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

7122

I N S E N A T E

March 30, 2016

Introduced by Sen. SANDERS -- 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 the availability of information regarding day care services

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 three new paragraphs (g), (h) and (i) to read as follows:

(G) "SERIOUS INJURY" SHALL MEAN A SERIOUS IMPAIRMENT OF PHYSICAL CONDITION, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING: LOSS OF CONSCIOUSNESS; CONCUSSION; BONE FRACTURE; PROTRACTED LOSS OR IMPAIRMENT OF FUNCTION OF ANY BODILY MEMBER OR ORGAN; A WOUND REQUIRING EXTENSIVE SUTURING; AND SERIOUS DISFIGUREMENT.

(H) "SUMMARY DAY CARE SERVICE INSPECTION REPORT" SHALL MEAN A REPORT THAT INCLUDES, AT A MINIMUM, THE FOLLOWING INFORMATION:

(I) THE NAME OF THE DAY CARE SERVICE;

(II) THE NAME OF THE DAY CARE SERVICE LICENSEE;

(III) THE DAY CARE SERVICE LICENSE NUMBER AND EXPIRATION DATE;

(IV) THE ADDRESS OF THE DAY CARE SERVICE;

(V) THE DATE OF THE MOST RECENT INSPECTION;

(VI) THE MAXIMUM NUMBER OF CHILDREN AUTHORIZED TO BE PRESENT AT ANY ONE TIME AS SPECIFIED IN THE DAY CARE SERVICE LICENSE;

(VII) ANY VIOLATIONS IDENTIFIED BY THE DEPARTMENT DURING INSPECTIONS CONDUCTED OVER THE PAST THREE YEARS; AND

(VII) WHETHER A LICENSE HAS BEEN ORDERED SUSPENDED OR REVOKED IN THE PAST TWELVE MONTHS; WHETHER A DAY CARE SERVICE HAS, DURING THE PAST THREE YEARS, BEEN ORDERED CLOSED BECAUSE ITS CONTINUED OPERATION REPRESENTED A DANGER TO THE HEALTH OR SAFETY OF CHILDREN; AND THE TERMS AND CONDITIONS, IF ANY, UNDER WHICH SUCH DAY CARE SERVICE HAS BEEN ALLOWED TO REOPEN AND IS AUTHORIZED TO OPERATE.

(I) "VIOLATION" SHALL MEAN A CITATION ISSUED BY THE DEPARTMENT WHICH ALLEGES THAT A DAY CARE SERVICE HAS FAILED TO COMPLY WITH A PROVISION OF APPLICABLE LAW, RULE OR REGULATION.

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

LBD13747-01-6

S 2. Section 390 of the social services law is amended by adding a new subdivision 2-b to read as follows:

2-B (A) EVERY APPLICANT FOR A NEW OR RENEWAL LICENSE TO OPERATE A DAY CARE SERVICE SHALL DISCLOSE WHETHER A SERIOUS INJURY OR THE DEATH OF A CHILD IN ITS CARE, OR THE CARE OF ANY OF ITS OWNERS, DIRECTORS, EMPLOYEES, VOLUNTEERS OR AGENTS, HAS OCCURRED. EVERY SUCH LICENSE APPLICANT SHALL FURTHER DISCLOSE ANY CIVIL OR CRIMINAL COURT VERDICTS HOLDING THAT THE APPLICANT, OR ANY OF ITS OWNERS, DIRECTORS, EMPLOYEES, VOLUNTEERS OR AGENTS, WAS RESPONSIBLE FOR SUCH SERIOUS INJURY OR DEATH OF A CHILD, OR ADMINISTRATIVE AGENCY DECISIONS HOLDING OR FINDING THAT THERE IS CREDIBLE EVIDENCE THAT THE APPLICANT, OR ANY OF ITS OWNERS, DIRECTORS, EMPLOYEES, VOLUNTEERS OR AGENTS, WAS RESPONSIBLE FOR SUCH SERIOUS INJURY OR DEATH OF A CHILD, AND WHETHER ANY LEGAL PROCEEDING INVOLVING THE SERIOUS INJURY OR DEATH OF A CHILD IS PENDING AGAINST THE APPLICANT, OR ANY OF ITS OWNERS, DIRECTORS, EMPLOYEES, VOLUNTEERS OR AGENTS. THE DEPARTMENT SHALL DENY SUCH A LICENSE UNLESS, ON THE BASIS OF THE APPLICATION AND OTHER PAPERS SUBMITTED, INCLUDING THE INFORMATION PROVIDED PURSUANT TO THIS SUBDIVISION, AND ON THE BASIS OF DEPARTMENT INVESTIGATION, IF ANY, IT IS SATISFIED THAT THE PROVISIONS OF THE SANITARY CODE AND OTHER APPLICABLE LAW WILL BE MET. THE DEATH OF A CHILD OR THE OCCURRENCE OF MORE THAN ONE INCIDENT RESULTING IN A SERIOUS INJURY TO A CHILD OR CHILDREN IN THE CARE OF AN APPLICANT SHALL CREATE A PRESUMPTION IN ANY PROCEEDING BROUGHT BY THE DEPARTMENT TO DENY OR REVOKE SUCH A LICENSE OF THE INABILITY OF THE APPLICANT TO COMPLY WITH THE PROVISIONS OF SAID CODE OR OTHER APPLICABLE LAW. NOTHING HEREIN SHALL OTHERWISE LIMIT THE DEPARTMENT'S AUTHORITY TO DENY THE ISSUANCE OR RENEWAL OF A LICENSE OR TO REVOKE A PERMIT.

(B) TO THE EXTENT PERMISSIBLE BY LAW, WHERE THE DEPARTMENT HAS RECEIVED WRITTEN NOTIFICATION THAT A PERSON WITH RESPONSIBILITY FOR OVERSIGHT AND DIRECTION OF A DAY CARE SERVICE HAS A FELONY CONVICTION AT ANY TIME FOR A SEX OFFENSE, CRIME AGAINST A CHILD, OR A CRIME INVOLVING VIOLENCE, OR A FELONY CONVICTION WITHIN THE PAST FIVE YEARS FOR A DRUG-RELATED OFFENSE, THE DEPARTMENT SHALL, WHEN CONSISTENT WITH ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW, DENY THE APPLICATION FOR A PERMIT TO OPERATE SUCH DAY CARE SERVICE.

S 3. Section 390 of the social services law is amended by adding a new subdivision 3-a to read as follows:

3-A. (A) FOLLOWING EACH INSPECTION OF A DAY CARE SERVICE, THE DEPARTMENT SHALL POST A SUMMARY DAY CARE SERVICE INSPECTION REPORT ON THE DEPARTMENT'S WEBSITE AND SHALL MAKE SUMMARY DAY CARE SERVICE INSPECTION REPORTS.

(B) EVERY DAY CARE SERVICE MUST POST A SIGN IN A CONSPICUOUS PLACE NEAR ITS PUBLIC ENTRANCE OR ENTRANCES STATING THAT THE MOST RECENT SUMMARY DAY CARE SERVICE INSPECTION REPORT MAY BE ACCESSED THROUGH THE WEBSITE OF THE DEPARTMENT. THE SIGN, WHOSE FORM AND CONTENT SHALL BE PROVIDED OR APPROVED BY THE DEPARTMENT, SHALL BE PRINTED IN CLEAR AND LEGIBLE TYPE, IN SUCH A MANNER AS TO BE READILY VISIBLE TO PARENTS OR OTHER PERSONS ENTERING THE DAY CARE SERVICE AND SHALL PROVIDE INSTRUCTIONS ON HOW TO GAIN ACCESS TO THE SUMMARY DAY CARE SERVICE INSPECTION REPORTS THROUGH THE DEPARTMENT'S WEBSITE.

S 4. Subdivision 8 of section 390 of the social services law, as added by chapter 750 of the laws of 1990, is amended to read as follows:

8. (A) The department shall establish and maintain a list of all current registered and licensed child day care programs and a list of all programs whose license or registration has been revoked, rejected,

terminated, or suspended. Such information shall be available to the public, pursuant to procedures developed by the department.

(B) THE DEPARTMENT SHALL REPORT TO AN APPROPRIATE STATE AGENCY ANY SERIOUS INJURY OR DEATH OF A CHILD IN DAY CARE SERVICES WHICH HAS BEEN REPORTED TO THE DEPARTMENT IN ACCORDANCE WITH APPLICABLE LAW, RULES AND REGULATIONS. SUCH REPORT SHALL INCLUDE THE NAME OF THE DAY CARE SERVICE AND THE DAY CARE SERVICE LICENSEE OF ANY DAY CARE SERVICE IN WHICH A SERIOUS INJURY OR DEATH OF A CHILD HAS OCCURRED.

S 5. This act shall take effect on the one hundred eightieth day after it shall have become a law.