

STATE OF NEW YORK

9202

IN ASSEMBLY

February 16, 2024

Introduced by M. of A. GANDOLFO -- read once and referred to the Committee on Children and Families

AN ACT to amend the social services law, in relation to the establishment of a waiver for child care learning pods

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

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

3 (h) (i) "Child care learning pod" shall mean an unlicensed and unreg-
4 ulated child care provider outside of the regulation of this article or
5 title eighteen of the New York codes, rules and regulations, that
6 provides child care or educational services to at least three, but no
7 more than six children between the ages of zero-years-old and seven-
8 teen-years-old who: (1) are not residents at such home in which such
9 child care learning pod is located and operated and (2) are not related
10 to any person residing at such home in which a child care learning pod
11 is located and operated. Such operator of a child care learning pod
12 shall be at least eighteen years of age.

13 (ii) Any child care learning pod operating as an unlicensed and unreg-
14 ulated child care learning pod outside of the regulation of this article
15 or title eighteen of the New York codes, rules and regulations, may
16 operate if there are otherwise no violations of laws, codes, rules, and
17 regulations of the state of New York and such child care learning pod is
18 compliant pursuant to the local laws, codes, rules, and regulations of
19 such local municipality in which it is located and operated.

20 (iii) Any home providing child day care as a child care learning pod
21 shall have a waiver signed by such operator of such child care learning
22 pod and such parent or guardian of each child at such child care learn-
23 ing pod submitted to the office of children and family services, on an
24 annual basis, for as long as such child attends a child care learning
25 pod. The office of children and family services shall be responsible for
26 establishing a uniform waiver to be used which shall include but is not
27 limited to the following:

- 28 (1) the name and age of such operator of such child care learning pod;
29 (2) the location of such child care learning pod;
30 (3) the days and hours such child care learning pod shall be in use;

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

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1 (4) the name and age of any person who shall provide paid or unpaid
2 child care or educational services to children at such location of such
3 child care learning pod;

4 (5) the name of all adults and children residents at such location of
5 such child care learning pod;

6 (6) the name of such parent or guardian of such child who shall attend
7 such child care learning pod;

8 (7) the name and age of such child who shall attend such child care
9 learning pod;

10 (8) the date of such first day that such child shall attend such child
11 care learning pod;

12 (9) an affirmation by such operator of such child care learning pod
13 that no individuals convicted of any crime resides at such location;

14 (10) an affirmation by such operator of such child care learning pod
15 that such location of such child care learning pod has no known struc-
16 tural issues and that such building is up to code pursuant to local
17 zoning codes;

18 (11) an affirmation by such operator that such location of such child
19 care learning pod has at least one functional and operating bathroom and
20 toilet;

21 (12) an affirmation that such location of such child care learning pod
22 has functional and operational water and sewage service;

23 (13) an affirmation that such location of such child care learning pod
24 has functional and operational heating, ventilation, and air condition-
25 ing;

26 (14) an acknowledgement that such child care learning pod shall not be
27 under the direct review or following regulations set forth by the office
28 of children and family services due to its unlicensed and unregulated
29 status;

30 (15) an acknowledgement that there are child care providers licensed
31 and regulated by the office of children and family services;

32 (16) an affirmation and signature of such parent or guardian of such
33 child attending such child care learning pod that they have read and
34 understand this waiver;

35 (17) an affirmation and signature of such operator of such child care
36 learning pod that they have read this waiver and shall submit it to the
37 office of children and family services; and

38 (18) any other requirements as the office of children and family
39 services determines is necessary to include.

40 (iv) Within six months following the effective date of this paragraph,
41 the office of children and family services shall prepare and publish
42 such waiver on its public website and make such waiver available for use
43 by child care learning pod operators.

44 (v) A civil penalty in an amount of up to one thousand dollars may be
45 issued by the office of children and family services for a violation of
46 this paragraph. Such child care learning pod shall be given two weeks
47 from such date its first violation was issued to submit such waiver. In
48 the event that the office of children and family services does not
49 receive such waiver within two weeks following such date as provided by
50 this subparagraph, an additional civil penalty of up to one thousand
51 dollars may be issued. An additional civil penalty of up to two thousand
52 dollars may be issued by the office of children and family services for
53 each two-week period succeeding such initial two weeks from the date of
54 such original issuance of such violation.

55 § 2. This act shall take effect immediately.