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I N   S E N A T E

March 30, 2016

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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:

1     Section 1. Subdivision 1 of section 390 of the social services law is  
2 amended by adding three new paragraphs (g), (h) and (i) to read as  
3 follows:  
4     (G) "SERIOUS INJURY" SHALL MEAN A SERIOUS IMPAIRMENT OF PHYSICAL  
5 CONDITION, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING: LOSS OF  
6 CONSCIOUSNESS; CONCUSSION; BONE FRACTURE; PROTRACTED LOSS OR IMPAIRMENT  
7 OF FUNCTION OF ANY BODILY MEMBER OR ORGAN; A WOUND REQUIRING EXTENSIVE  
8 SUTURING; AND SERIOUS DISFIGUREMENT.  
9     (H) "SUMMARY DAY CARE SERVICE INSPECTION REPORT" SHALL MEAN A REPORT  
10 THAT INCLUDES, AT A MINIMUM, THE FOLLOWING INFORMATION:  
11     (I) THE NAME OF THE DAY CARE SERVICE;  
12     (II) THE NAME OF THE DAY CARE SERVICE LICENSEE;  
13     (III) THE DAY CARE SERVICE LICENSE NUMBER AND EXPIRATION DATE;  
14     (IV) THE ADDRESS OF THE DAY CARE SERVICE;  
15     (V) THE DATE OF THE MOST RECENT INSPECTION;  
16     (VI) THE MAXIMUM NUMBER OF CHILDREN AUTHORIZED TO BE PRESENT AT ANY  
17 ONE TIME AS SPECIFIED IN THE DAY CARE SERVICE LICENSE;  
18     (VII) ANY VIOLATIONS IDENTIFIED BY THE DEPARTMENT DURING INSPECTIONS  
19 CONDUCTED OVER THE PAST THREE YEARS; AND  
20     (VII) WHETHER A LICENSE HAS BEEN ORDERED SUSPENDED OR REVOKED IN THE  
21 PAST TWELVE MONTHS; WHETHER A DAY CARE SERVICE HAS, DURING THE PAST  
22 THREE YEARS, BEEN ORDERED CLOSED BECAUSE ITS CONTINUED OPERATION REPRESENTED A DANGER TO THE HEALTH OR SAFETY OF CHILDREN; AND THE TERMS AND  
23 CONDITIONS, IF ANY, UNDER WHICH SUCH DAY CARE SERVICE HAS BEEN ALLOWED  
24 TO REOPEN AND IS AUTHORIZED TO OPERATE.  
25     (I) "VIOLATION" SHALL MEAN A CITATION ISSUED BY THE DEPARTMENT WHICH  
26 ALLEGES THAT A DAY CARE SERVICE HAS FAILED TO COMPLY WITH A PROVISION OF  
27 APPLICABLE LAW, RULE OR REGULATION.  
28

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

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

3 2-B (A) EVERY APPLICANT FOR A NEW OR RENEWAL LICENSE TO OPERATE A DAY  
4 CARE SERVICE SHALL DISCLOSE WHETHER A SERIOUS INJURY OR THE DEATH OF A  
5 CHILD IN ITS CARE, OR THE CARE OF ANY OF ITS OWNERS, DIRECTORS, EMPLOY-  
6 EES, VOLUNTEERS OR AGENTS, HAS OCCURRED. EVERY SUCH LICENSE APPLICANT  
7 SHALL FURTHER DISCLOSE ANY CIVIL OR CRIMINAL COURT VERDICTS HOLDING THAT  
8 THE APPLICANT, OR ANY OF ITS OWNERS, DIRECTORS, EMPLOYEES, VOLUNTEERS OR  
9 AGENTS, WAS RESPONSIBLE FOR SUCH SERIOUS INJURY OR DEATH OF A CHILD, OR  
10 ADMINISTRATIVE AGENCY DECISIONS HOLDING OR FINDING THAT THERE IS CREDI-  
11 BLE EVIDENCE THAT THE APPLICANT, OR ANY OF ITS OWNERS, DIRECTORS,  
12 EMPLOYEES, VOLUNTEERS OR AGENTS, WAS RESPONSIBLE FOR SUCH SERIOUS INJURY  
13 OR DEATH OF A CHILD, AND WHETHER ANY LEGAL PROCEEDING INVOLVING THE  
14 SERIOUS INJURY OR DEATH OF A CHILD IS PENDING AGAINST THE APPLICANT, OR  
15 ANY OF ITS OWNERS, DIRECTORS, EMPLOYEES, VOLUNTEERS OR AGENTS. THE  
16 DEPARTMENT SHALL DENY SUCH A LICENSE UNLESS, ON THE BASIS OF THE APPLI-  
17 CATION AND OTHER PAPERS SUBMITTED, INCLUDING THE INFORMATION PROVIDED  
18 PURSUANT TO THIS SUBDIVISION, AND ON THE BASIS OF DEPARTMENT INVESTI-  
19 GATION, IF ANY, IT IS SATISFIED THAT THE PROVISIONS OF THE SANITARY CODE  
20 AND OTHER APPLICABLE LAW WILL BE MET. THE DEATH OF A CHILD OR THE OCCUR-  
21 RENCE OF MORE THAN ONE INCIDENT RESULTING IN A SERIOUS INJURY TO A CHILD  
22 OR CHILDREN IN THE CARE OF AN APPLICANT SHALL CREATE A PRESUMPTION IN  
23 ANY PROCEEDING BROUGHT BY THE DEPARTMENT TO DENY OR REVOKE SUCH A  
24 LICENSE OF THE INABILITY OF THE APPLICANT TO COMPLY WITH THE PROVISIONS  
25 OF SAID CODE OR OTHER APPLICABLE LAW. NOTHING HEREIN SHALL OTHERWISE  
26 LIMIT THE DEPARTMENT'S AUTHORITY TO DENY THE ISSUANCE OR RENEWAL OF A  
27 LICENSE OR TO REVOKE A PERMIT.

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

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

38 3-A. (A) FOLLOWING EACH INSPECTION OF A DAY CARE SERVICE, THE DEPART-  
39 MENT SHALL POST A SUMMARY DAY CARE SERVICE INSPECTION REPORT ON THE  
40 DEPARTMENT'S WEBSITE AND SHALL MAKE SUMMARY DAY CARE SERVICE INSPECTION  
41 REPORTS.

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

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

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

1 terminated, or suspended. Such information shall be available to the  
2 public, pursuant to procedures developed by the department.  
3 (B) THE DEPARTMENT SHALL REPORT TO AN APPROPRIATE STATE AGENCY ANY  
4 SERIOUS INJURY OR DEATH OF A CHILD IN DAY CARE SERVICES WHICH HAS BEEN  
5 REPORTED TO THE DEPARTMENT IN ACCORDANCE WITH APPLICABLE LAW, RULES AND  
6 REGULATIONS. SUCH REPORT SHALL INCLUDE THE NAME OF THE DAY CARE SERVICE  
7 AND THE DAY CARE SERVICE LICENSEE OF ANY DAY CARE SERVICE IN WHICH A  
8 SERIOUS INJURY OR DEATH OF A CHILD HAS OCCURRED.  
9 S 5. This act shall take effect on the one hundred eightieth day after  
10 it shall have become a law.