

STATE OF NEW YORK

412--A

2019-2020 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 9, 2019

Introduced by M. of A. JAFFEE -- read once and referred to the Committee on Children and Families -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law, in relation to the licensure, registration and required inspections, background clearances and training for child care providers; and to repeal certain provisions of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subparagraph (i) of paragraph (a) of subdivision 1 of
2 section 390 of the social services law, as added by chapter 750 of the
3 laws of 1990, is amended to read as follows:

4 (i) "Child day care" shall mean child care where a license or regis-
5 tration pursuant to this section is required and shall include care for
6 a child on a regular basis provided away from the child's residence for
7 less than twenty-four hours per day by someone other than: (1) the
8 parent, step-parent, guardian, or relative within the third degree of
9 consanguinity of the parents or step-parents of such child; or (2) an
10 enrolled legally exempt provider as such term is defined in paragraph
11 (g) of this subdivision.

12 § 2. Subdivision 1 of section 390 of the social services law is
13 amended by adding a new paragraph (g) to read as follows:

14 (g) "Enrolled legally exempt provider" shall mean a person who is a
15 caregiver or entity that is not required to be licensed or registered
16 pursuant to this section and that is enrolled to be a caregiver and
17 provide subsidized child care services to eligible families in accord-
18 ance with title five-C of this article and the regulations of the office
19 of children and family services.

20 § 3. Subdivision 2 of section 390 of the social services law is
21 amended by adding a new paragraph (d-1) to read as follows:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (d-1) (i) The office of children and family services shall promulgate
2 regulations for enrollment of enrolled legally exempt providers, which
3 shall include the completion of a satisfactory inspection of the prem-
4 ises where care is to be provided, by the office of children and family
5 services.

6 (ii) Provided however, such inspections shall not be required when the
7 enrolled legally exempt provider is an individual, age eighteen or
8 older, and who, by virtue of blood, marriage or court decree, is, to all
9 of the children that such person is enrolled to provide subsidized child
10 care services to in accordance with title five-C of this article:

11 (A) a grandparent;

12 (B) a great-grandparent;

13 (C) a sibling, provided that such sibling resides in a separate house-
14 hold from the child;

15 (D) an aunt; or

16 (E) an uncle.

17 § 4. Paragraphs (a) and (b) of subdivision 3 of section 390 of the
18 social services law, paragraph (a) as amended by chapter 416 of the laws
19 of 2000, and paragraph (b) as amended by chapter 117 of the laws of
20 2010, are amended to read as follows:

21 (a) (i) The office of children and family services may make announced
22 or unannounced inspections of the records and premises of any:

23 (1) child day care provider, whether or not such provider has a
24 license from, or is registered with, the office of children and family
25 services; and

26 (2) any existing enrolled legally exempt provider except when such
27 provider is determined to be exempt in accordance with subparagraph (ii)
28 of paragraph (d-1) of subdivision two of this section.

29 (ii) The office of children and family services shall make unannounced
30 inspections of the records and premises of any child day care provider
31 within fifteen days after the office of children and family services
32 receives a complaint that, if true, would indicate such provider does
33 not comply with the applicable regulations of the office of children and
34 family services or with statutory requirements. If the complaint indi-
35 cates that there may be imminent danger to the children, the office of
36 children and family services shall investigate the complaint no later
37 than the next day of operation of the provider. The office of children
38 and family services may provide for inspections through the purchase of
39 services.

40 (b) (i) Where inspections have been made and violations of applicable
41 statutes or regulations have been found, the office of children and
42 family services shall within ten days advise the child day care provider
43 in writing of the violations and require the provider to correct such
44 violations. The office of children and family services may also act
45 pursuant to subdivisions ten and eleven of this section.

46 (ii) Where inspections have been made and violations of applicable
47 statutes or regulations have been found, the office of children and
48 family services or its designees shall, within ten days, advise the
49 enrolled legally exempt provider in writing of the violations and
50 require the provider to correct such violations.

51 § 5. Paragraph (a) of subdivision 4 of section 390 of the social
52 services law, as amended by chapter 416 of the laws of 2000, is amended
53 to read as follows:

54 (a) The office of children and family services on an annual basis
55 shall inspect ~~[at least twenty percent of all registered family day care~~
56 ~~homes, registered child day care centers and registered school age child~~

~~care programs to determine whether such homes, centers and programs are operating in compliance with applicable statutes and regulations. The office of children and family services shall increase the percentage of family day care homes, child day care centers and school age child care programs which are inspected pursuant to this subdivision as follows: to at least thirty percent by the thirty-first of December two thousand; and to at least fifty percent by the thirty-first of December two thousand one]~~ all child day care programs and all enrolled legally exempt providers except when such provider is determined to be exempt in accordance with subparagraph (ii) of paragraph (d-1) of subdivision two of this section. The office of children and family services may provide for such inspections through purchase of services. ~~[Priority shall be given to family day care homes which have never been licensed or certified prior to initial registration.]~~

§ 6. Paragraph (a) of subdivision 2 of section 390 of the social services law, as amended by chapter 117 of the laws of 2010, is amended to read as follows:

(a) Child day care centers caring for seven or more children and group family day care programs, as defined in subdivision one of this section, shall obtain a license from the office of children and family services and shall operate in accordance with the terms of such license and the regulations of such office. Initial licenses ~~[shall be valid for a period of up to two years;]~~ and subsequent licenses shall be valid for a period of up to four years so long as the provider remains substantially in compliance with applicable law and regulations during such period.

§ 7. Clause (A) of subparagraph (ii) of paragraph (d) of subdivision 2 of section 390 of the social services law, as amended by chapter 117 of the laws of 2010, is amended to read as follows:

(A) Initial registrations ~~[shall be valid for a period of up to two years;]~~ and subsequent registrations shall be valid for a period of up to four years so long as the provider remains substantially in compliance with applicable law and regulations during such period.

§ 8. Subdivision 3 of section 390-a of the social services law is REPEALED and a new subdivision 3 is added to read as follows:

3. (a) The office of children and family services shall promulgate regulations setting forth the training requirements, including any federally required training, for operators, program directors, employees, assistants and any volunteer who has the potential for regular and substantial contact with children and/or unsupervised contact with children in care, but only when such unsupervised contact involves caring for the child in their professional or official capacity as a volunteer, in family day care homes, group family day care homes, school-age child care programs and child day care centers.

(b) Such individuals shall be required to engage in thirty hours of training biennially. Provided however, any individual or provider who is already in compliance with this subdivision, prior to its most recent effective date, shall only be required to complete any additional federal training requirements which they have not already completed, in order to be deemed in compliance with this subdivision.

(c) Such training and professional development required by paragraph (a) of this subdivision shall include, but not be limited to, the following topics:

(i) principles of childhood development, focusing on the developmental stages of the age groups for which the program provides care;

(ii) nutrition and health needs of infants and children;

(iii) child day care program development;

1 (iv) safety and security procedures;
2 (v) business record maintenance and management;
3 (vi) child abuse and maltreatment identification and prevention;
4 (vii) statutes and regulations pertaining to child day care;
5 (viii) statutes and regulations pertaining to child abuse and
6 maltreatment;

7 (ix) for operators, program directors, employees and assistants of
8 family day care homes, group family day care homes and child day care
9 centers, education and information on the identification, diagnosis and
10 prevention of shaken baby syndrome; and

11 (x) any other topics necessary to meet federal training requirements.

12 (d) Each provider who can demonstrate basic competency shall determine
13 in which of the specified topics he or she needs further study, based on
14 the provider's experience and the needs of the children in the provid-
15 er's care.

16 (e) The office of children and family services may provide this train-
17 ing through the purchase of services.

18 § 9. The section heading of section 390-b of the social services law,
19 as added by chapter 416 of the laws of 2000, is amended to read as
20 follows:

21 Criminal history review and background clearances of child care
22 providers, generally.

23 § 10. Subdivisions 1, 2 and 3 of section 390-b of the social services
24 law are REPEALED and three new subdivisions 1, 2 and 3 are added to
25 read as follows:

26 1. Subject to implementing rules and regulations of the office of
27 children and family services and, where applicable, the division of
28 criminal justice services, the following background clearances shall be
29 conducted expeditiously, but in any event, within the timeframes
30 required by federal law, for entities specified in subdivision two of
31 this section in the manner as required by this section:

32 (a) a criminal history record check with the division of criminal
33 justice services;

34 (b) a search of the criminal history repository in each state other
35 than New York where such person resides or resided during the preceding
36 five years, if applicable, unless such state's criminal history record
37 information will be provided as part of the results of the background
38 clearance conducted pursuant to paragraph (c) of this subdivision;

39 (c) a national criminal record check with the federal bureau of inves-
40 tigation; the division of criminal justice services is directed to
41 submit fingerprints to the federal bureau of investigation for the
42 purpose of a nationwide criminal history record check, pursuant to and
43 consistent with public law 113-186 to determine whether such persons
44 shall have a criminal history in any state or federal jurisdiction;

45 (d) a search of the New York state sex offender registry;

46 (e) a search of any state sex offender registry or repository in each
47 state other than New York where such person resides or resided during
48 the preceding five years, if applicable, unless such state's sex offen-
49 der registry information will be provided as part of the clearance
50 conducted pursuant to paragraph (f) of this subdivision;

51 (f) a search of the national sex offender registry using the national
52 crime and information center, established under the Adam Walsh child
53 protection and safety act of 2006 (42 U.S.C. 16901 et seq.);

54 (g) a database check of the statewide central register of child abuse
55 and maltreatment in accordance with section four hundred twenty-four-a
56 of this article; and

1 (h) a search of a state-based child abuse or neglect repository of any
2 state other than New York where such person resides or resided during
3 the preceding five years; if applicable.

4 2. (a) In relation to any child day care program or enrolled legally
5 exempt provider, as defined in section three hundred ninety of this
6 title, the following individuals shall be required to receive background
7 clearances as required in subdivision one of this section:

8 (i) any applicant to be an operator or director of a child day care
9 program;

10 (ii) any current operator or director of a child day care program;

11 (iii) any applicant to enroll to be a caregiver for an enrolled legal-
12 ly exempt provider, unless such individual is related to all children
13 for whom child care services are provided;

14 (iv) any current caregiver for an enrolled legally exempt provider,
15 unless such individual is related to all children for whom child care
16 services are provided;

17 (v) any applicant to be an employee, assistant or volunteer, when such
18 volunteer has the potential for unsupervised contact with children in a
19 child day care program;

20 (vi) any current employee, assistant or volunteer, when such volunteer
21 has the potential for unsupervised contact with children in a child day
22 care program;

23 (vii) any applicant to be an employee, assistant or volunteer with the
24 potential for unsupervised contact with children in an enrolled legally
25 exempt provider, unless such individual is related to all children for
26 whom child care services are provided;

27 (viii) any current employee, assistant, or volunteer with the poten-
28 tial for unsupervised contact with children in an enrolled legally
29 exempt provider, unless such individual is related to all children for
30 whom child care services are provided; and

31 (ix) where the child care services will be or are provided in a home
32 setting where the child does not reside, any individual, age eighteen or
33 older who is not related to all children for whom child care services
34 are or will be provided, resides or begins to reside.

35 (b) Provided however, the background clearances required pursuant to
36 paragraphs (a), (c), (d) and (g) of subdivision one of this section
37 shall, beginning September first, two thousand nineteen, be completed
38 for individuals referenced in subparagraphs (i), (iii), (v), (vii) and
39 (ix) of paragraph (a) of this subdivision.

40 (c) Notwithstanding paragraph (b) of this subdivision, prior to Octo-
41 ber first, two thousand twenty, all background clearances listed in
42 subdivision one of this section that have not previously been conducted
43 pursuant to paragraph (b) of this subdivision and for which on-going
44 criminal history results are not already provided, shall be conducted in
45 accordance with a schedule developed by the office of children and fami-
46 ly services, for background clearances required in subparagraphs (ii),
47 (iv), (vi), (viii) and (ix) of paragraph (a) of this subdivision.

48 (d) The office of children and family services shall also develop a
49 schedule for applicable background clearance required to be completed in
50 accordance with subdivision one of this section after background clear-
51 ances pursuant to paragraphs (b) and (c) of this subdivision have been
52 completed for compliance with the federal child care and development
53 block grant act.

54 (e) The background clearances required pursuant to this section other
55 than those for which on-going criminal history results are provided,
56 shall be conducted for a person listed in subparagraphs (ii), (iv),

1 (vi), (viii) and (ix) of paragraph (a) of this subdivision at least once
2 every five years in accordance with a schedule developed by the office
3 of children and family services.

4 3. (a) In relation to the background clearances required pursuant this
5 section, an individual required to receive background clearances pursu-
6 ant to paragraph (a) of subdivision two of this section shall be deemed
7 ineligible to provide child care services in any child day care program
8 or as an enrolled legally exempt provider, as defined in section three
9 hundred ninety of this title, if such individual:

10 (i) refuses to consent to such clearance;

11 (ii) knowingly makes a materially false statement in connection with
12 such a clearance;

13 (iii) is registered, or is required to be registered, on a state sex
14 offender registry or repository or the national sex offender registry
15 established under the Adam Walsh child protection and safety act of 2006
16 (42 U.S.C. 16901 et seq.); or

17 (iv) has been convicted of a crime enumerated in subparagraph (E) or
18 clauses (i) through (viii) of subparagraph (D) of paragraph (1) of
19 subdivision (C) of 42 U.S.C. 9858f.

20 (b) Except as set forth in paragraph (c) of this subdivision, after
21 reviewing any New York criminal record check of an individual who is
22 required to receive such background clearance pursuant to subdivision
23 two of this section, the office of children and family services and the
24 program or provider shall take the following actions:

25 (i) Where the criminal record check of an individual required to
26 receive background clearances pursuant to subparagraphs (i), (iii) and
27 (ix) of paragraph (a) of subdivision two of this section, reveals a
28 conviction for a crime other than one set forth in subparagraph (iv) of
29 paragraph (a) of this subdivision, the office of children and family
30 services may deny the application, only after providing a copy of such
31 criminal history information and a copy of article twenty-three-A of the
32 correction law to the individual and informing such individual of his or
33 her right to seek correction of any incorrect information contained in
34 such criminal history information provided by the division of criminal
35 justice services pursuant to the regulations and the right of such indi-
36 vidual to provide information relevant to such analysis to the office of
37 children and family services, consistent with article twenty-three-A of
38 the correction law;

39 (ii) Where the criminal record check of an individual required to
40 receive background clearances pursuant to subparagraphs (i), (iii) and
41 (ix) of paragraph (a) of subdivision two of this section, reveals a
42 pending charge for any crime, the office of children and family services
43 shall hold the application in abeyance until the charge is adjudicated;

44 (iii) Where the criminal record check of an individual required to
45 receive background clearances pursuant to subparagraphs (ii), (iv) and
46 (ix) of paragraph (a) of subdivision two of this section, reveals a
47 conviction for a crime other than one set forth in subparagraph (iv) of
48 paragraph (a) of this subdivision, the office of children and family
49 services shall conduct a safety assessment of the program or provider
50 and take all appropriate steps to protect the health and safety of the
51 children receiving care at such location. The office may deny, limit,
52 suspend, revoke, reject or terminate a license or registration or termi-
53 nate such provider's enrollment, as applicable based on such a
54 conviction, only after providing a copy of such criminal history infor-
55 mation and a copy of article twenty-three-A of the correction law to the
56 individual and informing such individual of his or her right to seek

1 correction of any incorrect information contained in such criminal
2 history information provided by the division of criminal justice
3 services pursuant to the regulations and the right of such individual to
4 provide information relevant to such analysis to the office of children
5 and family services, consistent with article twenty-three-A of the
6 correction law;

7 (iv) Where the criminal record check of an individual required to
8 receive background clearances pursuant to subparagraphs (ii), (iv) and
9 (ix) of paragraph (a) of subdivision two of this section, reveals a
10 pending charge for any crime, the office of children and family services
11 shall conduct a safety assessment of the program or provider and take
12 all appropriate steps to protect the health and safety of the children
13 receiving care at such location. The office may suspend a license,
14 registration, or enrollment, as applicable based on such pending charge
15 where necessary to protect the health and safety of the children receiv-
16 ing care at such location consistent with article twenty-three-A of the
17 correction law;

18 (v) Where the criminal record check of an individual required to
19 receive background clearances pursuant to subparagraphs (v) and (vii) of
20 paragraph (a) of subdivision two of this section, reveals a conviction
21 for a crime other than one set forth in subparagraph (iv) of paragraph
22 (a) of this subdivision, the office of children and family services may,
23 direct the program or provider to deny the application, only after
24 providing a copy of such criminal history information and a copy of
25 article twenty-three-A of the correction law to the individual and
26 informing such individual of his or her right to seek correction of any
27 incorrect information contained in such criminal history information
28 provided by the division of criminal justice services pursuant to the
29 regulations and the right of such individual to provide information
30 relevant to such analysis to the office of children and family services,
31 consistent with article twenty-three-A of the correction law;

32 (vi) Where the criminal record check of an individual required to
33 receive background clearances pursuant to subparagraphs (v) and (vii) of
34 paragraph (a) of subdivision two of this section, reveals a pending
35 charge for any crime, the office of children and family services shall
36 hold the application in abeyance until the charge is adjudicated;

37 (vii) Where the criminal record check of an individual required to
38 receive background clearances pursuant to subparagraphs (vi) and (viii)
39 of paragraph (a) of subdivision two of this section reveals a conviction
40 for a crime other than one set forth in subparagraph (iv) of paragraph
41 (a) of this subdivision, the office of children and family services
42 shall conduct a safety assessment of the program or provider and take
43 all appropriate steps to protect the health and safety of the children
44 receiving care at such location. The office may direct the program or
45 provider to terminate the employee, assistant or volunteer based on such
46 a conviction, only after providing a copy of such criminal history
47 information and a copy of article twenty-three-A of the correction law
48 to the individual and informing such individual of his or her right to
49 seek correction of any incorrect information contained in such criminal
50 history information provided by the division of criminal justice
51 services pursuant to the regulations and the right of such individual to
52 provide information relevant to such analysis to the office of children
53 and family services, consistent with article twenty-three-A of the
54 correction law and in accordance with any applicable collective bargain-
55 ing agreement;

1 (viii) Where the criminal record check of an individual required to
2 receive background clearances pursuant to subparagraphs (vi) and (viii)
3 of paragraph (a) of subdivision two of this section reveals a pending
4 charge for any crime, the office of children and family services shall
5 conduct a safety assessment of the program or provider and take all
6 appropriate steps to protect the health and safety of the children
7 receiving care at such location; or

8 (ix) Advise the program or provider that the individual has no crimi-
9 nal history record.

10 (c)(i) The office of children and family services shall not release
11 the report of the national criminal record check received from the
12 federal bureau of investigation in accordance with this subdivision to
13 any non-public entity or entity not otherwise authorized.

14 (ii) Notwithstanding any other provision of law to the contrary, after
15 reviewing any national criminal record check of an individual who is
16 required to receive such background clearance pursuant to paragraph (a)
17 of subdivision two of this section, the office of children and family
18 services shall proceed as follows: (A) review and evaluate the results
19 of the national criminal record check of a current or prospective opera-
20 tor, director, caregiver, employee, assistant, volunteer with the poten-
21 tial for unsupervised contact with the child receiving services as well
22 as any other person eighteen years of age or older who resides in the
23 home where care is provided or to be provided, other than in the child's
24 home, in accordance with the standards set forth in paragraphs (a) and
25 (b) of this subdivision relating to convictions that make an individual
26 ineligible, discretionarily ineligible, or a direction that such indi-
27 vidual's background clearance request be held in abeyance during the
28 pendency of certain criminal charges; and (B) based on the results of
29 the national criminal record check, where applicable, inform such child
30 day care program or enrolled legally exempt provider that the applica-
31 tion or employment (1) must be denied or terminated; (2) must be held in
32 abeyance pending subsequent notification pursuant to subdivision six of
33 this section, from the office of children and family services; or (3)
34 that the office of children and family services has no objection, solely
35 based on the national criminal record check, for the child day care
36 program or enrolled legally exempt provider to proceed with a determi-
37 nation on such application or current employment based on any currently
38 required standards.

39 (iii) Where the office of children and family services directs the
40 child day care program or enrolled legally exempt provider to deny the
41 application or terminate employment in accordance with this paragraph,
42 the office of children and family services shall also notify as the case
43 may be, such current or prospective employee, assistant, volunteer with
44 the potential for unsupervised contact with children or other person
45 eighteen years of age or older, who resides in the home where care is
46 provided, other than the child's home, that the criminal record check
47 was the basis for the denial of clearance and shall provide such indi-
48 vidual with a copy of the results of the national criminal record check
49 upon which such denial was based together with a written statement
50 setting forth the reasons for such denial, as well as a copy of article
51 twenty-three-A of the correction law and inform such individual of his
52 or her right to seek correction of any incorrect information contained
53 in such national record check provided by the federal bureau of investi-
54 gation pursuant to the regulations and the right of such individual to
55 provide information relevant to such analysis.

§ 11. Subdivisions 6 and 7 of section 390-b of the social services law, as added by chapter 416 of the laws of 2000, are amended to read as follows:

6. The notification by the office of children and family services to the child day care ~~[provider]~~ program or enrolled legally exempt provider pursuant to this section shall include a summary of the individual's New York criminal history record, if any, provided by the division of criminal justice services. When providing notification to a child day care program or enrolled legally exempt provider who are non-public agencies, or otherwise unauthorized to receive such notification, with respect to the results of a national criminal record check performed by the federal bureau of investigation, the office of children and family services shall advise the program or provider, where appropriate, of the category or categories of crime or crimes for which the individual has a conviction, and shall not provide the specific crime or crimes of conviction absent the express written consent of the person for whom the national criminal record check was performed.

7. Where the office of children and family services directs a child day care ~~[provider]~~ program or enrolled legally exempt provider to deny an application ~~[based on the criminal history record]~~, the program or provider must notify the applicant ~~[that such record is]~~ in writing the basis of the denial.

§ 12. Subdivision 10 of section 390 of the social services law, as amended by chapter 416 of the laws of 2000, is amended to read as follows:

10. (a) Any home or facility providing child day care shall be operated in accordance with applicable statutes and regulations. Any violation of applicable statutes or regulations shall be a basis to deny, limit, suspend, revoke, or terminate a license or registration. Consistent with articles twenty-three and twenty-three-A of the correction law, and guidelines referenced in subdivision two of section four hundred twenty-five of this article, if the office of children and family services is made aware of the existence of a criminal conviction or pending criminal charge concerning an operator of a family day care home, group family day care home, school-age child care program, or child day care center or concerning any assistant, employee or volunteer in such homes, programs or centers, or any persons age eighteen or over who reside in such homes, such conviction or charge may be a basis to deny, limit, suspend, revoke, reject, or terminate a license or registration in accordance with subdivision three of section three hundred ninety-b of this title. Before any license issued pursuant to the provisions of this section is suspended or revoked, before registration pursuant to this section is suspended or terminated, or when an application for such license is denied or registration rejected, the applicant for or holder of such registration or license is entitled, pursuant to section twenty-two of this chapter and the regulations of the office of children and family services, to a hearing before the office of children and family services. However, a license or registration shall be temporarily suspended or limited without a hearing upon written notice to the operator of the facility following a finding that the public health, or an individual's safety or welfare, are in imminent danger. The holder of a license or registrant is entitled to a hearing before the office of children and family services to contest the temporary suspension or limitation. If the holder of a license or registrant requests a hearing to contest the temporary suspension or limitation, such hearing must be scheduled to commence as soon as possible but in no event later than

1 thirty days after the receipt of the request by the office of children
2 and family services. Suspension shall continue until the condition
3 requiring suspension or limitation is corrected or until a hearing deci-
4 sion has been issued. If the office of children and family services
5 determines after a hearing that the temporary suspension or limitation
6 was proper, such suspension or limitation shall be extended until the
7 condition requiring suspension or limitation has been corrected or until
8 the license or registration has been revoked.

9 (b) (i) Consistent with articles twenty-three and twenty-three-A of
10 the correction law, and guidelines developed pursuant to subdivision two
11 of section four hundred twenty-five of this article, if the office of
12 children and family services is made aware of the existence of a crimi-
13 nal conviction or pending criminal charge concerning a current or
14 perspective caregiver, employee, assistant, volunteer with the potential
15 for unsupervised contact, or any persons age eighteen or older who
16 reside in such home where care is provided, that is not in the child's
17 home, and such person is not related to all children receiving care, in
18 an enrolled legally exempt provider, such conviction or charge may be a
19 basis to terminate enrollment in accordance with subdivision three of
20 section three hundred ninety-b of this title. Before any enrollment for
21 an enrolled legally exempt provider may be terminated, or when an appli-
22 cation for such enrollment is denied, the applicant for or holder of
23 such enrollment is entitled, in accordance with section twenty-two of
24 this chapter and the implementing regulations of the office of children
25 and family services, to a hearing before the office of children and
26 family services. However, an enrollment shall be temporarily suspended
27 or limited without a hearing upon written notice to the provider follow-
28 ing a finding that the public health, or an individual's safety or
29 welfare, are in imminent danger.

30 (ii) If an enrolled legally exempt provider's enrollment is termi-
31 nated, such individual or entity shall be immediately re-enrolled once
32 the issue that caused the initial termination has been corrected, and
33 all other elements legally required for enrollment have been satisfied.

34 § 13. Subdivisions 9 and 10 of section 390-b of the social services
35 law, as added by chapter 416 of the laws of 2000, are amended and two
36 new subdivisions 11 and 12 are added to read as follows:

37 9. Any criminal history record provided by the division of criminal
38 justice services, and any summary of the criminal history record
39 provided by the office of children and family services to a child day
40 care ~~[provider]~~ program or enrolled legally exempt provider pursuant to
41 this section, is confidential and shall not be available for public
42 inspection; provided, however, nothing herein shall prevent a child day
43 care ~~[provider]~~ program, enrolled legally exempt provider or the office
44 of children and family services from disclosing criminal history infor-
45 mation or the individual from disclosing his or her criminal history
46 information at any administrative or judicial proceeding relating to the
47 denial or revocation of an application, employment, license ~~[or]~~, regis-
48 tration or enrollment. The subject of a criminal history review
49 conducted pursuant to this section shall be entitled to receive, upon
50 written request, a copy of the ~~[summary of the]~~ criminal history record
51 ~~[provided by the office of children and family services to the child day~~
52 ~~care provider]~~. Unauthorized disclosure of such records or reports
53 shall subject the provider to civil penalties in accordance with the
54 provisions of subdivision eleven of section three hundred ninety of this
55 title.

10. A child day care ~~[provider]~~ program or enrolled legally exempt provider shall advise the office of children and family services when an individual who is subject to criminal history record review in accordance with subdivision ~~[one or]~~ two of this section is no longer subject to such review. The office of children and family services shall inform the division of criminal justice services when an individual who is subject to criminal history review is no longer subject to such review so that the division of criminal justice services may terminate its retain processing with regard to such person. At least once a year, the office of children and family services will be required to conduct a validation of the records maintained by the division of criminal justice services.

11. The office of children and family services shall pay any processing fees for a criminal history or sex offender clearance conducted pursuant to subdivision one of this section. The office of children and family services shall promptly submit fingerprints obtained pursuant to this section and such processing fee to the division of criminal justice services.

12. Child day care centers which are not subject to the provisions of section three hundred ninety of this title shall not be subject to the provisions of this section, provided however, that the city of New York shall require that such child day care centers meet the requirements of any federal laws and regulations pertaining to the child care development and block grant and the related federally approved plans of the state of New York.

§ 14. Subparagraph (z) of paragraph (A) of subdivision 4 of section 422 of the social services law, as amended by section 11 of part L of chapter 56 of the laws of 2015, is amended to read as follows:

(z) an entity with appropriate legal authority in another state to license, certify or otherwise approve prospective foster parents, prospective adoptive parents, prospective relative guardians ~~[or]~~, prospective successor guardians or child care programs where disclosure of information regarding such prospective foster or prospective adoptive parents ~~[or]~~, child care programs, prospective relative or prospective successor guardians and other persons over the age of eighteen residing in the home of such persons ~~[is]~~ or where child care is provided in a home other than the child's home, as required under title IV-E of the federal social security act or the federal child care and development block grant act (section nine thousand eight hundred fifty-eight, et seq. of title forty-two of the United States Code); and

§ 15. Paragraph (a) of subdivision 1 of section 424-a of the social services law, as amended by section 12 of part L of chapter 56 of the laws of 2015, is amended to read as follows:

(a) A licensing agency shall inquire of the ~~[department]~~ office of children and family services and the ~~[department]~~ office shall, subject to the provisions of paragraph (e) of this subdivision, inform such agency and the subject of the inquiry whether an applicant for a certificate, license ~~[or]~~, permit or enrollment when such individual is not related to all children for whom care will be provided, [assistants to group] or to become an employee, assistant or volunteer with the potential for unsupervised contact with children in care of a family day care [providers] program or in the case of an enrolled legally exempt provider when such individual is not related to all children for whom care will be provided, the director of a camp subject to the provisions of article thirteen-B of the public health law, ~~[a prospective successor guardian when a clearance is conducted pursuant to paragraph (d) of~~

~~subdivision two of section four hundred fifty-eight b of this article,~~
and any person over the age of eighteen who resides in the home of a
person who has applied to become an adoptive parent or a foster parent
~~[or to operate a family day care home or group family day care home or~~
~~any person over the age of eighteen residing in the home of a prospec-~~
~~tive successor guardian when a clearance is conducted of a prospective~~
~~successor guardian pursuant to this paragraph]~~ or on the premises where
child care services are provided in a home other than the child's home
and such person is not related to all children receiving care, has been
or is currently the subject of an indicated child abuse and maltreatment
report on file with the statewide central register of child abuse and
maltreatment.

§ 16. Subdivision 4 of section 424-a of the social services law, as
amended by section 14 of part L of chapter 56 of the laws of 2015, is
amended to read as follows:

4. For purposes of this section, the term "licensing agency" shall
mean an authorized agency which has received an application to become an
adoptive parent or an authorized agency which has received an applica-
tion for a certificate or license to receive, board or keep any child
pursuant to the provisions of section three hundred seventy-six or three
hundred seventy-seven of this article or an authorized agency which has
received an application from a relative within the second degree or
third degree of consanguinity of the parent of a child or a relative
within the second degree or third degree of consanguinity of the step-
parent of a child or children, or the child's legal guardian for
approval to receive, board or keep such child, or an authorized agency
that conducts a clearance pursuant to paragraph (d) of subdivision two
of section four hundred fifty-eight-b of this article, or a state or
local governmental agency which receives an application to provide child
day care services in a child day care center, school-age child care
program, family day care home or group family day care home or enrolled
legally exempt provider pursuant to the provisions of section three
hundred ninety of this article, or the department of health and mental
hygiene of the city of New York, when such department receives an appli-
cation for a certificate of approval to provide child day care services
in a child day care center pursuant to the provisions of the health code
of the city of New York, or the office of mental health or the office
for people with developmental disabilities when such office receives an
application for an operating certificate pursuant to the provisions of
the mental hygiene law to operate a family care home, or a state or
local governmental official who receives an application for a permit to
operate a camp which is subject to the provisions of article thirteen-B
of the public health law or the office of children and family services
which has received an application for a certificate to receive, board or
keep any child at a foster family home pursuant to articles nineteen-G
and nineteen-H of the executive law or any other facility or provider
agency, as defined in subdivision four of section four hundred eighty-
eight of this chapter, in regard to any licensing or certification func-
tion carried out by such facility or agency.

§ 17. All costs associated with activities related to the implementa-
tion of the federal child care development block grant reauthorization
act of 2014 required pursuant to this act shall be funded within the 80
million dollars allocated for such purpose pursuant to chapter 53 of the
laws of 2018. Nothing herein shall limit the ability to utilize such
funds to satisfy other requirements necessary to comply with the federal

1 child care development block grant reauthorization act of 2014 not
2 contained within this act.

3 § 18. Severability. If any clause, sentence, paragraph, subdivision,
4 section or part contained in any part of this act shall be adjudged by
5 any court of competent jurisdiction to be invalid, such judgment shall
6 not affect, impair, or invalidate the remainder thereof, but shall be
7 confined in its operation to the clause, sentence, paragraph, subdivi-
8 sion, section or part contained in any part thereof directly involved in
9 the controversy in which such judgment shall have been rendered. It is
10 hereby declared to be the intent of the legislature that this act would
11 have been enacted even if such invalid provisions had not be included
12 herein.

13 § 19. This act shall take effect April 1, 2019; provided, that the
14 office of children and family services is authorized to promulgate any
15 rules or regulations necessary for the implementation of this act on its
16 effective date.