

STATE OF NEW YORK

5811--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 chapter 56 of the laws of 2019,
3 is 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

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

LBD11617-03-9

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

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

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

56 § 3. This act shall take effect January 1, 2020.