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:

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

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

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

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

(1) the name and age of such operator of such child care learning pod;

(2) the location of such child care learning pod;

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

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

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

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

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

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

(10) an affirmation by such operator of such child care learning pod that such location of such child care learning pod has no known structural issues and that such building is up to code pursuant to local zoning codes;

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

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

(13) an affirmation that such location of such child care learning pod has functional and operational heating, ventilation, and air conditioning;

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

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

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

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

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

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

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

§ 2. This act shall take effect immediately.