

STATE OF NEW YORK

1868

2023-2024 Regular Sessions

IN ASSEMBLY

January 23, 2023

Introduced by M. of A. LAVINE -- read once and referred 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 chapter 611 of the laws of 2022, is amended to read as
3 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; a private, nonprofit incorporated agency that meets the
7 state office of children and family services program standards for child
8 advocacy centers; juvenile detention facilities subject to the certifi-
9 cation of the office of children and family services; programs estab-
10 lished pursuant to article nineteen-H of the executive law; non-residen-
11 tial or residential programs or facilities licensed or operated by the
12 office of mental health or the office for people with developmental
13 disabilities except family care homes; including head start programs
14 which are funded pursuant to title V of the federal economic opportunity
15 act of nineteen hundred sixty-four, as amended; early intervention
16 service established pursuant to section twenty-five hundred forty of the
17 public health law; preschool services established pursuant to section
18 forty-four hundred ten of the education law; special act school
19 districts as enumerated in chapter five hundred sixty-six of the laws of
20 nineteen hundred sixty-seven, as amended; programs and facilities
21 licensed by the office of [~~alcoholism~~] addiction services and [~~substane~~
22 ~~abuse-services~~] support; residential schools which are operated, super-
23 vised or approved by the education department; health homes, or any
24 subcontractor of such health homes, who contracts with or is approved or

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

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1 otherwise authorized by the department of health to provide health home
2 services to all those enrolled pursuant to a diagnosis of a develop-
3 mental disability as defined in subdivision twenty-two of section 1.03
4 of the mental hygiene law and enrollees who are under twenty-one years
5 of age under section three hundred sixty-five-1 of this chapter, or any
6 entity that provides home and community based services to enrollees who
7 are under twenty-one years of age under a demonstration program pursuant
8 to section eleven hundred fifteen of the federal social security act;
9 temporary employment agencies providing substitute child care staff to
10 any other provider agency, and educational and training institutions
11 assigning child care staff as interns or residents at any other provider
12 agency; publicly-funded emergency shelters for families with children,
13 provided, however, for purposes of this section, when the provider or
14 provider agency is a publicly-funded emergency shelter for families with
15 children, then all references in this section to the "potential for
16 regular and substantial contact with individuals who are cared for by
17 the agency" shall mean the potential for regular and substantial contact
18 with children who are served by such shelter; and any other facility or
19 provider agency, as defined in subdivision four of section four hundred
20 eighty-eight of this chapter, in regard to the employment of staff, or
21 use of providers of goods and services and staff of such providers,
22 consultants, interns and 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, 2024.