ALSO PETITIONS WITH
19 WRITTEN AUTHORIZATION TO SERVE AS JOINT NEGOTIATING REPRESENTATIVE
20 FROM AT LEAST 30 PERCENT OF THE TOTAL NUMBER OF POC PROVIDERS IN THE
21 UNIT AS OF AUGUST 1 OF THE YEAR IN WHICH THE PETITION IS MADE, AN ELECTION
22 SHALL BE HELD IN WHICH THE POC PROVIDERS IN THE UNIT SHALL BE OFFERED
23 THE OPPORTUNITY TO CHOOSE:

24 (I) ONE OF THE PROVIDER ORGANIZATIONS AS THE JOINT
25 NEGOTIATING REPRESENTATIVE OF ALL POC PROVIDERS IN THE UNIT; OR

26 (II) NOT TO HAVE REPRESENTATION.

27 (2) IF ANOTHER PROVIDER ORGANIZATION ALSO PETITIONS WITH
28 WRITTEN AUTHORIZATION TO SERVE AS JOINT RULEMAKING REPRESENTATIVE
29 FROM AT LEAST 30 PERCENT OF THE TOTAL NUMBER OF NON-POC PROVIDERS IN
30 THE UNIT AS OF AUGUST 1 OF THE YEAR IN WHICH THE PETITION IS MADE, AN
31 ELECTION SHALL BE HELD IN WHICH THE NON-POC PROVIDERS IN THE UNIT SHALL
32 BE OFFERED THE OPPORTUNITY TO CHOOSE:

33 (I) ONE OF THE PROVIDER ORGANIZATIONS AS THE JOINT
34 RULEMAKING REPRESENTATIVE OF ALL NON-POC PROVIDERS IN THE UNIT; OR

35 (II) NOT TO HAVE REPRESENTATION.

36 (C) IF NO OTHER PROVIDER ORGANIZATION PETITIONS WITH WRITTEN
37 AUTHORIZATION TO SERVE AS REPRESENTATIVE FROM AT LEAST 30 PERCENT OF

1 THE TOTAL NUMBER OF FAMILY CHILD CARE PROVIDERS IN THE UNIT, ON THE
2 REQUEST OF THE PETITIONING PROVIDER ORGANIZATION UNDER SUBSECTION (A)
3 OF THIS SECTION, AN ELECTION SHALL BE HELD AND THE BALLOT SHALL OFFER A
4 CHOICE BETWEEN:

5 (1) REPRESENTATION BY THE PROVIDER ORGANIZATION; AND

6 (2) NOT TO HAVE REPRESENTATION.

7 (D) (1) THE DEPARTMENT AND THE DEPARTMENT OF HUMAN RESOURCES
8 SHALL DESIGNATE THE PROVIDER ORGANIZATION DESCRIBED IN SUBSECTION (A)(1)
9 OF THIS SECTION AS REPRESENTATIVE OF ALL POC PROVIDERS IN THE SPECIFIED
10 UNIT IF:

11 (I) NO OTHER PROVIDER ORGANIZATION PETITIONS WITH
12 WRITTEN AUTHORIZATION TO SERVE AS REPRESENTATIVE FROM AT LEAST 30
13 PERCENT OF THE TOTAL NUMBER OF POC PROVIDERS IN THE UNIT;

14 (II) THE PROVIDER ORGANIZATION DOES NOT REQUEST AN
15 ELECTION UNDER SUBSECTION (C) OF THIS SECTION; AND

16 (III) THE PROVIDER ORGANIZATION PETITIONS THE DEPARTMENT
17 AND THE DEPARTMENT OF HUMAN RESOURCES WITH WRITTEN AUTHORIZATION TO
18 SERVE AS REPRESENTATIVE FROM THE MAJORITY OF THE POC PROVIDERS IN THE
19 UNIT.

20 (2) THE DEPARTMENT SHALL DESIGNATE THE PROVIDER
21 ORGANIZATION DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION AS
22 REPRESENTATIVE OF ALL NON-POC PROVIDERS IN THE SPECIFIED UNIT IF:

23 (I) NO OTHER PROVIDER ORGANIZATION PETITIONS WITH
24 WRITTEN AUTHORIZATION TO SERVE AS REPRESENTATIVE FROM AT LEAST 30
25 PERCENT OF THE TOTAL NUMBER OF NON-POC PROVIDERS IN THE UNIT;

26 (II) THE PROVIDER ORGANIZATION DOES NOT REQUEST AN
27 ELECTION UNDER SUBSECTION (C) OF THIS SECTION; AND

28 (III) THE PROVIDER ORGANIZATION PETITIONS THE DEPARTMENT
29 WITH WRITTEN AUTHORIZATION TO SERVE AS REPRESENTATIVE FROM THE
30 MAJORITY OF THE NON-POC PROVIDERS IN THE UNIT.

31 (E) (1) ON RECEIPT OF ANY AND ALL PETITIONS REQUESTING
32 RECOGNITION UNDER THIS SECTION, THE DEPARTMENT AND THE DEPARTMENT OF
33 HUMAN RESOURCES SHALL REQUEST THE AMERICAN ARBITRATION ASSOCIATION
34 TO:

35 (I) VERIFY THE NUMBER OF FAMILY CHILD CARE PROVIDERS WHO
36 HAVE AUTHORIZED A PROVIDER ORGANIZATION ON THE DATE OF THE PETITION
37 REQUESTING RECOGNITION; AND

1 (II) HOLD ELECTIONS UNDER THIS SECTION AND VERIFY THEIR
2 RESULTS ON OR BEFORE OCTOBER 1 OF THE YEAR IN WHICH THE PETITION IS MADE.

3 (2) IF THE AMERICAN ARBITRATION ASSOCIATION IS UNABLE OR
4 UNWILLING TO VERIFY PROVIDER AUTHORIZATION OR HOLD ELECTIONS UNDER
5 PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT AND THE DEPARTMENT OF
6 HUMAN RESOURCES SHALL JOINTLY APPOINT A NEUTRAL THIRD PARTY TO CARRY
7 OUT THE VERIFICATION AND ELECTION PROCESS.

8 (3) THE ELECTIONS SHALL BE HELD IN A MANNER ASSURING THE
9 SECRECY OF THE BALLOT.

10 (4) (I) THE COSTS OF VERIFYING THE NUMBER OF FAMILY CHILD
11 CARE PROVIDERS WHO HAVE AUTHORIZED THE SELECTION OF A PROVIDER
12 ORGANIZATION SHALL BE PAID BY THE PROVIDER ORGANIZATION THAT SUBMITS
13 THE PETITION FOR VERIFICATION.

14 (II) 1. THE COSTS OF THE ELECTION SHALL BE EQUALLY
15 SHARED BY EACH PROVIDER ORGANIZATION PLACED ON THE BALLOT.

16 2. IF ONLY ONE PROVIDER ORGANIZATION IS PLACED ON
17 THE BALLOT, THE PROVIDER ORGANIZATION SHALL PAY ALL COSTS OF THE
18 ELECTION.

19 (5) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, IN ANY
20 ELECTION HELD UNDER THIS SECTION, THE PROVIDER ORGANIZATION THAT
21 RECEIVES THE LARGEST NUMBER OF VOTES CAST IN A UNIT SHALL BE DESIGNATED
22 TO BE THE REPRESENTATIVE OF ALL FAMILY CHILD CARE PROVIDERS IN THE UNIT.

23 (II) IF THE LARGEST NUMBER OF VOTES IN THE ELECTION IS CAST
24 NOT TO HAVE REPRESENTATION, A REPRESENTATIVE MAY NOT BE DESIGNATED FOR
25 THE UNIT.

26 27-106.

27 (A) (1) THE INITIAL DESIGNATION OF A REPRESENTATIVE SHALL BE FOR 2
28 OR MORE YEARS.

29 (2) AFTER THIS INITIAL PERIOD, THE DESIGNATED PROVIDER
30 ORGANIZATION SHALL BE THE REPRESENTATIVE UNTIL ANOTHER ELECTION IS
31 HELD.

32 (B) (1) AN ELECTION AFTER THE INITIAL PERIOD OF REPRESENTATION MAY
33 BE HELD:

34 (I) ONLY AFTER THE END OF THE 2-YEAR PERIOD; AND

35 (II) ON PETITION SIGNED BY MORE THAN 30 PERCENT OF THE
36 FAMILY CHILD CARE PROVIDERS IN THE UNIT.

1 (2) THIS ELECTION SHALL BE HELD IN THE SAME MANNER AS
2 PROVIDED IN § 27-105 OF THIS TITLE.

3 (3) ALL SIGNATURES ON A PETITION REQUESTING AN ELECTION AFTER
4 THE INITIAL PERIOD SHALL BE OBTAINED WITHIN 90 DAYS BEFORE THE ELECTION
5 DATE.

6 27-107.

7 (A) A PROVIDER ORGANIZATION DESIGNATED AS THE REPRESENTATIVE OF
8 THE POC PROVIDER UNIT SHALL BE THE EXCLUSIVE JOINT NEGOTIATING
9 REPRESENTATIVE OF ALL POC PROVIDERS.

10 (B) A PROVIDER ORGANIZATION DESIGNATED AS THE EXCLUSIVE JOINT
11 NEGOTIATING REPRESENTATIVE SHALL REPRESENT ALL POC PROVIDERS IN THE
12 UNIT FAIRLY AND WITHOUT DISCRIMINATION, WHETHER OR NOT THE POC
13 PROVIDERS ARE MEMBERS OF THE PROVIDER ORGANIZATION.

14 (C) (1) THE DEPARTMENT AND THE DEPARTMENT OF HUMAN RESOURCES
15 SHALL NEGOTIATE WITH THE PROVIDER ORGANIZATION DESIGNATED AS THE
16 REPRESENTATIVE OF POC PROVIDERS IN THE UNIT A REASONABLE SERVICE OR
17 REPRESENTATION FEE, TO BE CHARGED NONMEMBERS FOR REPRESENTING THEM
18 IN NEGOTIATIONS, CONTRACT ADMINISTRATION, INCLUDING GRIEVANCES, AND
19 OTHER ACTIVITIES AS ARE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.

20 (2) THE SERVICE OR REPRESENTATION FEE MAY NOT EXCEED THE
21 ANNUAL DUES OF THE MEMBERS OF THE PROVIDER ORGANIZATION.

22 (3) THE DEPARTMENT AND DEPARTMENT OF HUMAN RESOURCES MAY
23 DEDUCT MEMBERSHIP DUES AND ANY SERVICE FEES FROM THE PAYMENTS TO POC
24 PROVIDERS AND REMIT THE FEES MONTHLY TO THE PROVIDER ORGANIZATION.

25 27-108.

26 (A) IN THIS SECTION, "NEGOTIATE" INCLUDES THE DUTY TO:

27 (1) CONFER IN GOOD FAITH, AT ALL REASONABLE TIMES; AND

28 (2) REDUCE TO WRITING THE MATTERS AGREED ON AS A RESULT OF
29 THE NEGOTIATIONS.

30 (B) THE AGREEMENTS MADE UNDER THIS SECTION MAY PROVIDE FOR
31 BINDING ARBITRATION OF THE GRIEVANCES ARISING UNDER THE AGREEMENT
32 THAT THE PARTIES HAVE AGREED TO BE SUBJECT TO ARBITRATION.

33 (C) SUBJECT TO THE AVAILABILITY OF FUNDING NECESSARY TO FUND THE
34 AGREEMENT, PARTIES THAT NEGOTIATE UNDER THE TERMS OF THIS SECTION
35 SHALL BE BOUND BY THE TERMS AND CONDITIONS AGREED ON THROUGH THE
36 NEGOTIATION PROCESS.

1 (D) (1) ON REQUEST, THE REPRESENTATIVES OF THE DEPARTMENT AND
2 THE DEPARTMENT OF HUMAN RESOURCES SHALL MEET AND NEGOTIATE WITH
3 REPRESENTATIVES OF THE PROVIDER ORGANIZATION THAT IS DESIGNATED AS THE
4 EXCLUSIVE JOINT NEGOTIATING REPRESENTATIVE OF POC PROVIDERS ON ALL
5 MATTERS THAT RELATE TO REIMBURSEMENT RATES, RULES AND REGULATIONS
6 GOVERNING FAMILY CHILD CARE HOMES, AND OTHER TERMS AND CONDITIONS OF
7 WORK.

8 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE
9 REPRESENTATIVES OF THE DEPARTMENT AND THE DEPARTMENT OF HUMAN
10 RESOURCES MAY NEGOTIATE WITH REPRESENTATIVES OF THE PROVIDER
11 ORGANIZATION THAT IS DESIGNATED AS THE EXCLUSIVE JOINT NEGOTIATING
12 REPRESENTATIVE OF POC PROVIDERS ON OTHER MATTERS THAT ARE MUTUALLY
13 AGREED TO BY THE DEPARTMENT, THE DEPARTMENT OF HUMAN RESOURCES, AND
14 THE PROVIDER ORGANIZATION.

15 (3) THE DEPARTMENT AND THE DEPARTMENT OF HUMAN RESOURCES
16 MAY NOT NEGOTIATE ANY MATTER THAT IS PRECLUDED BY APPLICABLE STATUTORY
17 LAW.

18 (4) IF THE TERMS OR CONDITIONS AGREED ON BY THE PARTIES TO THE
19 NEGOTIATIONS WOULD REQUIRE MODIFICATION OF EXISTING REGULATIONS, THE
20 TERMS MAY NOT BECOME EFFECTIVE UNTIL THE MODIFICATIONS HAVE BEEN MADE
21 BY THE DEPARTMENT AND THE DEPARTMENT OF HUMAN RESOURCES AND HAVE
22 TAKEN EFFECT IN ACCORDANCE WITH TITLE 10 OF THE STATE GOVERNMENT
23 ARTICLE.

24 (5) THE DESIGNATION OF REPRESENTATIVES BY THE DEPARTMENT
25 AND THE DEPARTMENT OF HUMAN RESOURCES UNDER THIS TITLE DOES NOT
26 PREVENT THE DESIGNATED PROVIDER ORGANIZATION OR ANY OTHER PROVIDER
27 ORGANIZATION FROM APPEARING BEFORE OR MAKING PROPOSALS TO THE
28 DEPARTMENT OR THE DEPARTMENT OF HUMAN RESOURCES AT A PUBLIC MEETING
29 OR HEARING.

30 (E) (1) IF, ON THE REQUEST OF A PARTY, THE STATE SUPERINTENDENT
31 DETERMINES FROM THE FACTS THAT AN IMPASSE IS REACHED IN NEGOTIATIONS
32 BETWEEN THE DEPARTMENT AND THE DEPARTMENT OF HUMAN RESOURCES AND A
33 PROVIDER ORGANIZATION THAT IS DESIGNATED AS AN EXCLUSIVE JOINT
34 NEGOTIATING REPRESENTATIVE OF POC PROVIDERS, THE ASSISTANCE AND ADVICE
35 OF THE STATE BOARD MAY BE REQUESTED, WITH THE CONSENT OF THE PARTIES.

36 (2) IF CONSENT IS NOT GIVEN AND AT THE REQUEST OF A PARTY, A
37 PANEL SHALL BE NAMED TO AID IN RESOLVING THE DIFFERENCES.

38 (3) THE PANEL SHALL CONTAIN THREE INDIVIDUALS CHOSEN AS
39 FOLLOWS:

40 (I) ONE MEMBER IS TO BE JOINTLY NAMED BY THE DEPARTMENT
41 AND THE DEPARTMENT OF HUMAN RESOURCES WITHIN 3 DAYS;

1 (II) ONE MEMBER IS TO BE NAMED BY THE PROVIDER
2 ORGANIZATION WITHIN 3 DAYS; AND

3 (III) ONE MEMBER IS TO BE CHOSEN BY THE OTHER TWO MEMBERS
4 WITHIN 10 DAYS AFTER THE REQUEST.

5 (4) THE STATE BOARD OR THE PANEL SELECTED SHALL MEET WITH THE
6 PARTIES TO AID IN RESOLVING THE DIFFERENCES, AND, IF THE MATTER IS NOT
7 RESOLVED, SHALL MAKE A WRITTEN REPORT AND RECOMMENDATION WITHIN 30
8 DAYS AFTER THE REQUEST.

9 (5) A COPY OF THE REPORT SHALL BE SENT TO THE REPRESENTATIVES
10 OF THE DEPARTMENT, THE DEPARTMENT OF HUMAN RESOURCES, AND THE
11 PROVIDER ORGANIZATION.

12 (6) ALL COSTS OF MEDIATION SHALL BE EQUALLY SHARED BY THE
13 DEPARTMENT, THE DEPARTMENT OF HUMAN RESOURCES, AND THE PROVIDER
14 ORGANIZATION.

15 27-109.

16 (A) THE PROVIDER ORGANIZATION DESIGNATED AS THE REPRESENTATIVE OF
17 THE NON-POC PROVIDER UNIT SHALL BE THE EXCLUSIVE JOINT RULEMAKING
18 REPRESENTATIVE OF ALL NON-POC PROVIDERS.

19 (B) THE PROVIDER ORGANIZATION DESIGNATED AS THE EXCLUSIVE JOINT
20 RULEMAKING REPRESENTATIVE SHALL REPRESENT ALL PROVIDERS IN THE
21 NON-POC PROVIDER UNIT FAIRLY AND WITHOUT DISCRIMINATION, WHETHER OR
22 NOT THE NON-POC PROVIDERS ARE MEMBERS OF THE PROVIDER ORGANIZATION.

23 27-110.

24 (A) IN THIS SECTION, "MEET AND CONFER" INCLUDES THE DUTY TO:

25 (1) CONFER IN GOOD FAITH, AT ALL REASONABLE TIMES; AND

26 (2) REDUCE TO WRITING THE MATTERS AGREED ON AS A RESULT OF
27 THE CONFERENCES.

28 (B) (1) ON REQUEST, THE REPRESENTATIVES OF THE DEPARTMENT SHALL
29 MEET AND CONFER WITH REPRESENTATIVES OF THE PROVIDER ORGANIZATION
30 THAT IS DESIGNATED AS THE EXCLUSIVE JOINT RULEMAKING REPRESENTATIVE OF
31 NON-POC PROVIDERS FOR THE PURPOSE OF ENGAGING IN JOINT DISCUSSION OF
32 PROPOSED RULES AND REGULATIONS GOVERNING FAMILY CHILD CARE HOMES.

33 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE
34 REPRESENTATIVES OF THE DEPARTMENT MAY MEET AND CONFER WITH
35 REPRESENTATIVES OF THE PROVIDER ORGANIZATION THAT IS DESIGNATED AS THE
36 EXCLUSIVE JOINT RULEMAKING REPRESENTATIVE OF NON-POC PROVIDERS ON
37 OTHER MATTERS CONCERNING THE RULES AND REGULATIONS GOVERNING FAMILY

1 CHILD CARE HOMES THAT ARE MUTUALLY AGREED TO BY THE DEPARTMENT AND
2 THE PROVIDER ORGANIZATION.

3 (3) IF THE MATTERS AGREED ON AS A RESULT OF THE CONFERENCES
4 WOULD REQUIRE MODIFICATION OF EXISTING REGULATIONS, THE MATTERS
5 AGREED ON MAY NOT BECOME EFFECTIVE UNTIL THE MODIFICATIONS HAVE BEEN
6 MADE BY THE DEPARTMENT AND HAVE TAKEN EFFECT IN ACCORDANCE WITH TITLE
7 10 OF THE STATE GOVERNMENT ARTICLE.

8 (4) THE DESIGNATION OF REPRESENTATIVES BY THE DEPARTMENT
9 UNDER THIS SECTION DOES NOT PREVENT THE DESIGNATED PROVIDER
10 ORGANIZATION OR ANY OTHER PROVIDER ORGANIZATION FROM APPEARING BEFORE
11 OR MAKING PROPOSALS TO THE DEPARTMENT AT A PUBLIC MEETING OR HEARING.

12 (C) THIS SECTION SHALL NOT BE CONSTRUED TO:

13 (1) VIOLATE ANY PROVISION OF THE MARYLAND ADMINISTRATIVE
14 PROCEDURES ACT; OR

15 (2) ENTITLE NON-POC PROVIDERS TO JOINTLY NEGOTIATE RATES
16 CHARGED TO PRIVATE PARTIES FOR THE PROVISION OF CHILD CARE SERVICES.

17 27-111.

18 (A) IN THIS SECTION, "STATE" INCLUDES:

19 (1) A UNIT OF THE STATE;

20 (2) AN EMPLOYEE OF THE STATE; AND

21 (3) A CONTRACTOR OR SUBCONTRACTOR EMPLOYED BY THE STATE.

22 (B) THE STATE AND PROVIDER ORGANIZATIONS MAY NOT INTERFERE WITH,
23 INTIMIDATE, RESTRAIN, COERCE, OR DISCRIMINATE AGAINST ANY FAMILY CHILD
24 CARE PROVIDER BECAUSE OF THE EXERCISE OF THE FAMILY CHILD CARE
25 PROVIDER'S RIGHTS TO JOIN OR REFUSE TO JOIN A PROVIDER ORGANIZATION.

26 27-112.

27 A PROVIDER ORGANIZATION MAY NOT CALL OR DIRECT A STRIKE.

28 27-113.

29 THIS TITLE SHALL NOT BE CONSTRUED TO MAKE FAMILY CHILD CARE
30 PROVIDERS EMPLOYEES OF THE STATE.

31 **Article - Tax - General**

32 10-716.

33 (a) (1) In this section the following words have the meanings indicated.

1 (2) "Federal child and dependent care credit" means the child and
2 dependent care credit properly claimed by an individual for the taxable year under §
3 21 of the Internal Revenue Code.

4 (3) "Qualifying individual" means a qualifying individual within the
5 meaning of § 21(b) of the Internal Revenue Code.

6 (b) An individual whose federal adjusted gross income for the taxable year
7 does not exceed [\$50,000] \$75,000, or [\$25,000] \$37,500 in the case of a married
8 individual filing a separate return, may claim a credit against the State income tax as
9 provided in this section for expenses paid by the individual during the taxable year
10 for the care of a qualifying individual.

11 (c) Subject to subsection (d) of this section, the credit allowed under this
12 section equals the lesser of:

13 (1) [32.5%] 75% of the federal child and dependent care credit; or

14 (2) the State income tax for the taxable year.

15 (d) (1) (I) If an individual's federal adjusted gross income for the taxable
16 year exceeds [\$41,000] \$30,000, the PERCENTAGE OF THE FEDERAL credit otherwise
17 allowed under SUBSECTION (C)(1) OF this section shall be reduced by [10% for each
18 \$1,000 or fraction of \$1,000] 5 PERCENTAGE POINTS FOR EACH \$2,500 OR FRACTION
19 OF \$2,500 by which the individual's federal adjusted gross income UP TO \$55,000
20 exceeds [\$41,000] \$30,000.

21 (II) IF AN INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME FOR
22 THE TAXABLE YEAR EXCEEDS \$55,000, THE CREDIT OTHERWISE ALLOWED UNDER
23 SUBSECTION (C)(1) OF THIS SECTION SHALL BE REDUCED BY 5 PERCENTAGE POINTS
24 FOR EACH \$5,000 OR FRACTION OF \$5,000 BY WHICH THE INDIVIDUAL'S FEDERAL
25 ADJUSTED GROSS INCOME EXCEEDS \$55,000.

26 (2) (I) In the case of a married individual filing a separate return, if
27 the individual's federal adjusted gross income for the taxable year exceeds [\$20,500]
28 \$15,000, the PERCENTAGE OF THE FEDERAL credit otherwise allowed under
29 SUBSECTION (C)(1) OF this section shall be reduced by [10% for each \$500 or fraction
30 of \$500] 5 PERCENTAGE POINTS FOR EACH \$1,250 OR FRACTION OF \$1,250 by which
31 the individual's federal adjusted gross income UP TO \$27,500 exceeds [\$20,500]
32 \$15,000.

33 (II) IN THE CASE OF A MARRIED INDIVIDUAL FILING A SEPARATE
34 RETURN, IF AN INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME FOR THE TAXABLE
35 YEAR EXCEEDS \$27,500, THE CREDIT OTHERWISE ALLOWED UNDER THIS SECTION
36 SHALL BE REDUCED BY 5 PERCENTAGE POINTS FOR EACH \$2,500 OR FRACTION OF
37 \$2,500 BY WHICH THE INDIVIDUAL'S FEDERAL ADJUSTED GROSS INCOME EXCEEDS
38 \$27,500.

39 (e) The credit allowed under this section does not affect the treatment under
40 this title of any deduction or exclusion allowed under this title or allowed for federal

1 income tax purposes for expenses paid by the individual for the care of a qualifying
2 individual.

3 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the
4 provisions of Article 1, § 23 of the Annotated Code of Maryland, the provisions of this
5 Act are not severable, and if any provision of this Act or the application thereof to any
6 person or circumstance is held invalid for any reason in a court of competent
7 jurisdiction, no other provision or application of this Act may be given effect.

8 SECTION 3. AND BE IT FURTHER ENACTED, That Section 10-716 of the Tax
9 - General Article, as enacted by Section 1 of this Act, shall be applicable to all taxable
10 years beginning after December 31, 2005.

11 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 June 1, 2006.