

# HOUSE BILL 465

P4

0lr0168  
CF SB 284

---

By: **The Speaker (By Request – Administration) and Delegates Hucker, Anderson, Barve, Benson, Carter, Frick, Frush, Gutierrez, Guzzone, Hixson, Hubbard, Lafferty, Manno, McHale, McIntosh, Mizeur, Montgomery, Murphy, Nathan–Pulliam, Olszewski, Ramirez, Simmons, Tarrant, Taylor, V. Turner, Vaughn, and Waldstreicher**

Introduced and read first time: January 29, 2010

Assigned to: Economic Matters

---

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2010

---

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Collective Negotiations by Family Child Care Providers**

3 FOR the purpose of establishing collective bargaining rights for certain family child  
4 care providers who participate in the Maryland Child Care Subsidy Program;  
5 requiring that there be only one appropriate bargaining unit for certain family  
6 child care providers; authorizing providers to designate an exclusive  
7 representative; requiring that certain procedures relating to the election and  
8 certification of an exclusive representative, collective bargaining process, and  
9 bargaining agreements be governed by certain provisions of the collective  
10 bargaining law for State employees; prohibiting the State Labor Relations  
11 Board from conducting a certain election within a certain period; requiring an  
12 exclusive representative to represent all family child care providers, whether or  
13 not they are members of the provider organization; providing for the scope of  
14 collective bargaining for family child care providers; authorizing collective  
15 bargaining negotiations pertaining to family child care providers to include,  
16 under certain circumstances, negotiations relating to the right of an employee  
17 organization to receive service fees from nonmembers; providing that certain  
18 family child care providers are not required to pay certain fees and are required  
19 to make certain other payments; specifying that the certification of certain  
20 exclusive representatives under this Act does not prevent provider  
21 organizations from appearing before or making proposals to certain State

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 agencies at a public meeting or hearing; prohibiting a provider organization  
 2 from calling or directing a strike; providing that the provisions of this Act may  
 3 not alter certain roles and rights of parents with regard to family child care  
 4 providers; declaring the legislative intent of the General Assembly as it relates  
 5 to the application of a certain exemption to State and federal antitrust laws;  
 6 providing for the application and construction of this Act; requiring that a  
 7 certain provider organization certified as the majority representative in a  
 8 certain election pursuant to a certain Executive Order shall continue as the  
 9 exclusive representative of family child care providers without the requirement  
 10 of an additional election and certification; requiring the Early Learning  
 11 Programs Section of the Maryland State Department of Education to report to  
 12 certain committees of the General Assembly on or before a certain date each  
 13 year through a certain year; defining certain terms; declaring that the  
 14 provisions of this Act are severable; and generally relating to collective  
 15 bargaining for family child care providers.

16 BY repealing and reenacting, without amendments,  
 17 Article – Family Law  
 18 Section 5–550(d) and 5–552(b)  
 19 Annotated Code of Maryland  
 20 (2006 Replacement Volume and 2009 Supplement)

21 BY adding to  
 22 Article – Family Law  
 23 Section 5–595 through 5–595.6 to be under the new part “Part XI. Collective  
 24 Negotiations by Family Child Care Providers”  
 25 Annotated Code of Maryland  
 26 (2006 Replacement Volume and 2009 Supplement)

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

29 **Article – Family Law**

30 5–550.

31 (d) “Family day care provider” means an individual who cares for no more  
 32 than eight children in a registered family day care home.

33 5–552.

34 (b) A family day care home is not required to be registered if the day care  
 35 provider:

36 (1) is related to each child by blood or marriage;

1 (2) is a friend of each child's parents or legal guardian and the care is  
2 provided on an occasional basis; or

3 (3) has received the care of the child from a child placement agency  
4 licensed by the Administration or by a local department.

5 **PART XI. COLLECTIVE NEGOTIATIONS BY FAMILY CHILD CARE PROVIDERS.**

6 **5-595.**

7 (A) IN THIS PART XI OF THIS SUBTITLE THE FOLLOWING WORDS HAVE  
8 THE MEANINGS INDICATED.

9 (B) "FAMILY CHILD CARE PROVIDER" MEANS AN INDIVIDUAL WHO  
10 PARTICIPATES IN THE MARYLAND CHILD CARE SUBSIDY PROGRAM WHO IS:

11 (1) A REGISTERED PROVIDER AS DEFINED IN § 5-550(D) OF THIS  
12 SUBTITLE; OR

13 (2) EXEMPT FROM THE REGISTRATION REQUIREMENTS UNDER §  
14 5-552(B) OF THIS SUBTITLE.

15 (C) "PROVIDER ORGANIZATION" MEANS AN ORGANIZATION THAT:

16 (1) INCLUDES FAMILY CHILD CARE PROVIDERS; AND

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

19 **5-595.1.**

20 IN ACCORDING FAMILY CHILD CARE PROVIDERS AND THEIR  
21 REPRESENTATIVES RIGHTS UNDER THIS PART XI OF THIS SUBTITLE, IT IS THE  
22 LEGISLATIVE INTENT OF THE GENERAL ASSEMBLY THAT THE STATE ACTION  
23 EXEMPTION TO THE APPLICATION OF FEDERAL AND STATE ANTITRUST LAWS BE  
24 FULLY AVAILABLE TO THE EXTENT THAT THE ACTIVITIES OF THE FAMILY CHILD  
25 CARE PROVIDERS AND THEIR REPRESENTATIVES ARE AUTHORIZED UNDER THIS  
26 TITLE.

27 **5-595.2.**

28 (A) THERE SHALL BE ONLY ONE APPROPRIATE BARGAINING UNIT OF  
29 FAMILY CHILD CARE PROVIDERS IN THE STATE.

1           **(B) FAMILY CHILD CARE PROVIDERS MAY DESIGNATE, IN ACCORDANCE**  
2 **WITH THE PROVISIONS OF THIS PART XI OF THIS SUBTITLE, WHICH PROVIDER**  
3 **ORGANIZATION, IF ANY, SHALL BE THE EXCLUSIVE REPRESENTATIVE OF ALL**  
4 **FAMILY CHILD CARE PROVIDERS IN THE STATE.**

5           **(C) (1) THE ELECTION AND CERTIFICATION OF THE EXCLUSIVE**  
6 **REPRESENTATIVE OF FAMILY CHILD CARE PROVIDERS SHALL BE GOVERNED BY**  
7 **THE PROCEDURES SET FORTH IN TITLE 3, SUBTITLE 4 OF THE STATE**  
8 **PERSONNEL AND PENSIONS ARTICLE.**

9           **(2) ALL ELECTIONS SHALL BE CONDUCTED BY THE STATE LABOR**  
10 **RELATIONS BOARD AND SUBJECT TO THE REQUIREMENTS AND LIMITATIONS OF**  
11 **TITLE 3, SUBTITLE 4 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.**

12           **(3) THE STATE LABOR RELATIONS BOARD MAY NOT CONDUCT**  
13 **AN ELECTION FOR AN EXCLUSIVE REPRESENTATIVE IF AN ELECTION OR**  
14 **CERTIFICATION OF AN EXCLUSIVE REPRESENTATIVE HAS TAKEN PLACE WITHIN**  
15 **THE PRECEDING 2 YEARS.**

16           **(4) A PROVIDER ORGANIZATION DESIGNATED AS THE EXCLUSIVE**  
17 **REPRESENTATIVE SHALL REPRESENT ALL FAMILY CHILD CARE PROVIDERS IN**  
18 **THE STATE FAIRLY AND WITHOUT DISCRIMINATION, WHETHER OR NOT THE**  
19 **FAMILY CHILD CARE PROVIDERS ARE MEMBERS OF THE PROVIDER**  
20 **ORGANIZATION.**

21 **5-595.3.**

22           **(A) THE STATE DEPARTMENT OF EDUCATION SHALL DESIGNATE**  
23 **APPROPRIATE REPRESENTATIVES TO PARTICIPATE IN COLLECTIVE**  
24 **BARGAINING WITH THE PROVIDER ORGANIZATION CERTIFIED AS THE**  
25 **EXCLUSIVE REPRESENTATIVE OF FAMILY CHILD CARE PROVIDERS.**

26           **(B) EXCEPT AS OTHERWISE PROVIDED IN THIS PART XI OF THIS**  
27 **SUBTITLE, THE PARTIES SHALL ADHERE TO THE BARGAINING PROCESS SET**  
28 **FORTH IN § 3-501 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.**

29           **(C) THE STATE DEPARTMENT OF EDUCATION SHALL NEGOTIATE IN**  
30 **CONSULTATION WITH THE DEPARTMENT OF BUDGET AND MANAGEMENT**  
31 **REGARDING ALL MATTERS THAT REQUIRE APPROPRIATION OF STATE FUNDS.**

32           **(D) COLLECTIVE BARGAINING SHALL INCLUDE ALL MATTERS RELATED**  
33 **TO THE TERMS AND CONDITIONS OF PARTICIPATION BY FAMILY CHILD CARE**  
34 **PROVIDERS IN THE MARYLAND CHILD CARE SUBSIDY PROGRAM, INCLUDING:**

35           **(1) REIMBURSEMENT RATES;**

- 1           **(2) BENEFITS;**  
2           **(3) PAYMENT PROCEDURES;**  
3           **(4) CONTRACT GRIEVANCE PROCEDURES;**  
4           **(5) TRAINING;**  
5           **(6) MEMBER DUES DEDUCTIONS; AND**  
6           **(7) OTHER TERMS AND CONDITIONS OF PARTICIPATION BY**  
7 **FAMILY CHILD CARE PROVIDERS IN THE MARYLAND CHILD CARE SUBSIDY**  
8 **PROGRAM.**

9           **(E) (1) (I) ~~COLLECTIVE~~ SUBJECT TO SUBPARAGRAPH (II) OF THIS**  
10 **PARAGRAPH, COLLECTIVE BARGAINING MAY INCLUDE NEGOTIATIONS**  
11 **RELATING TO THE RIGHT OF A PROVIDER ORGANIZATION THAT IS THE**  
12 **EXCLUSIVE REPRESENTATIVE TO RECEIVE SERVICE FEES FROM NONMEMBERS.**

13                           **(II) THE REPRESENTATIVES OF THE STATE MAY NOT REACH**  
14 **AN AGREEMENT CONTAINING A SERVICE FEE PROVISION UNLESS THE**  
15 **REPRESENTATIVES OF THE STATE CONCLUDE THAT THE AGREEMENT AS A**  
16 **WHOLE WILL NOT ADVERSELY IMPACT NONMEMBER PROVIDERS.**

17           **(2) A FAMILY CHILD CARE PROVIDER WHOSE RELIGIOUS BELIEFS**  
18 **ARE OPPOSED TO JOINING OR FINANCIALLY SUPPORTING ANY COLLECTIVE**  
19 **BARGAINING ORGANIZATION IS:**

20                           **(I) NOT REQUIRED TO PAY A SERVICE FEE; AND**

21                           **(II) REQUIRED TO PAY AN AMOUNT OF MONEY AS**  
22 **DETERMINED IN COLLECTIVE BARGAINING NEGOTIATIONS, NOT TO EXCEED ANY**  
23 **SERVICE FEE NEGOTIATED UNDER PARAGRAPH (1) OF THIS SUBSECTION, TO**  
24 **ANY CHARITABLE ORGANIZATION EXEMPT FROM TAXATION UNDER § 501(C)(3)**  
25 **OF THE INTERNAL REVENUE CODE AND TO FURNISH TO THE STATE**  
26 **DEPARTMENT OF EDUCATION AND THE EXCLUSIVE REPRESENTATIVE WRITTEN**  
27 **PROOF OF THE PAYMENT.**

28           **(F) NOTWITHSTANDING SUBSECTION (D) OF THIS SECTION, THE**  
29 **REPRESENTATIVES OF THE STATE:**

30                           **(1) MAY NOT BE REQUIRED TO NEGOTIATE ANY MATTER THAT IS**  
31 **INCONSISTENT WITH APPLICABLE LAW; AND**

1           **(2) MAY NEGOTIATE AND REACH AGREEMENT WITH REGARD TO**  
2 **ANY SUCH MATTER ONLY IF IT IS UNDERSTOOD THAT THE AGREEMENT WITH**  
3 **RESPECT TO SUCH MATTER CANNOT BECOME EFFECTIVE UNLESS THE**  
4 **APPLICABLE LAW IS AMENDED BY THE GENERAL ASSEMBLY.**

5           **(G) THE PARTIES SHALL REDUCE THEIR AGREEMENT TO A**  
6 **MEMORANDUM OF UNDERSTANDING THAT COMPLIES WITH THE PROVISIONS OF**  
7 **§ 3-601 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.**

8 **5-595.4.**

9           **THE CERTIFICATION OF AN EXCLUSIVE REPRESENTATIVE OF FAMILY**  
10 **CHILD CARE PROVIDERS BY THE STATE DEPARTMENT OF EDUCATION DOES**  
11 **NOT PREVENT THE CERTIFIED PROVIDER ORGANIZATION OR ANY OTHER**  
12 **ORGANIZATION OR INDIVIDUAL FROM COMMUNICATING WITH ANY STATE**  
13 **OFFICIAL ON MATTERS OF INTEREST, INCLUDING APPEARING BEFORE OR**  
14 **MAKING PROPOSALS TO THE STATE DEPARTMENT OF EDUCATION AT A PUBLIC**  
15 **MEETING OR HEARING OR AT ANY OTHER FORUM OF THE STATE DEPARTMENT**  
16 **OF EDUCATION.**

17 **5-595.5.**

18           **(A) A PROVIDER ORGANIZATION MAY NOT CALL OR DIRECT A STRIKE OR**  
19 **OTHER COLLECTIVE CESSATION OF THE DELIVERY OF SERVICES.**

20           **(B) THIS PART XI OF THIS SUBTITLE MAY NOT BE CONSTRUED TO**  
21 **GRANT ANY RIGHT, OR IMPLY THAT FAMILY CHILD CARE PROVIDERS HAVE ANY**  
22 **RIGHT, TO ENGAGE IN A STRIKE OR OTHER COLLECTIVE CESSATION OF THE**  
23 **DELIVERY OF SERVICES.**

24 **5-595.6.**

25           **(A) THIS PART XI OF THIS SUBTITLE MAY NOT BE CONSTRUED TO MAKE**  
26 **FAMILY CHILD CARE PROVIDERS EMPLOYEES OF THE STATE.**

27           **(B) THIS PART XI OF THIS SUBTITLE MAY NOT ALTER IN ANY WAY THE**  
28 **ROLE OF PARENTS IN SELECTING, DIRECTING, AND TERMINATING THE**  
29 **SERVICES OF FAMILY CHILD CARE PROVIDERS.**

30           **SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the**  
31 **provisions of § 5-595.2 of the Family Law Article as enacted by Section 1 of this Act,**  
32 **the provider organization certified as the majority representative of family child care**  
33 **providers in the election held pursuant to Executive Order 01.01.2007.14 prior to the**  
34 **effective date of this Act shall continue as the exclusive representative without the**  
35 **requirement of an additional election and certification.**

1 SECTION 3. AND BE IT FURTHER ENACTED, That if any provision of this  
2 Act or the application thereof to any person or circumstance is held invalid for any  
3 reason in a court of competent jurisdiction, the invalidity does not affect other  
4 provisions or any other application of this Act which can be given effect without the  
5 invalid provision or application, and for this purpose the provisions of this Act are  
6 declared severable.

7 SECTION 4. AND BE IT FURTHER ENACTED, That:

8 (a) On or before December 31 of each year through 2013, the Early Learning  
9 Programs Section of the Maryland State Department of Education shall report to the  
10 Senate Finance Committee and the House Economic Matters Committee, in  
11 accordance with § 2-1246 of the State Government Article, on the status of the  
12 Maryland Child Care Subsidy Program as it relates to family child care providers.

13 (b) The report shall include:

14 (1) the number of child care providers and children participating in  
15 the Maryland Child Care Subsidy Program;

16 (2) the number of family child care providers who join the collective  
17 bargaining unit established under this Act and the number of children served by each  
18 of the providers; and

19 (3) an analysis of any positive or negative trends resulting from the  
20 implementation of this Act.

21 SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take  
22 effect July 1, 2010.

Approved:

---

Governor.

---

Speaker of the House of Delegates.

---

President of the Senate.