

## CHAPTER 299

AN ACT concerning family child care providers and supplementing P.L.1987, c.27 (C.30:5B-16 et seq.).

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

C.30:5B-22.1 Findings, declarations relative to family child care providers.

1. The Legislature finds and declares that:

a. Family child care providers in the State of New Jersey provide an invaluable and essential service to working parents and guardians by providing a healthy, safe and productive environment for their children while they are engaged in work or training;

b. The State recognizes the importance of these services and recognizes the need to continue and improve both the quality of care and the living and working conditions of the providers;

c. The Department of Children and Families is vested with the authority to regulate and set standards for the registration of family child care homes, and the Department of Human Services provides funding for the administration and enforcement of the operation of family child care homes, establishes reimbursement rates, and administers child care subsidy services for the Child Care Development Fund;

d. To ensure quality standards of care, it is in the public interest for New Jersey to maintain a child care delivery system that encourages the recruitment and retention of quality family child care providers to deliver these vital services;

e. In 2006, a majority of family child care providers selected a union to be their representative by individually signed authorization cards, and the State Board of Mediation certified the Child Care Workers Union (CCWU), a union formed by the American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME) and the Communications Workers of America, AFL-CIO (CWA) to be the providers' exclusive majority representative; and

f. The State subsequently entered into an agreement with the CCWU in its capacity as exclusive majority representative for the family child care providers.

C.30:5B-22.2 Meeting of departments, representative; agreement.

2. a. The Commissioner of the Department of Human Services or, if applicable, the Commissioner of the Department of Children and Families, on behalf of the State of New Jersey, shall, in a timely manner, meet in good faith with a recognized exclusive majority representative of all family child care providers who are registered and approved as family day care providers pursuant to P.L.1987, c.27 (C.30:5B-16 et seq.), for the purpose of entering into an agreement, or negotiating a renewal or extension, with any agreed upon modifications, of any agreement in effect upon the effective date of this act, regarding reimbursement rates, collection and payment of fees, dispute resolution, reporting procedures, benefits, health and safety conditions, and any other matters that would improve recruitment and retention of qualified family child care providers and the quality of the programs they provide, subject to the provisions of this section. Although family child care providers are not State employees, the subjects which may be included in an agreement shall be consistent with the areas which are considered negotiable for public employees who are subject to the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.). Nothing in this act shall require that an agreement be reached on any particular matter, provided the parties act in good faith.

b. The purpose of this section is to permit family child care providers to select an exclusive majority representative to represent them as provided in this section. This act is intended by the Legislature to provide state action immunity under federal and State antitrust laws for any actions of the State, or joint actions of family child care providers and their exclusive majority representative, to the extent those actions are authorized by this act. The protections and prohibitions regarding unfair practices provided by section 1 of P.L.1974, c.123 (C.34:13A-5.4) shall apply to any family child care providers subject to this act, to the State as their employer, and to their employee organizations, representatives or agents.

c. Any agreement entered into, renewed or extended pursuant to this section shall be embodied in writing, shall be binding upon the State of New Jersey, and shall provide for the payment of union dues and representation fees in a manner consistent with the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.) which apply to the payment of union dues and representation fees by public employees.

d. For the purposes of this act, "family child care provider" shall include all in-home, voluntary, registered, approved family friend and neighbor caregivers and nationally accredited child care providers included in any agreement entered into under the provisions of Executive Order 23, signed August 2, 2006.

#### C.30:5B-22.3 Construction of act.

3. No provision of this act or provision of any agreement entered into, renewed or extended pursuant to this act, shall be construed as:

a. Interfering with the rights of parents or guardians to choose family child care providers;

b. Granting family child care providers any right to engage in a strike or collective cessation of the delivery of child care services; or

c. Granting family child care providers status as employees of the State for the purposes of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), the New Jersey "unemployment compensation law," R.S.43:21-1 et seq., and the workers' compensation law, R.S.34:15-1 et seq., nor status as employees of the State for any other purposes except for the purposes indicated in sections 1 and 2 of this act, including selecting representatives to negotiate and enter into agreements with the State as provided in section 2.

#### C.30:5B-22.4 Limitations of act.

4. No action may be taken under this act that would derogate from the status, functions or authority of the Department of Human Services in its capacity as Lead Agency pursuant to the State Plan for Child Care Development Services filed by the Commissioner of Human Services with the U.S. Secretary of Health and Human Services. No provision of this act shall supersede the authority of the Commissioner of the Department of Children and Families under the provisions of P.L.1987, c.27 (C.30:5B-16 et seq.).

5. This act shall take effect immediately.

Approved January 17, 2010.