

# STATE OF NEW YORK

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5811--A

2019-2020 Regular Sessions

## IN SENATE

May 15, 2019

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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 certification of the office of children and family services; programs established pursuant to article nineteen-H of the executive law; non-residential or residential programs or facilities licensed or operated by the  
7 office of mental health or the office for people with developmental  
8 disabilities except family care homes; including head start programs  
9 which are funded pursuant to title V of the federal economic opportunity  
10 act of nineteen hundred sixty-four, as amended; early intervention  
11 service established pursuant to section twenty-five hundred forty of the  
12 public health law; preschool services established pursuant to section  
13 forty-four hundred ten of the education law; special act school  
14 districts as enumerated in chapter five hundred sixty-six of the laws of  
15 nineteen hundred sixty-seven, as amended; programs and facilities  
16 licensed by the office of alcoholism and substance abuse services; residential schools which are operated, supervised or approved by the education department; health homes, or any subcontractor of such health  
17 homes, who contracts with or is approved or otherwise authorized by the  
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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.