STATE OF NEW YORK

5257

2025-2026 Regular Sessions

IN SENATE

February 20, 2025

Introduced by Sen. HINCHEY -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to requiring mandatory background checks for persons employed by certain businesses serving minors and prohibiting certain persons from owning such businesses

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

Section 1. The general business law is amended by adding a new section 398-g to read as follows:

§ 398-g. Background check requirements for youth service providers. 1. As used in this section:

(a) (i) "Youth service provider" means any of the following businesses, organizations, or entities that regularly provide instructional, recreational or extracurricular services to minors:

(A) dance, music, or performing arts studios or schools;

(B) martial arts academies;

(C) sports training facilities; or

(D) tutoring or academic enrichment centers.

(ii) "Youth service provider facility" shall not include any public or private school subject to the provisions of the education law or any day care center subject to the provisions of article six of the social services law.

(b) "Covered person" means an operator, employee, volunteer, or independent contractor who has direct and substantial contact with minors through a youth service provider facility.

(c) "Minor child" or "minor" means a child under the age of sixteen years.

2. Notwithstanding any other provision of law to the contrary, and subject to rules and regulations of the division of criminal justice

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

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services, the following background checks shall be conducted for covered persons at the time and in the manner required by this section:

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

(b) a search of any state sex offender registry or repository in each state other than New York where such person resides or resided during the preceding five years, if applicable unless such state's sex offender registry information will be provided as part of the clearance conducted pursuant to paragraph (c) of this subdivision; and

(c) a search of the national sex offender registry using the Dru Sjodin National Sex Offender Public Website or any successor website.

3. A covered person must undergo a background check as described in subdivision two of this section:

(a) before being employed at, volunteering at, or operating a youth service provider; and

(b) at least once every three years during employment at the youth service provider facility.

4. Notwithstanding any other provision of law to the contrary, a covered person shall be deemed disqualified from employment at a youth service provider facility if such person, either before or during employment:

(a) refuses to consent to the background check described in subdivision two of this section;

(b) knowingly makes a materially false statement in connection with such background check; or

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

5. No person who is registered, or is required to be registered, on a sex offender registry pursuant to paragraph (c) of subdivision four of this section shall own or operate a youth service provider facility. For purposes of this subdivision, ownership shall mean having a controlling interest in the youth service provider facility.

6. The provisions of this section shall not apply to any person rendering emergency services at the youth service provider facility.

7. (a) A violation of the provisions of this section shall be punishable by a civil penalty of not more than twenty-five thousand dollars per violation recoverable in an action by the attorney general in the name of the people of the state or by the corporation counsel for any city or by the appropriate attorney of any other political subdivision as shall be designated by the governing body of such political subdivision. Any civil penalty recovered shall accrue to the state of New York.

(b) A youth service provider or owner that fails to comply with the background check requirements of this section or knowingly employing an individual disqualified under subdivision four of this section shall be suspension or revocation of any license or permit to operate the youth service provider facility where the violation occurred.

(c) The attorney general or the district attorney of any county may bring an action in the name of the people of the state to restrain or prevent any violation of this article or any continuance of any such violation.

§ 2. The division of criminal justice services shall promulgate and enforce any rules and regulations necessary for the implementation of this act.

§ 3. Severability. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent

jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 4. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.