STATE OF NEW YORK

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Cal. No. 414

2025-2026 Regular Sessions

IN SENATE

February 20, 2025

Introduced by Sens. HINCHEY, RHOADS, ROLISON, C. RYAN -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Consumer Protection in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

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-h to read as follows:

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

(a) (i) "Youth service provider" means any business corporation, not-for-profit corporation, limited liability company, or limited partnership that regularly provide instructional, recreational or extracurricular services to minors, including but not limited to:

(A) dance, gymnastics, 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

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

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care center subject to the provisions of article six of the social services law.

(b) "Covered person" means an operator, employee, regular volunteer, or independent contractor that is eighteen years of age or older, who has direct responsibility for the supervision, instruction, care, or safety of minors and has contact with minors through a youth service provider facility.

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

(d) "Regular volunteer" means a volunteer who is eighteen years of age or older and who has direct responsibility for the supervision, instruction, care, or safety of minors through a youth service provider for more than sixteen hours per month or thirty-two hours per year.

2. Notwithstanding any other provision of law to the contrary, and subject to rules and regulations of the division of criminal justice services, the following background checks shall be conducted by youth service providers 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 United States department of justice national sex offender public website.

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

(a) after a job offer but prior to commencement of employment by a youth service provider;

(b) before regularly volunteering at, being contracted by, or operating a youth service provider; and

(c) at least once every five years during such employment, regularly volunteering, contracting, or operating 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, regularly volunteering, or contracting at a youth service provider facility if such person, either prior to the commencement or during employment, regularly volunteering, or contracting:

(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 United States department of justice national sex offender registry.

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. Upon the request of any covered person denied or disqualified from employment, contract, volunteer position, or operator position under

subdivision two, three or four of this section, the youth service provider shall provide, within thirty days of such request, a written statement setting forth the reasons for such denial or disqualification. Any such covered person denied or disqualified from employment, contract, volunteer position, or operator position pursuant to subdivision two, three or four of this section shall be afforded the opportunities for enforcement available pursuant to section seven hundred fifty-five of the correction law.

8. (a) Whenever there shall be a violation of any provision of this section, an application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction by a special proceeding to issue an injunction, and upon notice to the respondent of not less than five days, to enjoin and restrain the continuance of such violations; and if it shall appear to the satisfaction of the court or justice that the respondent has, in fact, violated any provision of this section, an injunction may be issued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. Whenever the court shall determine that a violation of any provision of this section has occurred, the court may impose a civil penalty of not more than ten thousand dollars for each violation. In connection with any such application, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

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

§ 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.