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

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I N S E N A T E

April 13, 2012

Introduced by Sen. SAVINO -- (at request of the Office of Children and Family Services) -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the social services law, in relation to registered day care centers, operation of family based child care, limiting activities by child care providers whose license or registration is suspended, and exemption of minors working in day care from criminal history screening

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

Section 1. Paragraphs (d) and (e) of subdivision 1 of section 390 of the social services law, as amended by chapter 117 of the laws of 2010, are amended to read as follows:

(d) "Group family day care home" shall mean a program caring for children for more than three hours per day per child in which child day care is provided in a family home for seven to twelve children of all ages, except for those programs operating as a family day care home, as such term is defined in paragraph (e) of this subdivision, which care for seven or eight children. A group family day care provider may provide child day care services to four additional children if such additional children are of school age and such children receive services only before or after the period such children are ordinarily in school or during school lunch periods, or school holidays, or during those periods of the year in which school is not in session. There shall be one caregiver for every two children under two years of age in the group family home. *THE GROUP FAMILY DAY CARE HOME PROVIDER SHALL BE THE PRIMARY CAREGIVER ON-SITE FOR SUCH PROGRAM.* A group family day care home must have at least one assistant to the operator present when child day care is being provided to seven or more children when none of the children are school age, or nine or more children when at least two of the children are school age and such children receive services only before or after the period such children are ordinarily in school or during school lunch periods, or school holidays, or during those periods of the year in which school is not in session. This assistant shall be selected by

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

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the group family day care operator and shall meet the qualifications established for such position by the regulations of the office of children and family services.

(e) "Family day care home" shall mean a program caring for children for more than three hours per day per child in which child day care is provided in a family home for three to six children. There shall be one caregiver for every two children under two years of age in the family day care home. THE FAMILY DAY CARE HOME PROVIDER SHALL BE THE PRIMARY CAREGIVER ON-SITE FOR SUCH PROGRAM. A family day care provider may, however, care for seven or eight children at any one time if no more than six of the children are less than school age and the school-aged children receive care primarily before or after the period such children are ordinarily in school, during school lunch periods, on school holidays, or during those periods of the year in which school is not in session in accordance with the regulations of the office of children and family services and the office inspects such home to determine whether the provider can care adequately for seven or eight children.

S 2. Subparagraph (i) of paragraph (d) of subdivision 2 of section 390 of the social services law, as amended by chapter 416 of the laws of 2000, is amended to read as follows:

(i) The office of children and family services shall promulgate regulations for licensure and for registration of child day care pursuant to this section. Procedures for obtaining a license or registration or renewing a license OR REGISTRATION shall include a satisfactory inspection of the facility by the office of children and family services prior to issuance of the license or registration or renewal of the license. THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL NOT ISSUE A LICENSE OR REGISTRATION TO A CHILD DAY CARE PROVIDER TO OPERATE MORE THAN ONE GROUP FAMILY DAY CARE HOME OR FAMILY DAY CARE HOME.

S 3. Paragraph (a) of subdivision 4 of section 390 of the social services law, as amended by chapter 416 of the laws of 2000, is amended to read as follows:

(a) The office of children and family services on an annual basis shall inspect at least [twenty] FIFTY percent of all registered family day care 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.] 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.

S 4. 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. 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. 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. A CAREGIVER WHOSE LICENSE OR REGISTRATION IS SUSPENDED UPON A FINDING OF IMMINENT DANGER SHALL NOT PROVIDE CARE TO ANY NON-RELATIVE CHILD WHILE SUSPENDED; INCLUDING CARE FOR WHICH REGISTRATION OR LICENSING IS NOT REQUIRED UNDER THIS SECTION. 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 thirty days after the receipt of the request by the office of children and family services. Suspension shall continue until the condition requiring suspension or limitation is corrected or until a hearing decision has been issued. If the office of children and family services determines after a hearing that the temporary suspension or limitation was proper, such suspension or limitation shall be extended until the condition requiring suspension or limitation has been corrected or until the license or registration has been revoked.

S 5. This act shall take effect immediately; except that sections one, three and four of this act shall take effect on the ninetieth day after it shall have become a law; provided, however, that sections one and two of this act shall not apply to providers operating more than one family day care home or group family day care home licensed or registered by the office of children and family services prior to such effective date.