S T A T E O F N E W Y O R K

5167

2009-2010 Regular Sessions

I N A S S E M B L Y

February 10, 2009

Introduced by M. of A. LAVINE -- read once and referred to the Committee on Children and Families

AN ACT to amend the social services law, in relation to criminal history review of informal child care providers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

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

(G) "INFORMAL CHILD CARE PROVIDER" SHALL MEAN ANY PERSON PROVIDING CARETAKING SERVICES FOR A CHILD EITHER IN OR AWAY FROM THE CHILD'S HOME, WHERE SUCH SERVICES ARE SUBSIDIZED UNDER THE NEW YORK STATE CHILD CARE BLOCK GRANT PROGRAM, BUT SHALL NOT INCLUDE A CHILD DAY CARE PROVIDER WHO IS SUBJECT TO LICENSURE OR REGISTRATION PURSUANT TO THE PROVISIONS OF THIS SECTION.

S 2. Subdivision 2 of section 390 of the social services law is amended by adding a new paragraph (f) to read as follows:

(F) INFORMAL CHILD CARE PROVIDERS SHALL BE REQUIRED TO ENROLL WITH THE DEPARTMENT AND TO MEET SAFETY AND OTHER STANDARDS ESTABLISHED PURSUANT TO REGULATIONS PROMULGATED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES.

S 3. Subdivision 1 of section 390-b of the social services law is amended by adding a new paragraph (c) to read as follows:

(C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, AND SUBJECT TO RULES AND REGULATIONS OF THE DIVISION OF CRIMINAL JUSTICE SERVICES, THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL PERFORM A CRIMINAL HISTORY RECORD CHECK WITH THE DIVISION OF CRIMINAL JUSTICE SERVICES REGARDING ANY INFORMAL CHILD CARE SERVICES PROVIDER AND ANY ASSISTANTS, EMPLOYEES, VOLUNTEERS WHO HAVE REGULAR AND SUBSTANTIAL CONTACT WITH CHILDREN, AND ANY PERSON AGE EIGHTEEN OR OVER RESIDING ON THE PREMISES WHERE SUCH CRIMINAL HISTORY RECORD CHECK IS PROVIDED FOR IN A SOCIAL SERVICES DISTRICT'S CONSOLIDATED SERVICES PLAN. SUCH INFORMAL

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

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CHILD CARE PROVIDERS, ASSISTANTS, EMPLOYEES, VOLUNTEERS WHO WILL HAVE REGULAR AND SUBSTANTIAL CONTACT WITH CHILDREN, AND, WHERE CARE IS OUTSIDE THE CHILD'S HOME, ANY PERSON OVER THE AGE OF EIGHTEEN LIVING IN SUCH HOME OF SUCH INFORMAL CHILD CARE PROVIDER, WHO PREVIOUSLY DID NOT HAVE A CRIMINAL HISTORY RECORD CHECK PERFORMED IN ACCORDANCE WITH THIS SUBDIVISION SHALL HAVE SUCH A CRIMINAL HISTORY RECORD CHECK PERFORMED WHEN SUCH INFORMAL PROVIDER APPLIES FOR ENROLLMENT OR ENROLLMENT RENEWAL. A CRIMINAL HISTORY RECORD CHECK SHALL NOT BE REQUIRED OF ANY PERSON AGE EIGHTEEN OR OVER RESIDING ON THE PREMISES WHERE SUCH INFORMAL CHILD CARE IS PROVIDED IN THE CHILD'S OWN RESIDENCE.

S 4. Paragraphs (c), (d) and (f) of subdivision 2 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:

(c) As part of the provider's application for, or renewal of, a group family day care home license or family day care home registration, the provider shall furnish the office of children and family services with fingerprint cards of any operator of a group family day care home or family day care home, and any assistant, employee or volunteer, and any person age eighteen or over residing on the premises of the group family day care home or family day care home, who previously did not have a criminal history record check performed in accordance with this section, together with such other information as is required by the office of children and family services and the division of criminal justice services. AS PART OF AN INFORMAL CHILD CARE PROVIDER'S APPLICATION FOR, OR RENEWAL OF, ENROLLMENT, A SOCIAL SERVICES DISTRICT MAY REQUIRE THE PROVIDER TO FURNISH THE OFFICE OF CHILDREN AND FAMILY SERVICES WITH FINGERPRINT CARDS OF ANY CAREGIVER, ASSISTANT, EMPLOYEE OR VOLUNTEER, AND ANY PERSON AGE EIGHTEEN OR OVER RESIDING ON THE PREMISES OF THE HOME, WHO PREVIOUSLY DID NOT HAVE A CRIMINAL HISTORY RECORD CHECK PERFORMED IN ACCORDANCE WITH THIS SECTION, TOGETHER WITH SUCH OTHER INFORMATION AS IS REQUIRED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES AND THE DIVISION OF CRIMINAL JUSTICE SERVICES; PROVIDED HOWEVER THAT A PERSON AGE EIGHTEEN OR OVER RESIDING ON THE PREMISES OF THE HOME SHALL NOT BE REQUIRED TO FURNISH FINGERPRINT CARDS WHERE THE CARE IS BEING PROVIDED IN THE CHILD'S OWN RESIDENCE. ANY SUCH REQUIREMENTS MUST BE SET FORTH IN THE SOCIAL SERVICES DISTRICT'S CONSOLIDATED SERVICES PLAN.

(d) Every group family day care home or family day care home provider shall obtain a set of fingerprints for each prospective assistant, employee, volunteer and any person age eighteen or over who will be residing on the premises of the group family day care home or family day care home, and such other information as is required by the office of children and family services and the division of criminal justice services. The group family day care home or family day care home provider shall furnish to the applicant blank fingerprint cards and a description of how the completed fingerprint cards will be used. The group family day care home or family day care home provider shall promptly transmit such fingerprint cards to the office of children and family services. A SOCIAL SERVICES DISTRICT MAY ALSO REQUIRE FROM INFORMAL CHILD CARE PROVIDERS, AND ANY PROSPECTIVE ASSISTANT, EMPLOYEE, VOLUNTEER, AND ANY PERSON AGE EIGHTEEN OR OVER WHO WILL BE RESIDING ON THE PREMISES WHERE CARE IS PROVIDED AWAY FROM SUCH CHILD'S RESIDENCE, SUCH FINGERPRINTS AND OTHER INFORMATION AS IS REQUIRED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES AND THE DIVISION OF CRIMINAL JUSTICE SERVICES FOR CONDUCTING A CRIMINAL HISTORY RECORDS CHECK; PROVIDED, HOWEVER, THAT A SOCIAL SERVICES DISTRICT MAY NOT REQUIRE THE FINGERPRINTING OF ANY PERSON AGE EIGHTEEN OR OVER WHO WILL BE RESIDING ON THE

PREMISES WHERE CARE IS PROVIDED IN THE CHILD'S OWN RESIDENCE. ALL SUCH REQUIREMENTS FOR FINGERPRINTS AND OTHER INFORMATION MUST BE SET FORTH IN THE SOCIAL SERVICES DISTRICT'S CONSOLIDATED SERVICES PLAN. IN SUCH CASE, THE PROVISIONS OF SUBDIVISIONS THREE, FOUR AND FIVE OF THIS SECTION APPLICABLE TO CHILD DAY CARE PROVIDERS GENERALLY OR TO FAMILY DAY CARE PROVIDERS SPECIFICALLY SHALL BE APPLICABLE TO SUCH INFORMAL CHILD CARE PROVIDERS.

(f) A licensed or registered child day care center, school-age child care program, group family day care home or family day care home OR INFORMAL CHILD CARE PROVIDER may temporarily approve an applicant to be an employee, assistant or volunteer for such provider while the results of the criminal history record check are pending, but shall not allow such person to have unsupervised contact with children during such time.

S 5. Subdivision 4 of section 424-a of the social services law, as amended by chapter 465 of the laws of 1992, is amended to read as follows:

4. For purposes of this chapter, 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 application 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 the parent of a child or a relative within the second degree or third degree 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 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 TO PROVIDE INFORMAL CHILD CARE pursuant to the provisions of section three hundred ninety of this article, or the department of health of the city of New York, when such department receives an application for a certificate of approval to provide family day care pursuant to the provisions of the health code of the city of New York, or the office of mental health or the office of mental retardation and 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 which will serve children, 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-A[,] OR thirteen-B [or thirteen-C] of the public health law or the [division for youth] 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.

S 6. This act shall take effect on the ninetieth day after it shall have become a law.