

# STATE OF NEW YORK

5811

2019-2020 Regular Sessions

## IN SENATE

May 15, 2019

Introduced by Sen. KAPLAN -- 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 background clearances for temporary child care employment agencies and child care educational and training institutions

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

1 Section 1. Subdivision 3 of section 424-a of the social services law,  
2 as amended by section 14-a of part H of 56 of the laws of 2019, is  
3 amended to read as follows:  
4 3. For purposes of this section, the term "provider" or "provider  
5 agency" shall mean: an authorized agency; the office of children and  
6 family services; juvenile detention facilities subject to the certifi-  
7 cation of the office of children and family services; programs estab-  
8 lished pursuant to article nineteen-H of the executive law; non-residen-  
9 tial or residential programs or facilities licensed or operated by the  
10 office of mental health or the office for people with developmental  
11 disabilities except family care homes; including head start programs  
12 which are funded pursuant to title V of the federal economic opportunity  
13 act of nineteen hundred sixty-four, as amended; early intervention  
14 service established pursuant to section twenty-five hundred forty of the  
15 public health law; preschool services established pursuant to section  
16 forty-four hundred ten of the education law; special act school  
17 districts as enumerated in chapter five hundred sixty-six of the laws of  
18 nineteen hundred sixty-seven, as amended; programs and facilities  
19 licensed by the office of alcoholism and substance abuse services; resi-  
20 dential schools which are operated, supervised or approved by the educa-  
21 tion department; health homes, or any subcontractor of such health  
22 homes, who contracts with or is approved or otherwise authorized by the  
23 department of health to provide health home services to all those  
24 enrolled pursuant to a diagnosis of a developmental disability as

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

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1 defined in subdivision twenty-two of section 1.03 of the mental hygiene  
2 law and enrollees who are under twenty-one years of age under section  
3 three hundred sixty-five-1 of this chapter, or any entity that provides  
4 home and community based services to enrollees who are under twenty-one  
5 years of age under a demonstration program pursuant to section eleven  
6 hundred fifteen of the federal social security act; temporary employment  
7 agencies providing substitute child care staff to any other provider  
8 agency, and educational and training institutions assigning child care  
9 staff as interns or residents at any other provider agency; publicly-  
10 funded emergency shelters for families with children, provided, however,  
11 for purposes of this section, when the provider or provider agency is a  
12 publicly-funded emergency shelter for families with children, then all  
13 references in this section to the "potential for regular and substantial  
14 contact with individuals who are cared for by the agency" shall mean the  
15 potential for regular and substantial contact with children who are  
16 served by such shelter; and any other facility or provider agency, as  
17 defined in subdivision four of section four hundred eighty-eight of this  
18 chapter, in regard to the employment of staff, or use of providers of  
19 goods and services and staff of such providers, consultants, interns and  
20 volunteers.

21 § 2. Section 390-b of the social services law is amended by adding a  
22 new subdivision 12 to read as follows:

23 12. For purposes of this section, and notwithstanding section three  
24 hundred ninety of this article, an operator or provider of a child day  
25 care center or a school age child care program shall include temporary  
26 child care employment agencies and child care educational and training  
27 institutions. A temporary child care employment agency or child care  
28 educational and training institution shall be subject to the criminal  
29 history record check requirements for child care staff who may be placed  
30 at a child day care center or a school age child care program, but not  
31 for the operators or providers of such temporary child care employment  
32 agency or child care educational and training institution. Such require-  
33 ments shall include submitting fingerprint cards and such other informa-  
34 tion as required by the office of children and family services and the  
35 division of criminal justice services, and authorizing the office of  
36 children and family services to deny or hold in abeyance an employee's  
37 application as provided for in this section. The office of children and  
38 family services may charge the temporary child care employment agency or  
39 child care educational and training institution an amount equal to the  
40 processing fee imposed pursuant to subdivision eight-a of section eight  
41 hundred thirty-seven of the executive law. Where the office of children  
42 and family services advises the temporary child care employment agency  
43 or child care educational and training institution that an individual  
44 has no criminal history record, no additional criminal history record  
45 check by a child day care center or a school age child care program  
46 shall be required upon placement of that individual at the child day  
47 care center or a school age child care program. For purposes of this  
48 subdivision, a "temporary child care employment agency" shall mean any  
49 entity that employs substitute child care staff to be supplied on a  
50 temporary basis to a child day care center or a school age child care  
51 program, and a "child care educational and training institution" shall  
52 mean any entity that assigns child care staff as interns or residents at  
53 a child day care center or a school age child care program.

54 § 3. This act shall take effect immediately.