STATE OF NEW YORK

11613

IN ASSEMBLY

July 29, 2026

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Rosenthal) -- read once and referred to the Committee on Children and Families

AN ACT to amend the social services law, in relation to private equity in child care

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

Section 1. The social services law is amended by adding a new section 390-p to read as follows:

§ 390-p. Child care providers; private equity. 1. As used in this section, the following terms shall have the following meanings:

(a) "Affiliate" shall mean:

(i) a person, entity, or organization that directly, indirectly, or through one or more intermediaries controls, is controlled by, or is under common control or ownership of another person, entity, or organization;

(ii) a person, entity, or organization whose business is operated under a lease, management or operating agreement by another entity, or a person substantially all of whose property is operated under a management or operating agreement with another entity;

(iii) an entity that operates the business of substantially all of the property of another entity under a lease or operating agreement; and

(iv) any out of state operations and corporate affiliates of an affiliate as defined in subparagraph (i), (ii) or (iii) of this paragraph, including significant equity investors, real estate investment trusts, and management services organizations.

(b) "Beneficial owner" shall mean any individual who, directly or indirectly, either (i) exercises substantial control over a reporting company, or (ii) owns or controls at least twenty-five percent of the ownership interests of such reporting company.

(c) "Capital distribution" shall mean:

(i) a cash or share dividend;

(ii) a share repurchase;

(iii) a share redemption;

(iv) a share buyback;

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

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(v) a payment of interest or fee on a share of stock; and

(vi) any other transaction similar to a transaction described in subparagraph (i), (ii), (iii), (iv), or (v) of this paragraph.

(d) "Change of control" shall mean an arrangement in which any other person or entity acquires direct or indirect control over the operations of a child care provider in whole or in substantial part. For purposes of this definition, "arrangement" shall include any agreement, association, partnership, joint venture, management services agreement, professional services agreement, staffing agreement, or other scheme that results in a change in governance or control of a child care provider.

(e) "Child care facility" shall mean any place or program operated as a business or service on a regular or continuous basis, whether for compensation or not, whose primary function is the protection, care and supervision of children under thirteen years of age outside the child's home for a period of fewer than twenty-four hours a day by a person other than the parent, step-parent, guardian, or relative within the third degree of consanguinity of the parents or step-parents of the child.

(f) "Child care provider" or "provider" shall mean a person or entity licensed, registered or otherwise authorized by the office to provide child care services in this state, including but not limited to family day care homes, group family day care homes, and child day care centers.

(g) "Child care services" shall mean the developmentally appropriate care and supervision of children under thirteen years of age for fewer than twenty-four hours a day by a child care provider.

(h) "Control" including the terms "controlling", "controlled by" and "under common control with" shall mean the direct or indirect power to direct or cause the direction, management or policies of a person, entity or organization through ownership, contractual agreement, or other relationship/arrangement. A person or entity that directly or beneficially owns ten percent or more equity interest, or the equivalent thereof, of another person or entity shall be deemed to control the person or entity owned.

(i) "Employee" shall mean an individual who performs services for and under the control and direction of an employer for wages or other remuneration, including former employees, or natural persons employed as independent contractors to carry out work in furtherance of an employer's business enterprise who are not themselves employers.

(j) "Employer" shall mean any person, firm, partnership, institution, corporation, or association that employs one or more employees.

(k) "Licensee" shall mean a person or entity that the office approves to receive assistance for child care services pursuant to the New York state child care assistance program and a provider rate agreement.

(l) "Material change transaction" shall mean the occurrence of any of the following events during a single transaction or in a series of related transactions that affects competition or access in one or more geographic regions of the state involving a child care provider within the state:

(i) a corporate merger including one or more child care providers;

(ii) an acquisition of one or more child care providers. For the purposes of this definition, "acquisition" shall include the direct or indirect purchase in any manner, including but not limited to lease, transfer, exchange, options, receipt of a conveyance, creation of a joint venture, or any other manner of purchase such as by a private equity group, hedge fund, publicly traded company, real estate investment trust, or any subsidiaries thereof, of a material amount of the assets or operations of a child care provider as defined in regulations established by the office pursuant to the state administrative procedure act;

(iii) any affiliation, arrangement, or contract that results in a change of control of a child care provider;

(iv) the formation of a partnership, joint venture, or parent organization;

(v) a sale, purchase, lease, affiliation, or transfer of control of a board of directors or other governing body of a child care provider;

(vi) a real estate sale or lease agreement involving a material amount of assets of a child care provider; or

(vii) the closure of a child care facility or the closure, discontinuance, or significant reduction of any essential child care service by a child care provider.

(m) "Net operating profit" shall mean the profit from a child care provider's core business activities, calculated as such provider's gross revenue minus operating expenses, taxes, interest, depreciation and amortization.

(n) "Office" shall mean the office of children and family services.

(o) "Ownership or investment interest" shall mean any of the following:

(i) direct or indirect possession of equity in the capital, stock, or profiting totaling more than five percent of an entity;

(ii) interest held by an investor or group of investors who engages in the raising of capital or returning of capital and who invests, develops, or disposes of specified assets; or

(iii) interest held by a pool of funds by investors, including a pool of funds managed or controlled by private limited partnerships, if such investors or the management of such pool or private limited partnership employ investment strategies of any kind to earn a return on such pool of funds.

(p) "Principal" shall mean:

(i) the president, vice president, secretary, treasurer, manager, or similar officers of a corporation, nonprofit corporation, cooperative or worker cooperative corporation;

(ii) a director of a corporation, nonprofit, cooperative or worker cooperative corporation;

(iii) a member of a member-managed limited liability company;

(iv) a manager of a manager-managed limited liability company; or

(v) a partner of a partnership or a general partner of a limited partnership.

(q) "Private equity fund" shall mean a publicly traded or non-publicly traded company that collects capital investments from individuals or entities and purchases a direct or indirect ownership share or controlling interest of a child care provider.

(r) "Significant equity investor" or "significant equity investment" shall mean:

(i) any private equity fund with a direct or indirect ownership or investment interest in a child care provider;

(ii) an investor, group of investors, or other entity that directly or indirectly possesses equity in five percent or more of the capital, stock, or profits of a child care provider; and

(iii) any private equity fund, investor, group of investors or other entity with a direct or indirect controlling interest in a child care provider or that operates the business or substantially all of the property of a child care provider under a lease, management, or operating agreement.

(s) "Ultimate parent" shall mean an entity that is at the top of a corporate or organizational hierarchy, is not controlled by any other entity or person, and exercises control, directly or indirectly, over all other entities in its chain of command.

2. (a) Every child care provider shall report to the office, in a form and manner to be determined by the office, the following information:

(i) the legal name of such provider;

(ii) the business address of such provider;

(iii) an email address for the director or other person designated to receive communications from the office;

(iv) business identification numbers of such provider, as applicable, including either:

(A) taxpayer identification number; or

(B) employer identification number;

(v) name and contact information for a representative of such provider;

(vi) the name and business address of the owner of such provider;

(vii) whether a significant equity investor holds an ownership interest in such provider;

(viii) the locations of such provider's operations;

(ix) such provider's total licensed capacity, which shall be the maximum number of children that can be cared for at any given time. Such provider's capacity shall be specified by group size based on the age of children to be served by such provider;

(x) such provider's tuition and fee arrangement for child care services, detailed by the age of the child and type of enrollment; and

(xi) whether such provider participates in the New York state child care assistance program through means which shall include, but shall not be limited to, accepting vouchers for payments through the selection by an eligible family and through payment or reimbursement for a slot or slots for which such provider contracts directly with the office.

(b) The information outlined in paragraph (a) of this subdivision shall be reported at least annually and within two days of the consummation of a material change transaction involving the provider.

(c) Child care providers located in public school buildings currently used for elementary, middle or secondary public education programs and approved and operated by the department of education shall be exempt from the requirements of paragraph (a) of this subdivision.

(d) Notwithstanding the requirements set forth in paragraph (a) of this subdivision, at the time of filing of the report required under such paragraph (a), a child care provider that participates in or aims to participate in the New York state child care assistance program in the ensuing year, accepts public funding under a program financed by the state to improve the compensation of the child care workforce, or receives publicly-supported financing for the construction, renovation or other capital improvement of a child care facility shall report to the office, in a form and manner to be defined by the office, the following additional information:

(i) the schedule of copayments and any additional fees charged to families, including but not limited to families for whom the child care provider accepts vouchers for payments and families for which such provider receives payment or reimbursement for a slot or slots for which such provider contracts directly with the office;

(ii) a schedule of the wages, salary, employee benefits and any other compensation provided to employees of such provider at the time of filing of the report;

(iii) an accounting, on a template to be developed by the office, of such provider's net operating profit for the previous calendar year, including a report detailing any and all management, monitoring, and franchise fees that such provider incurred; and

(iv) an analysis of staff turnover for the previous calendar year, detailed by position and tenure.

(e) A child care provider subject to the requirements set forth in paragraph (d) of this subdivision that includes a significant equity investor shall additionally report, in a form and manner to be defined by the office, the following information:

(i) the total funds received from the office, including the amount of loans, grants or other benefits received in the previous calendar year;

(ii) the use of the proceeds identified in subparagraph (i) of this paragraph;

(iii) any loans forgiven or discharged;

(iv) such provider's debt to asset ratio at the time of filing of the report required under this paragraph;

(v) the compensation provided to a principal in the previous calendar year;

(vi) the pay ratio between the chief executive officer and the median pay of employees;

(vii) the beneficial owner or owners of such provider;

(viii) any acquisitions or closures of child care programs and related services in the state by such provider's ultimate parent in the past year;

(ix) the workforce demographics of such provider; and

(x) for child care providers operating under a franchise model or management or monitoring agreement, any changes to such agreements that affect:

(A) ownership or control of such provider;

(B) financial arrangements, including fee structures or revenue-sharing models;

(C) operational standards, policies, or practices dictated by such agreement; or

(D) terms impacting workforce policies, including staffing levels, wages, or benefits.

3. (a) A child care provider that participates in the New York state child care assistance program, accepts public funding under a program financed by the state to improve the compensation of the child care workforce, or receives publicly-supported financing for the construction, renovation, or other capital improvement of a child care facility shall be required to:

(i) expend all funds to support the provision of child care services at such child care facility that serves the family for whom the office has provided a voucher or for which the provider receives payment or reimbursement for a slot or slots under a contract or grant with the office;

(ii) adopt a position of neutrality and commit to non-interference in the event there is an attempt by a labor organization to organize workers;

(iii) participate in the New York state child care assistance program, either by executing a contract or grant with the office or by accepting a voucher or certificate for the provision of services to subsidy-eligible children;

(iv) adopt policies that provide for reasonable work hours and reliable work schedules; and

(v) where the office uses a cost model to establish reimbursement rates for the New York state child care assistance program, maximize the productivity and effectiveness of their workers by investing in training, safe workplaces, fair compensation, and reasonable health and retirement benefits.

(b) A child care provider that participates in the New York state child care assistance program, accepts public funding under a program financed by the state to improve the compensation of the child care workforce, or receives publicly-supported financing for the construction, renovation or other capital improvement of a child care facility shall be prohibited from using public funds to:

(i) provide any incentive compensation, bonus, or severance payment to principals, senior executives, any of the next twenty most highly compensated employees, consultants of the provider, and department or division managers of the provider;

(ii) cover management or franchise costs or fees, or otherwise direct funds to a parent company or other affiliate;

(iii) make a capital distribution; or

(iv) provide compensation to senior executives, any of the next twenty most highly compensated employees, consultants of the provider, and department or division managers of the provider in excess of an indirect cost rate agreement to be determined by the office.

(c) (i) A child care provider with significant equity investment that participates in the New York state child care assistance program, accepts public funding under a program financed by the state to improve the compensation of the child care workforce, or receives publicly-supported financing for the construction, renovation or other capital improvement of a child care facility shall be prohibited from:

(A) initiating or executing program closings or staff layoffs within twenty-four months of the original receipt of funds; or

(B) purchasing or otherwise securing an equity investment in another child care provider within the state for a period of twelve months from the original receipt of funds.

(ii) For the purposes of this paragraph, the original receipt of funds shall be defined as the first receipt of public funds after completion of the acquisition of the child care provider.

(d) Nothing in this subdivision shall be construed to supersede any terms and conditions imposed by statutory authority for the New York state child care assistance program or otherwise specified in any contract for assistance executed between the child care provider and the office.

(e) Any controlling private fund, any holder of an active interest in a controlling private fund, or any affiliate of a child care provider that aids, abets, facilitates, supports, or instructs a provider's violation of paragraph (a) or (b) of this subdivision shall be jointly and severally liable under this paragraph for any transfer made or obligation incurred, including for reasonable attorneys' fees and costs awarded to a plaintiff pursuant to this section.

4. (a) A child care provider subject to the provisions set forth in subdivision three of this section shall self-certify its compliance with the requirements and restrictions in a form and manner to be determined by the office, provided that:

(i) such self-certification shall include submission of such provider's audited financial statement for the time period covered by such certification;

(ii) the office shall establish procedures for electronic submission of such certification and any accompanying materials; and

(iii) the office shall provide technical and other assistance to meet reporting requirements to any child care provider for which twenty percent or more of the child care slots maintained by such provider are supported by the New York state child care assistance program. Such assistance shall include but not be limited to financial assistance, software or templates for recordkeeping, and training related to meeting reporting requirements.

(b) Notwithstanding the reporting requirements triggered by a material change transaction pursuant to paragraph (b) of subdivision two of this section, any child care provider with five or more employees shall provide the office with notice sixty days prior to the merger, consolidation, or closure of any child care facility.

(c) If the office is made aware of a failure on the part of a child care provider to comply with the requirements of paragraph (a) of subdivision three of this section or of a violation by a child care provider of the prohibitions set forth in paragraph (b) of subdivision three of this section, the office shall undertake enforcement action to compel compliance. Such action may include, but is not limited to:

(i) meetings or telephone conversations between a child care provider and the office to discuss corrective action plans;

(ii) issuance of a written report which includes corrective action plans or requests that the child care provider submit a corrective action plan to the office;

(iii) notice of the intention to initiate enforcement through the recoupment of funds, imposition of a fine, or the limitation, suspension, termination, revocation, or denial of a child care license or registration;

(iv) holding of a hearing to determine if a child care provider has failed to comply with the applicable law and regulation which resulted in request for repayment of public funds, the assessment of fines, suspension, limitation, revocation, or denial of the license or registration;

(v) issuance of a determination, after a hearing, that civil penalties should be imposed;

(vi) determinations to deny, reject, revoke, terminate, suspend or limit a license or registration;

(vii) issuance of orders to cease and desist operation of child care services;

(viii) requests to the attorney general to seek injunctive relief against a licensee or registrant for repeated violations of the statute or regulation;

(ix) requests to the attorney general to take such action as is necessary to collect civil penalties, or to bring about compliance with any outstanding hearing decision or order; and

(x) publication of the names and addresses of child care licensees or registrants whose licenses, registrations or applications for licensure or registration have been rejected, denied, limited, suspended, terminated or revoked, or against whom a fine has been assessed after an administrative hearing for a violation of the provisions set forth in subdivision three of this section.

5. (a) On no less than an annual basis, the office shall publish a report of aggregated data detailing the capacity of the state's child care industry by program type and ownership arrangement. Information in such report shall be disaggregated by age of child, geographic location, and based on the child care provider's receipt of public funding under the New York state child care assistance program. Nothing in this subdivision shall be construed to prevent the office from including this information in any other regularly published report relating to the child care industry, so long as the information is updated no less than annually.

(b) The office shall issue a report tracking violations of the requirements set forth in subdivision three of this section disaggregated by program type and ownership arrangement. As information is aggregated at the conclusion of any investigation, the office shall update the report automatically on no less than a monthly basis.

(c) The state shall create a publicly accessible database of non-proprietary information collected pursuant to the registration requirements set forth in paragraph (a), subparagraphs (i) and (iv) of paragraph (d), and subparagraphs (i), (ii), (v), (vi) and (vii) of paragraph (e) of subdivision two of this section. The information contained in such database shall be made available in an open format and published as machine-readable data.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law.