STATE OF NEW YORK

4326

2019-2020 Regular Sessions

IN SENATE

March 7, 2019

Introduced by Sen. MONTGOMERY -- 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 licensure, registration and required inspections, background clearances and training for child care providers; and to repeal certain provisions of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subparagraph (i) of paragraph (a) of subdivision 1 of section 390 of the social services law, as added by chapter 750 of the laws of 1990, is amended to read as follows:

(i) "Child day care" shall mean **child care where a license or registration pursuant to this section is required and shall include** care for a child on a regular basis provided away from the child's residence for less than twenty-four hours per day by someone other than**: (1)** the parent, step-parent, guardian, or relative within the third degree of consanguinity of the parents or step-parents of such child**; or (2) an enrolled legally exempt provider as such term is defined in paragraph (g) of this subdivision**.

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

(g) "Enrolled legally exempt provider" shall mean a person who is a caregiver or entity that is not required to be licensed or registered pursuant to this section and that is enrolled to be a caregiver and provide subsidized child care services to eligible families in accordance with title five-C of this article and the regulations of the office of children and family services.

§ 3. Subdivision 2 of section 390 of the social services law is amended by adding a new paragraph (d-1) to read as follows:

(d-1) (i) The office of children and family services shall promulgate regulations for enrollment of enrolled legally exempt providers, which

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

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shall include the completion of a satisfactory inspection of the premises where care is to be provided, by the office of children and family services.

(ii) Provided however, such inspections shall not be required when the enrolled legally exempt provider is an individual, age eighteen or older, and who, by virtue of blood, marriage or court decree, is, to all of the children that such person is enrolled to provide subsidized child care services to in accordance with title five-C of this article:

(A) a grandparent;

(B) a great-grandparent;

(C) a sibling, provided that such sibling resides in a separate household from the child;

(D) an aunt; or

(E) an uncle.

§ 4. Paragraphs (a) and (b) of subdivision 3 of section 390 of the social services law, paragraph (a) as amended by chapter 416 of the laws of 2000, and paragraph (b) as amended by chapter 117 of the laws of 2010, are amended to read as follows:

(a) (i) The office of children and family services may make announced or unannounced inspections of the records and premises of any:

(1) child day care provider, whether or not such provider has a license from, or is registered with, the office of children and family services; and

(2) any existing enrolled legally exempt provider except when such provider is determined to be exempt in accordance with subparagraph (ii) of paragraph (d-1) of subdivision two of this section.

(ii) The office of children and family services shall make unannounced inspections of the records and premises of any child day care provider within fifteen days after the office of children and family services receives a complaint that, if true, would indicate such provider does not comply with the applicable regulations of the office of children and family services or with statutory requirements. If the complaint indicates that there may be imminent danger to the children, the office of children and family services shall investigate the complaint no later than the next day of operation of the provider. The office of children and family services may provide for inspections through the purchase of services.

(b) (i) Where inspections have been made and violations of applicable statutes or regulations have been found, the office of children and family services shall within ten days advise the child day care provider in writing of the violations and require the provider to correct such violations. The office of children and family services may also act pursuant to subdivisions ten and eleven of this section.

(ii) Where inspections have been made and violations of applicable statutes or regulations have been found, the office of children and family services or its designees shall, within ten days, advise the enrolled legally exempt provider in writing of the violations and require the provider to correct such violations.

§ 5. 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 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~~] all child day care programs and all enrolled legally exempt providers except when such provider is determined to be exempt in accordance with subparagraph (ii) of paragraph (d-1) of subdivision two of this section. 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.~~]

§ 6. Paragraph (a) of subdivision 2 of section 390 of the social services law, as amended by chapter 117 of the laws of 2010, is amended to read as follows:

(a) Child day care centers caring for seven or more children and group family day care programs, as defined in subdivision one of this section, shall obtain a license from the office of children and family services and shall operate in accordance with the terms of such license and the regulations of such office. Initial licenses [~~shall be valid for a period of up to two years;~~] and subsequent licenses shall be valid for a period of up to four years so long as the provider remains substantially in compliance with applicable law and regulations during such period.

§ 7. Clause (A) of subparagraph (ii) of paragraph (d) of subdivision 2 of section 390 of the social services law, as amended by chapter 117 of the laws of 2010, is amended to read as follows:

(A) Initial registrations [~~shall be valid for a period of up to two years,~~] and subsequent registrations shall be valid for a period of up to four years so long as the provider remains substantially in compliance with applicable law and regulations during such period.

§ 8. Subdivision 3 of section 390-a of the social services law, as added by chapter 416 of the laws of 2000, paragraph (b) as amended by chapter 552 of the laws of 2003, and subparagraph (ix) of paragraph (b) as amended by chapter 117 of the laws of 2010, is amended to read as follows:

3. (a) The office of children and family services shall promulgate regulations [~~requiring~~] setting forth the training requirements, including any federally required training, for operators, program directors, employees [~~and~~], assistants [~~of~~] and any volunteer who has the potential for regular and substantial contact with children and/or unsupervised contact with children in care, but only when such unsupervised contact involves caring for the child in their professional or official capacity and as a volunteer, in family day care homes, group family day care homes, school-age child care programs and child day care centers. Such individuals shall be required to receive thirty hours of training every two years; provided, however, [~~that fifteen~~] any individual or provider who is already in compliance with this subdivision, prior to the effective date of the chapter of the laws of two thousand nineteen that amended this subdivision, shall only be required to complete any additional federal training requirements which they have not already completed in order to be deemed in compliance with this subdivision. Fifteen hours of such training must be received within the first six months of the initial licensure, registration or employment. [~~Such training requirements shall also apply to any volunteer in such day care homes, programs or centers who has the potential for regular and substantial contact with children.~~] The thirty hours of training

required during the first biennial cycle after initial licensure or registration shall include training received while an application for licensure or registration pursuant to section three hundred ninety of this title is pending. The office of children and family services may provide this training through purchase of services.

(b) The training required in paragraph (a) of this subdivision shall address the following topics:

(i) principles of childhood development, focusing on the developmental stages of the age groups for which the program provides care;

(ii) nutrition and health needs of infants and children;

(iii) child day care program development;

(iv) safety and security procedures;

(v) business record maintenance and management;

(vi) child abuse and maltreatment identification and prevention;

(vii) statutes and regulations pertaining to child day care;

(viii) statutes and regulations pertaining to child abuse and maltreatment; and

(ix) for operators, program directors, employees and assistants of family day care homes, group family day care homes and child day care centers, education and information on the identification, diagnosis and prevention of shaken baby syndrome[~~.~~]**; and**

(x) any other topics necessary to meet federal training requirements.

(c) For the thirty hours of biennial training required after the initial period of licensure or registration, each provider who can demonstrate basic competency shall determine in which of the specified topics he or she needs further study, based on the provider's experience and the needs of the children in the provider's care.

(d) Family day care home and group family day care home operators shall obtain training pertaining to protection of the health and safety of children, as required by regulation, prior to the issuance of a license or registration by the office of children and family services.

(e) Upon request by the office of children and family services, the child day care applicant or provider shall submit documentation demonstrating compliance with the training requirements of this section.

§ 9. The section heading of section 390-b of the social services law, as added by chapter 416 of the laws of 2000, is amended to read as follows:

Criminal history review **and background clearances** of child care providers, generally.

§ 10. Subdivisions 1, 2 and 3 of section 390-b of the social services law are REPEALED and three new subdivisions 1, 2 and 3 are added to read as follows:

1. Subject to implementing rules and regulations of the office of children and family services and, where applicable, the division of criminal justice services, the following background clearances shall be conducted expeditiously, but in any event, within the timeframes required by federal law, for entities specified in subdivision two of this section in the manner as required by this section:

(a) a criminal history record check with the division of criminal justice services;

(b) a search of the criminal history 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 criminal history record information will be provided as part of the results of the background clearance conducted pursuant to paragraph (c) of this subdivision;

(c) a national criminal record check with the federal bureau of investigation; the division of criminal justice services is directed to submit fingerprints to the federal bureau of investigation for the purpose of a nationwide criminal history record check, pursuant to and consistent with public law 113-186 to determine whether such persons shall have a criminal history in any state or federal jurisdiction;

(d) a search of the New York state sex offender registry;

(e) 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 (f) of this subdivision;

(f) a search of the national sex offender registry using the national crime and information center, established under the Adam Walsh child protection and safety act of 2006 (42 U.S.C. 16901 et seq.);

(g) a database check of the statewide central register of child abuse and maltreatment in accordance with section four hundred twenty-four-a of this article; and

(h) a search of a state-based child abuse or neglect repository of any state other than New York where such person resides or resided during the preceding five years; if applicable.

2. (a) In relation to any child day care program or enrolled legally exempt provider, as defined in section three hundred ninety of this title, the following individuals shall be required to receive background clearances as required in subdivision one of this section:

(i) any applicant to be an operator or director of a child day care program;

(ii) any current operator or director of a child day care program;

(iii) any applicant to enroll to be a caregiver for an enrolled legally exempt provider, unless such individual is related to all children for whom child care services are provided;

(iv) any current caregiver for an enrolled legally exempt provider, unless such individual is related to all children for whom child care services are provided;

(v) any applicant to be an employee, assistant or volunteer, when such volunteer has the potential for unsupervised contact with children in a child day care program;

(vi) any current employee, assistant or volunteer, when such volunteer has the potential for unsupervised contact with children in a child day care program;

(vii) any applicant to be an employee, assistant or volunteer with the potential for unsupervised contact with children in an enrolled legally exempt provider, unless such individual is related to all children for whom child care services are provided;

(viii) any current employee, assistant, or volunteer with the potential for unsupervised contact with children in an enrolled legally exempt provider, unless such individual is related to all children for whom child care services are provided; and

(ix) where the child care services will be or are provided in a home setting where the child does not reside, any individual, age eighteen or older who is not related to all children for whom child care services are or will be provided, resides or begins to reside.

(b) Provided however, the background clearances required pursuant to paragraphs (a), (c), (d) and (g) of subdivision one of this section shall, beginning September first, two thousand nineteen, be completed

for individuals referenced in subparagraphs (i), (iii), (v), (vii) and (ix) of paragraph (a) of this subdivision.

(c) Notwithstanding paragraph (b) of this subdivision, prior to October first, two thousand twenty, all background clearances listed in subdivision one of this section that have not previously been conducted pursuant to paragraph (b) of this subdivision and for which on-going criminal history results are not already provided, shall be conducted in accordance with a schedule developed by the office of children and family services, for background clearances required in subparagraphs (ii), (iv), (vi), (viii) and (ix) of paragraph (a) of this subdivision.

(d) The office of children and family services shall also develop a schedule for applicable background clearance required to be completed in accordance with subdivision one of this section after background clearances pursuant to paragraphs (b) and (c) of this subdivision have been completed for compliance with the federal child care and development block grant act.

(e) The background clearances required pursuant to this section other than those for which on-going criminal history results are provided, shall be conducted for a person listed in subparagraphs (ii), (iv), (vi), (viii) and (ix) of paragraph (a) of this subdivision at least once every five years in accordance with a schedule developed by the office of children and family services.

3. (a) In relation to the background clearances required pursuant this section, an individual required to receive background clearances pursuant to paragraph (a) of subdivision two of this section shall be deemed ineligible to provide child care services in any child day care program or as an enrolled legally exempt provider, as defined in section three hundred ninety of this title, if such individual:

(i) refuses to consent to such clearance;

(ii) knowingly makes a materially false statement in connection with such a clearance;

(iii) is registered, or is required to be registered, on a state sex offender registry or repository or the national sex offender registry established under the Adam Walsh child protection and safety act of 2006 (42 U.S.C. 16901 et seq.); or

(iv) has been convicted of a crime enumerated in subparagraph (E) or clauses (i) through (viii) of subparagraph (D) of paragraph (1) of subdivision (C) of 42 U.S.C. 9858f.

(b) Except as set forth in paragraph (c) of this subdivision, after reviewing any New York criminal record check of an individual who is required to receive such background clearance pursuant to subdivision two of this section, the office of children and family services and the program or provider shall take the following actions:

(i) Where the criminal record check of an individual required to receive background clearances pursuant to subparagraphs (i), (iii) and (ix) of paragraph (a) of subdivision two of this section, reveals a conviction for a crime other than one set forth in subparagraph (iv) of paragraph (a) of this subdivision, the office of children and family services may deny the application, only after providing a copy of such criminal history information and a copy of article twenty-three-A of the correction law to the individual and informing such individual of his or her right to seek correction of any incorrect information contained in such criminal history information provided by the division of criminal justice services pursuant to the regulations and the right of such individual to provide information relevant to such analysis to the office of

children and family services, consistent with article twenty-three-A of the correction law;

(ii) Where the criminal record check of an individual required to receive background clearances pursuant to subparagraphs (i), (iii) and (ix) of paragraph (a) of subdivision two of this section, reveals a pending charge for any crime, the office of children and family services shall hold the application in abeyance until the charge is adjudicated;

(iii) Where the criminal record check of an individual required to receive background clearances pursuant to subparagraphs (ii), (iv) and (ix) of paragraph (a) of subdivision two of this section, reveals a conviction for a crime other than one set forth in subparagraph (iv) of paragraph (a) of this subdivision, the office of children and family services shall conduct a safety assessment of the program or provider and take all appropriate steps to protect the health and safety of the children receiving care at such location. The office may deny, limit, suspend, revoke, reject or terminate a license or registration or terminate such provider's enrollment, as applicable based on such a conviction, only after providing a copy of such criminal history information and a copy of article twenty-three-A of the correction law to the individual and informing such individual of his or her right to seek correction of any incorrect information contained in such criminal history information provided by the division of criminal justice services pursuant to the regulations and the right of such individual to provide information relevant to such analysis to the office of children and family services, consistent with article twenty-three-A of the correction law;

(iv) Where the criminal record check of an individual required to receive background clearances pursuant to subparagraphs (ii), (iv) and (ix) of paragraph (a) of subdivision two of this section, reveals a pending charge for any crime, the office of children and family services shall conduct a safety assessment of the program or provider and take all appropriate steps to protect the health and safety of the children receiving care at such location. The office may suspend a license, registration, or enrollment, as applicable based on such pending charge where necessary to protect the health and safety of the children receiving care at such location consistent with article twenty-three-A of the correction law;

(v) Where the criminal record check of an individual required to receive background clearances pursuant to subparagraphs (v) and (vii) of paragraph (a) of subdivision two of this section, reveals a conviction for a crime other than one set forth in subparagraph (iv) of paragraph (a) of this subdivision, the office of children and family services may, direct the program or provider to deny the application, only after providing a copy of such criminal history information and a copy of article twenty-three-A of the correction law to the individual and informing such individual of his or her right to seek correction of any incorrect information contained in such criminal history information provided by the division of criminal justice services pursuant to the regulations and the right of such individual to provide information relevant to such analysis to the office of children and family services, consistent with article twenty-three-A of the correction law;

(vi) Where the criminal record check of an individual required to receive background clearances pursuant to subparagraphs (v) and (vii) of paragraph (a) of subdivision two of this section, reveals a pending charge for any crime, the office of children and family services shall hold the application in abeyance until the charge is adjudicated;

(vii) Where the criminal record check of an individual required to receive background clearances pursuant to subparagraphs (vi) and (viii) of paragraph (a) of subdivision two of this section reveals a conviction for a crime other than one set forth in subparagraph (iv) of paragraph (a) of this subdivision, the office of children and family services shall conduct a safety assessment of the program or provider and take all appropriate steps to protect the health and safety of the children receiving care at such location. The office may direct the program or provider to terminate the employee, assistant or volunteer based on such a conviction, only after providing a copy of such criminal history information and a copy of article twenty-three-A of the correction law to the individual and informing such individual of his or her right to seek correction of any incorrect information contained in such criminal history information provided by the division of criminal justice services pursuant to the regulations and the right of such individual to provide information relevant to such analysis to the office of children and family services, consistent with article twenty-three-A of the correction law and in accordance with any applicable collective bargaining agreement;

(viii) Where the criminal record check of an individual required to receive background clearances pursuant to subparagraphs (vi) and (viii) of paragraph (a) of subdivision two of this section reveals a pending charge for any crime, the office of children and family services shall conduct a safety assessment of the program or provider and take all appropriate steps to protect the health and safety of the children receiving care at such location; or

(ix) Advise the program or provider that the individual has no criminal history record.

(c)(i) The office of children and family services shall not release the report of the national criminal record check received from the federal bureau of investigation in accordance with this subdivision to any non-public entity or entity not otherwise authorized.

(ii) Notwithstanding any other provision of law to the contrary, after reviewing any national criminal record check of an individual who is required to receive such background clearance pursuant to paragraph (a) of subdivision two of this section, the office of children and family services shall proceed as follows: (A) review and evaluate the results of the national criminal record check of a current or prospective operator, director, caregiver, employee, assistant, volunteer with the potential for unsupervised contact with the child receiving services as well as any other person eighteen years of age or older who resides in the home where care is provided or to be provided, other than in the child's home, in accordance with the standards set forth in paragraphs (a) and (b) of this subdivision relating to convictions that make an individual ineligible, discretionarily ineligible, or a direction that such individual's background clearance request be held in abeyance during the pendency of certain criminal charges; and (B) based on the results of the national criminal record check, where applicable, inform such child day care program or enrolled legally exempt provider that the application or employment (1) must be denied or terminated; (2) must be held in abeyance pending subsequent notification pursuant to subdivision six of this section, from the office of children and family services; or (3) that the office of children and family services has no objection, solely based on the national criminal record check, for the child day care program or enrolled legally exempt provider to proceed with a determi-

nation on such application or current employment based on any currently required standards.

(iii) Where the office of children and family services directs the child day care program or enrolled legally exempt provider to deny the application or terminate employment in accordance with this paragraph, the office of children and family services shall also notify as the case may be, such current or prospective employee, assistant, volunteer with the potential for unsupervised contact with children or other person eighteen years of age or older, who resides in the home where care is provided, other than the child's home, that the criminal record check was the basis for the denial of clearance and shall provide such individual with a copy of the results of the national criminal record check upon which such denial was based together with a written statement setting forth the reasons for such denial, as well as a copy of article twenty-three-A of the correction law and inform such individual of his or her right to seek correction of any incorrect information contained in such national record check provided by the federal bureau of investigation pursuant to the regulations and the right of such individual to provide information relevant to such analysis.

§ 11. Subdivisions 6 and 7 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:

6. The notification by the office of children and family services to the child day care [~~provider~~] program or enrolled legally exempt provider pursuant to this section shall include a summary of the individual's New York criminal history record, if any, provided by the division of criminal justice services. When providing notification to a child day care program or enrolled legally exempt provider who are non-public agencies, or otherwise unauthorized to receive such notification, with respect to the results of a national criminal record check performed by the federal bureau of investigation, the office of children and family services shall advise the program or provider, where appropriate, of the category or categories of crime or crimes for which the individual has a conviction, and shall not provide the specific crime or crimes of conviction absent the express written consent of the person for whom the national criminal record check was performed.

7. Where the office of children and family services directs a child day care [~~provider~~] program or enrolled legally exempt provider to deny an application [~~based on the criminal history record~~], the program or provider must notify the applicant [~~that such record is~~] in writing the basis of the denial.

§ 12. 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. (a) 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 **in accordance with subdivision three of section three hundred ninety-b of this title**. 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. 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.

(b) (i) Consistent with articles twenty-three and twenty-three-A of the correction law, and guidelines developed pursuant to 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 a current or prospective caregiver, employee, assistant, volunteer with the potential for unsupervised contact, or any persons age eighteen or older who reside in such home where care is provided, that is not in the child's home, and such person is not related to all children receiving care, in an enrolled legally exempt provider, such conviction or charge may be a basis to terminate enrollment in accordance with subdivision three of section three hundred ninety-b of this title. Before any enrollment for an enrolled legally exempt provider may be terminated, or when an application for such enrollment is denied, the applicant for or holder of such enrollment is entitled, in accordance with section twenty-two of this chapter and the implementing regulations of the office of children and family services, to a hearing before the office of children and family services. However, an enrollment shall be temporarily suspended or limited without a hearing upon written notice to the provider following a finding that the public health, or an individual's safety or welfare, are in imminent danger.

(ii) If an enrolled legally exempt provider's enrollment is terminated, such individual or entity shall be immediately re-enrolled once the issue that caused the initial termination has been corrected, and all other elements legally required for enrollment have been satisfied.

§ 13. Subdivisions 9 and 10 of section 390-b of the social services law, as added by chapter 416 of the laws of 2000, are amended and two new subdivisions 11 and 12 are added to read as follows:

9. Any criminal history record provided by the division of criminal justice services, and any summary of the criminal history record provided by the office of children and family services to a child day care [~~provider~~] **program or enrolled legally exempt provider** pursuant to this section, is confidential and shall not be available for public inspection; provided, however, nothing herein shall prevent a child day care [~~provider~~] **program, enrolled legally exempt provider** or the office of children and family services from disclosing criminal history information **or the individual from disclosing his or her criminal history information** at any administrative or judicial proceeding relating to the denial or revocation of an application, employment, license [~~or~~]**,** registration **or enrollment**. The subject of a criminal history review conducted pursuant to this section shall be entitled to receive, upon written request, a copy of the [~~summary of the~~] criminal history record [~~provided by the office of children and family services to the child day care provider~~]. Unauthorized disclosure of such records or reports shall subject the provider to civil penalties in accordance with the provisions of subdivision eleven of section three hundred ninety of this title.

10. A child day care [~~provider~~] **program or enrolled legally exempt provider** shall advise the office of children and family services when an individual who is subject to criminal history record review in accordance with subdivision [~~one or~~] two of this section is no longer subject to such review. The office of children and family services shall inform the division of criminal justice services when an individual who is subject to criminal history review is no longer subject to such review so that the division of criminal justice services may terminate its retain processing with regard to such person. At least once a year, the office of children and family services will be required to conduct a validation of the records maintained by the division of criminal justice services.

11. The office of children and family services shall pay any processing fees for a criminal history or sex offender clearance conducted pursuant to subdivision one of this section. The office of children and family services shall promptly submit fingerprints obtained pursuant to this section and such processing fee to the division of criminal justice services.

12. Child day care centers which are not subject to the provisions of section three hundred ninety of this title shall not be subject to the provisions of this section, provided however, that the city of New York shall require that such child day care centers meet the requirements of any federal laws and regulations pertaining to the child care development and block grant and the related federally approved plans of the state of New York.

§ 14. Subparagraph (z) of paragraph (A) of subdivision 4 of section 422 of the social services law, as amended by section 11 of part L of chapter 56 of the laws of 2015, is amended to read as follows:

(z) an entity with appropriate legal authority in another state to license, certify or otherwise approve prospective foster parents, prospective adoptive parents, prospective relative guardians [~~or~~]**,** prospective successor guardians **or child care programs** where disclosure of information regarding such prospective foster or prospective adoptive parents [~~or~~]**, child care programs,** prospective relative or prospective successor guardians and other persons over the age of eighteen residing in the home of such persons [~~is~~] **or where child care is provided in a home other than the child's home, as** required under title IV-E of the

federal social security act **or the federal child care and development block grant act (section nine thousand eight hundred fifty-eight, et seq. of title forty-two of the United States Code)**; and

§ 15. Paragraph (a) of subdivision 1 of section 424-a of the social services law, as amended by section 12 of part L of chapter 56 of the laws of 2015, is amended to read as follows:

(a) A licensing agency shall inquire of the [~~department~~] **office of children and family services** and the [~~department~~] **office** shall, subject to the provisions of paragraph (e) of this subdivision, inform such agency and the subject of the inquiry whether an applicant for a certificate, license [~~or~~]**,** permit **or enrollment when such individual is not related to all children for whom care will be provided**, [~~assistants to group~~] **or to become an employee, assistant or volunteer with the potential for unsupervised contact with children in care of a** family day care [~~providers~~] **program or in the case of an enrolled legally exempt provider when such individual is not related to all children for whom care will be provided**, the director of a camp subject to the provisions of article thirteen-B of the public health law, [~~a prospective successor guardian when a clearance is conducted pursuant to paragraph (d) of subdivision two of section four hundred fifty-eight-b of this article,~~] and any person over the age of eighteen who resides in the home of a person who has applied to become an adoptive parent or a foster parent [~~or to operate a family day care home or group family day care home or any person over the age of eighteen residing in the home of a prospective successor guardian when a clearance is conducted of a prospective successor guardian pursuant to this paragraph~~] **or on the premises where child care services are provided in a home other than the child's home and such person is not related to all children receiving care**, has been or is currently the subject of an indicated child abuse and maltreatment report on file with the statewide central register of child abuse and maltreatment.

§ 16. Subdivision 4 of section 424-a of the social services law, as amended by section 14 of part L of chapter 56 of the laws of 2015, is amended to read as follows:

4. For purposes of this section, 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 consanguinity of the parent of a child or a relative within the second degree or third degree of consanguinity of the stepparent of a child or children, or the child's legal guardian for approval to receive, board or keep such child, or an authorized agency that conducts a clearance pursuant to paragraph (d) of subdivision two of section four hundred fifty-eight-b of this article, 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 enrolled legally exempt provider** pursuant to the provisions of section three hundred ninety of this article, or the department of health and mental hygiene of the city of New York, when such department receives an application for a certificate of approval to provide child day care services in a child day care center pursuant to the provisions of the health code of the city of New York, or the office of mental health or the office

for people with 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, 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-B of the public health law or the 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 or any other facility or provider agency, as defined in subdivision four of section four hundred eighty-eight of this chapter, in regard to any licensing or certification function carried out by such facility or agency.

§ 17. All costs associated with activities related to the implementation of the federal child care development block grant reauthorization act of 2014 required pursuant to this act shall be funded within the 80 million dollars allocated for such purpose pursuant to chapter 53 of the laws of 2018. Nothing herein shall limit the ability to utilize such funds to satisfy other requirements necessary to comply with the federal child care development block grant reauthorization act of 2014 not contained within this act.

§ 18. Severability. If any clause, sentence, paragraph, subdivision, section or part contained in any 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 contained in any 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 be included herein.

§ 19. This act shall take effect April 1, 2019; provided, that the office of children and family services is authorized to promulgate any rules or regulations necessary for the implementation of this act on its effective date.