STATE OF NEW YORK

7971

2025-2026 Regular Sessions

IN SENATE

May 15, 2025

Introduced by Sen. BROUK -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the social services law, in relation to outdoor nature-based child care programs

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

Section 1. Paragraph (c) of subdivision 1 of section 390 of the social services law, as added by chapter 750 of the laws of 1990, is amended and a new paragraph (h) is added to read as follows:

(c) "Child day care center" shall mean any program or facility caring for children for more than three hours per day per child in which child day care is provided by a child day care provider except those programs operating as a group family day care home as such term is defined in paragraph (d) of this subdivision, a family day care home, as such term is defined in paragraph (e) of this subdivision, [~~and~~] a school-age child care program, as such term is defined in paragraph (f) of this subdivision**, or an outdoor nature-based child care program as defined in paragraph (h) of this subdivision**.

(h) "Outdoor nature-based child care program" shall mean a program operated by a child day care provider caring for children aged four years or older for more than three hours per day per child in which enrolled children spend most of their time outdoors or in a structure providing a warm and dry place to play during inclement weather. Such structure may be a studio, yurt, teepee, greenhouse or similar structure and may have a composting toilet or outhouse with an appropriate hand cleaning station. Such structure may be heated by a woodstove or other heat source, provided that such heat source is safe and inspected by the office of children and family services as well as the fire safety inspector of any local village, town or city having jurisdiction over the site of the program. Such outdoor nature-based child care program shall only be licensed on a farm or in a nature preserve, park or other

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

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open space comprising at least seven contiguous acres of land owned or leased by the program or by the director, owner or proprietor of such program.

§ 2. Paragraph (a) of subdivision 2 of section 390 of the social services law, as amended by section 3 of part H of chapter 56 of the laws of 2019, is amended to read as follows:

(a) Child day care centers caring for seven or more children**, outdoor nature-based child care programs** and group family day care programs, as defined in subdivision one of this section, shall obtain a license from the office of children and family services and shall operate in accordance with the terms of such license and the regulations of such office. Initial licenses and subsequent licenses shall be valid for a period of up to four years so long as the provider remains substantially in compliance with applicable law and regulations during such period.

§ 3. Paragraph (a) of subdivision 2-a of section 390 of the social services law, as added by chapter 416 of the laws of 2000, is amended to read as follows:

(a) The office of children and family services shall promulgate regulations which establish minimum quality program requirements for licensed and registered child day care homes, programs and facilities. Such requirements shall include but not be limited to (i) the need for age appropriate activities, materials and equipment to promote cognitive, educational, social, cultural, physical, emotional, language and recreational development of children in care in a safe, healthy and caring environment, (ii) principles of childhood development, (iii) appropriate staff/child ratios for family day care homes, group family day care homes, school age day care programs**, outdoor nature-based child care programs** and day care centers, provided however that such staff/child ratios shall not be less stringent than applicable staff/child ratios as set forth in part four hundred fourteen, four hundred sixteen, four hundred seventeen or four hundred eighteen of title eighteen of the New York code of rules and regulations as of January first, two thousand, (iv) appropriate levels of supervision of children in care**, and** (v) minimum standards for sanitation **including standards for composting toilets and outhouses for outdoor nature-based child care programs**, health, infection control, nutrition, buildings and equipment, safety, security procedures, first aid, fire prevention, fire safety, evacuation plans and drills, prevention of child abuse and maltreatment, staff qualifications and training, record keeping, and child behavior management**, providing however, that such standards are contextually appropriate for outdoor nature-based child care programs as well as for more traditional child care programs**.

§ 4. Subdivisions 6 and 10 of section 390 of the social services law, subdivision 6 as added by chapter 750 of the laws of 1990 and subdivision 10 as amended by chapter 416 of the laws of 2000, are amended to read as follows:

6. Unless otherwise limited by law, a parent with legal custody or a legal guardian of any child in a child day care program shall have unlimited and on demand access to such child or ward. Such parent or guardian unless otherwise limited by law, also shall have the right to inspect on demand during its hours of operation any area of a child day care center, group family day care home, school-age child care program, [~~or~~] family day care home**, or outdoor nature-based child care program** to which the child or ward of such parent or guardian has access or which could present a hazard to the health and safety of the child or ward.

10. Any home or facility providing child day care shall be operated in accordance with applicable statutes and regulations. Any violation of applicable statutes or regulations shall be a basis to deny, limit, suspend, revoke, or terminate a license or registration. Consistent with articles twenty-three and twenty-three-A of the correction law, and guidelines referenced in subdivision two of section four hundred twenty-five of this article, if the office of children and family services is made aware of the existence of a criminal conviction or pending criminal charge concerning an operator of a family day care home, group family day care home, school-age child care program, **outdoor nature-based child care program,** or child day care center or concerning any assistant, employee or volunteer in such homes, programs or centers, or any persons age eighteen or over who reside in such homes, such conviction or charge may be a basis to deny, limit, suspend, revoke, reject, or terminate a license or registration. Before any license issued pursuant to the provisions of this section is suspended or revoked, before registration pursuant to this section is suspended or terminated, or when an application for such license is denied or registration rejected, the applicant for or holder of such registration or license is entitled, pursuant to section twenty-two of this chapter and the regulations of the office of children and family services, to a hearing before the office of children and family services. However, a license or registration shall be temporarily suspended or limited without a hearing upon written notice to the operator of the facility following a finding that the public health, or an individual's safety or welfare, are in imminent danger. The holder of a license or registrant is entitled to a hearing before the office of children and family services to contest the temporary suspension or limitation. If the holder of a license or registrant requests a hearing to contest the temporary suspension or limitation, such hearing must be scheduled to commence as soon as possible but in no event later than thirty days after the receipt of the request by the office of children and family services. Suspension shall continue until the condition requiring suspension or limitation is corrected or until a hearing decision has been issued. If the office of children and family services determines after a hearing that the temporary suspension or limitation was proper, such suspension or limitation shall be extended until the condition requiring suspension or limitation has been corrected or until the license or registration has been revoked.

§ 5. Subparagraphs (i), (ii) and (iii) of paragraph (a) of subdivision 11 of section 390 of the social services law, as amended by chapter 416 of the laws of 2000, are amended to read as follows:

(i) The office of children and family services shall adopt regulations establishing civil penalties of no more than five hundred dollars per day to be assessed against child day care centers, school age child care programs, group family day care homes [~~or~~] family day care homes**, or outdoor nature-based child care programs** for violations of this section, sections three hundred ninety-a and three hundred ninety-b of this title and any regulations promulgated thereunder. The regulations establishing civil penalties shall specify the violations subject to penalty.

(ii) The office of children and family services shall adopt regulations establishing civil penalties of no more than five hundred dollars per day to be assessed against child day care providers who operate child day care centers**, outdoor nature-based child care programs** or group family day care homes without a license or who operate family

day care homes, school-age child care programs, or child day care centers required to be registered without obtaining such registration.

(iii) In addition to any other civil or criminal penalty provided by law, the office of children and family services shall have the power to assess civil penalties in accordance with its regulations adopted pursuant to this subdivision after a hearing conducted in accordance with procedures established by regulations of the office of children and family services. Such procedures shall require that notice of the time and place of the hearing, together with a statement of charges of violations, shall be served in person or by certified mail addressed to the school age child care program, group family day care home, family day care home, **outdoor nature-based child care program,** or child day care center at least thirty days prior to the date of the hearing. The statement of charges shall set forth the existence of the violation or violations, the amount of penalty for which the program may become liable, the steps which must be taken to rectify the violation, and where applicable, a statement that a penalty may be imposed regardless of rectification. A written answer to the charges of violations shall be filed with the office of children and family services not less than ten days prior to the date of hearing with respect to each of the charges and shall include all material and relevant matters which, if not disclosed in the answer, would not likely be known to the office of children and family services.

§ 6. Subparagraph (ii) of paragraph (b) of subdivision 11 of section 390 of the social services law, as amended by chapter 416 of the laws of 2000, is amended to read as follows:

(ii) Upon the request of the office of children and family services, the attorney general shall commence an action in any court of competent jurisdiction against any child day care program subject to the provisions of this subdivision and against any person, entity or corporation operating such center or school age child care program, group family day care home [~~or~~], family day care home**, or outdoor nature-based child care program** for the recovery of any penalty assessed by the office of children and family services in accordance with the provisions of this subdivision.

§ 7. Clause (A) of subparagraph (ii) of paragraph (c) of subdivision 11 of section 390 of the social services law, as amended by chapter 117 of the laws of 2010, is amended to read as follows:

(A) the child day care provider has operated a child day care center**, outdoor nature-based child care program,** or group family day care home without a license, has refused to seek a license for the operation of such a center**, program** or home, or has continued to operate such a center**, program** or home after denial of a license application, revocation of an existing license or suspension of an existing license;

§ 8. Subparagraph (ii) of paragraph (e) of subdivision 11 of section 390 of the social services law, as added by chapter 117 of the laws of 2010, is amended to read as follows:

(ii)(A) Such office shall deny a new application for licensure or registration made by a day care provider who is enjoined or otherwise prohibited by a court order from operation of a day care center, group family day care home, family day care home**, outdoor nature-based child care program** or school-age child care program without a license or registration for a period of two years from the date of the court order unless the court order specifically enjoins the provider from providing day care for a period longer than two years, in which case the office

shall deny any new application made by the provider while the provider is so enjoined.

(B) Such office shall deny a new application for licensure or registration made by a day care provider who is assessed a second civil penalty by such office for having operated a day care center, group family day care home, family day care home**, outdoor nature-based child care program** or school-age child care program without a license or registration for a period of two years from the date of the second fine. For the purposes of this paragraph, the date of the second fine shall be either the date upon which the day care provider signs a stipulation agreement to pay the second fine or the date upon which a hearing decision is issued affirming the determination of such office to impose the second fine, as applicable.

§ 9. Paragraph (a) of subdivision 12 of section 390 of the social services law, as amended by chapter 117 of the laws of 2010, is amended to read as follows:

(a) Notwithstanding any other provision of law, except as may be required as a condition of licensure or registration by regulations promulgated pursuant to this section, no village, town (outside the area of any incorporated village), city or county shall adopt or enact any law, ordinance, rule or regulation which would impose, mandate or otherwise enforce standards for sanitation, health, fire safety or building construction on a one or two family dwelling or multiple dwelling used to provide group family day care or family day care than would be applicable were such child day care not provided on the premises. No village, town (outside the area of any incorporated village), city or county shall prohibit or restrict use of a one or two family dwelling, or multiple dwelling for family or group family day care where a license or registration for such use has been issued in accordance with regulations issued pursuant to this section. **Additionally, no village, town (outside the area of any incorporated village) or city shall prohibit or restrict the use of a structure approved by the office of children and family services for use in an outdoor nature-based child care program pursuant to paragraph (h) of subdivision one of this section.** Nothing in this paragraph shall preclude local authorities with enforcement jurisdiction of the applicable sanitation, health, fire safety or building construction code from making appropriate inspections to assure compliance with such standards.

§ 10. Subdivision 2 of section 390-a of the social services law, as amended by chapter 416 of the laws of 2000, paragraph (e) as added by chapter 230 of the laws of 2001, is amended to read as follows:

2. No license or registration shall be issued to a family day care home, group family day care home, school age child care program**, outdoor nature-based child care program** or child day care center and no such registration or license shall be renewed until it can be demonstrated by the employer or licensing agency that there is a procedure developed and implemented, in accordance with section three hundred ninety-b of this title and pursuant to regulations of the office of children and family services, to:

(a) review and evaluate the backgrounds of and information supplied by any person applying to be a child day care center**, outdoor nature-based child care program** or school-age child care program employee or volunteer or group family day care assistant, a provider of family day care or group family day care, or a director of a child day care center, head start day care center**, outdoor nature-based child care program** or school-age child care program. Such procedures shall include but not be

limited to the following requirements: that the applicant set forth [~~his or her~~] **their** employment history, provide personal and employment references; submit such information as is required for screening with the statewide central register of child abuse and maltreatment in accordance with the provisions of section four hundred twenty-four-a of this article; sign a sworn statement indicating whether, to the best of [~~his or her~~] **their** knowledge, [~~he or she has~~] **they have** ever been convicted of a crime in this state or any other jurisdiction; and provide [~~his or her~~] **their** fingerprints for submission to the division of criminal justice services in accordance with the provisions of section three hundred ninety-b of this title;

(b) establish relevant minimal experiential and educational qualifications for employees and directors of child day care centers**, outdoor nature-based child care programs** or head start day care center programs;

(c) assure adequate and appropriate supervision of employees and volunteers of group family day care homes, family day care homes, child day care centers**, outdoor nature-based child care programs** and school-age child care programs; and

(d) demonstrate, in the case of child day care centers, group family day care homes, family day care homes**, outdoor nature-based child care programs** and school-age child care programs the existence of specific procedures which will assure the safety of a child who is reported to the state central register of child abuse and maltreatment as well as other children provided care by such homes, centers or programs, immediately upon notification that a report has been made with respect to a child named in such report while the child was in attendance at such homes, centers or programs.

(e) establish necessary rules to provide for uniform visitor control procedures, including visitor identification.

§ 11. Paragraph (a) of subdivision 3 of section 390-a of the social services law, as amended by section 7 of part H of chapter 56 of the laws of 2019, is amended to read as follows:

(a) The office of children and family services shall promulgate regulations requiring operators, program directors, employees and assistants of family day care homes, group family day care homes, school-age child care programs**, outdoor nature-based child care programs,** and child day care centers to pre-service and annual training, as applicable. Provided however that such providers shall be required to receive thirty hours of training every two years; provided, however, any individual or provider who is already in compliance with this subdivision, prior to the effective date of [~~the~~] **part H of** chapter **fifty-six** of the laws of two thousand nineteen [~~that amended this subdivision~~], shall only be required to complete any additional federal training requirements which they have not already completed in order to be deemed in compliance with this subdivision. Fifteen hours of such training must be received within the first six months of the initial licensure, registration or employment. Such training requirements shall also apply to any volunteer in such day care homes, programs or centers who has the potential for regular and substantial contact with children. The thirty hours of training required during the first biennial cycle after initial licensure or registration shall include training received while an application for licensure or registration pursuant to section three hundred ninety of this title is pending. The office of children and family services may provide this training through purchase of services.

§ 12. Paragraph c of subdivision 5 of section 390-a of the social services law, as added by chapter 334 of the laws of 2010, is amended to read as follows:

c. The director of a child day care center shall provide that at least one employee who holds a valid certification in a course of study in first aid knowledge and skills and cardiopulmonary resuscitation, with an emphasis on providing that aid to children, as approved by the commissioner of the office of children and family services, be on premises during the operating hours of such child day care center**, provided however that all employees of an outdoor nature-based child care center shall have such certification within six months of their date of hire**.

§ 13. Subdivision 8 of section 390-b of the social services law, as added by chapter 416 of the laws of 2000, is amended to read as follows:

8. Any safety assessment required pursuant to this section shall include a review of the duties of the individual, the extent to which such individual may have contact with children in the program or household and the status and nature of the criminal charge or conviction. Where the office of children and family services performs the safety assessment, it shall thereafter take all appropriate steps to protect the health and safety of children receiving care in the child day care center, school age child care program, family day care home [**~~or~~**]**,** group family day care home **or outdoor nature-based child care program**.

§ 14. Subdivision 4 of section 412 of the social services law, as amended by section 2-a of part D of chapter 501 of the laws of 2012, is amended to read as follows:

4. "Subject of the report" means any parent of, guardian of, or other person eighteen years of age or older legally responsible for, as defined in subdivision (g) of section one thousand twelve of the family court act, a child reported to the statewide central register of child abuse and maltreatment who is allegedly responsible for causing injury, abuse or maltreatment to such child or who allegedly allows such injury, abuse or maltreatment to be inflicted on such child; or a director or an operator of, or employee or volunteer in, a home operated or supervised by an authorized agency, the office of children and family services, or in a family day-care home, a day-care center, a group family day care home, a school-age child care program**, an outdoor nature-based child care program** or a day-services program who is allegedly responsible for causing injury, abuse or maltreatment to a child who is reported to the statewide central register of child abuse or maltreatment or who allegedly allows such injury, abuse or maltreatment to be inflicted on such child;

§ 15. Paragraph (a) of subdivision 1 of section 413 of the social services law, as amended by section 7 of part C of chapter 57 of the laws of 2018, is amended to read as follows:

(a) The following persons and officials are required to report or cause a report to be made in accordance with this title when they have reasonable cause to suspect that a child coming before them in their professional or official capacity is an abused or maltreated child, or when they have reasonable cause to suspect that a child is an abused or maltreated child where the parent, guardian, custodian or other person legally responsible for such child comes before them in their professional or official capacity and states from personal knowledge facts, conditions or circumstances which, if correct, would render the child an abused or maltreated child: any physician; registered physician assistant; surgeon; medical examiner; coroner; dentist; dental hygienist; osteopath; optometrist; chiropractor; podiatrist; resident; intern;

psychologist; registered nurse; social worker; emergency medical technician; licensed creative arts therapist; licensed marriage and family therapist; licensed mental health counselor; licensed psychoanalyst; licensed behavior analyst; certified behavior analyst assistant; hospital personnel engaged in the admission, examination, care or treatment of persons; a Christian Science practitioner; school official, which includes but is not limited to school teacher, school guidance counselor, school psychologist, school social worker, school nurse, school administrator or other school personnel required to hold a teaching or administrative license or certificate; full or part-time compensated school employee required to hold a temporary coaching license or professional coaching certificate; social services worker; employee of a publicly-funded emergency shelter for families with children; director of a children's overnight camp, summer day camp or traveling summer day camp, as such camps are defined in section thirteen hundred ninety-two of the public health law; day care center worker; school-age child care worker; provider of family or group family day care; **provider of an outdoor nature-based child care program;** employee or volunteer in a residential care facility for children that is licensed, certified or operated by the office of children and family services; or any other child care or foster care worker; mental health professional; substance abuse counselor; alcoholism counselor; all persons credentialed by the office of [~~alcoholism and substance abuse services~~] **addiction services and supports**; employees, who are expected to have regular and substantial contact with children, of a health home or health home care management agency contracting with a health home as designated by the department of health and authorized under section three hundred sixty-five-l of this chapter or such employees who provide home and community based services under a demonstration program pursuant to section eleven hundred fifteen of the federal social security act who are expected to have regular and substantial contact with children; peace officer; police officer; district attorney or assistant district attorney; investigator employed in the office of a district attorney; or other law enforcement official.

§ 16. Paragraph (a) of subdivision 1 of section 413 of the social services law, as amended by chapter 733 of the laws of 2023, is amended to read as follows:

(a) The following persons and officials are required to report or cause a report to be made in accordance with this title when they have reasonable cause to suspect that a child coming before them in their professional or official capacity is an abused or maltreated child, or when they have reasonable cause to suspect that a child is an abused or maltreated child where the parent, guardian, custodian or other person legally responsible for such child comes before them in their professional or official capacity and states from personal knowledge facts, conditions or circumstances which, if correct, would render the child an abused or maltreated child: any physician; registered physician assistant; surgeon; medical examiner; coroner; dentist; dental hygienist; osteopath; optometrist; chiropractor; podiatrist; resident; intern; athletic trainer; psychologist; registered nurse; social worker; emergency medical technician; licensed creative arts therapist; licensed marriage and family therapist; licensed mental health counselor; licensed psychoanalyst; licensed behavior analyst; certified behavior analyst assistant; hospital personnel engaged in the admission, examination, care or treatment of persons; a Christian Science practitioner; school official, which includes but is not limited to school teacher, school guidance counselor, school psychologist, school social worker,

school nurse, school administrator or other school personnel required to hold a teaching or administrative license or certificate; full or part-time compensated school employee required to hold a temporary coaching license or professional coaching certificate; social services worker; employee of a publicly-funded emergency shelter for families with children; director of a children's overnight camp, summer day camp or traveling summer day camp, as such camps are defined in section thirteen hundred ninety-two of the public health law; day care center worker; school-age child care worker; provider of family or group family day care; **provider of an outdoor nature-based child care program;** employee or volunteer in a residential care facility for children that is licensed, certified or operated by the office of children and family services; or any other child care or foster care worker; mental health professional; substance abuse counselor; alcoholism counselor; all persons credentialed by the office of [~~alcoholism and substance abuse services~~] **addiction services and supports**; employees, who are expected to have regular and substantial contact with children, of a health home or health home care management agency contracting with a health home as designated by the department of health and authorized under section three hundred sixty-five-l of this chapter or such employees who provide home and community based services under a demonstration program pursuant to section eleven hundred fifteen of the federal social security act who are expected to have regular and substantial contact with children; peace officer; police officer; district attorney or assistant district attorney; investigator employed in the office of a district attorney; or other law enforcement official.

§ 17. Subparagraph (ii) of paragraph (a) of subdivision 1 of section 424-a of the social services law, as amended by section 14 of part H of chapter 56 of the laws of 2019, is amended to read as follows:

(ii) A licensing agency shall inquire of the office whether an applicant for a certificate, license or permit to operate a child care program including a family day care home, group family day care home, child care center, **outdoor nature-based child care program,** school age child care program, or enrolled legally exempt provider or an employee, volunteer or applicant to be an employee or volunteer in such program who has potential for regular and substantial contact with children in the program, is the confirmed subject of an indicated child abuse report maintained by the statewide central register of child abuse and maltreatment. The office shall promulgate regulations related to the process by which providers and applicants will be informed whether the applicant is authorized or unauthorized to care for children based on the outcome of such inquiry.

§ 18. Subdivision 4 of section 424-a of the social services law, as amended by section 15 of part H of chapter 56 of the laws of 2019, is amended to read as follows:

4. For purposes of this section, the term "licensing agency" shall mean an authorized agency which has received an application to become an adoptive parent or an authorized agency which has received an application for a certificate or license to receive, board or keep any child pursuant to the provisions of section three hundred seventy-six or three hundred seventy-seven of this article or an authorized agency which has received an application from a relative within the second degree or third degree of consanguinity of the parent of a child or a relative within the second degree or third degree of consanguinity of the stepparent of a child or children, or the child's legal guardian for approval to receive, board or keep such child, or an authorized agency

that conducts a clearance pursuant to paragraph (d) of subdivision two of section four hundred fifty-eight-b of this article, or a state or local governmental agency which receives an application to provide child day care services in a child day care center, school-age child care program, family day care home or group family day care home**, outdoor nature-based child care program,** or enrolled legally-exempt provider as such term is defined in subdivision one-a of section three hundred ninety-b of this article pursuant to the provisions of section three hundred ninety of this article, or the department of health and mental hygiene of the city of New York, when such department receives an application for a certificate of approval to provide child day care services in a child day care center pursuant to the provisions of the health code of the city of New York, or the office of mental health or the office for people with developmental disabilities when such office receives an application for an operating certificate pursuant to the provisions of the mental hygiene law to operate a family care home, or a state or local governmental official who receives an application for a permit to operate a camp which is subject to the provisions of article thirteen-B of the public health law or the office of children and family services which has received an application for a certificate to receive, board or keep any child at a foster family home pursuant to articles nineteen-G and nineteen-H of the executive law or any other facility or provider agency, as defined in subdivision four of section four hundred eighty-eight of this chapter, in regard to any licensing or certification function carried out by such facility or agency.

§ 19. Subdivision 2 of section 425 of the social services law, as amended by chapter 126 of the laws of 2014, is amended to read as follows:

2. The department, after consultation with the division for youth, the division of criminal justice services, the department of mental hygiene, the commission on quality of care for the mentally disabled and the state education department shall develop guidelines to be utilized by appropriate state and local governmental agencies and authorized agencies as defined by subdivision ten of section three hundred seventy-one of this article which have responsibility for the care and protection of children, in evaluating persons who have a criminal conviction record and who have applied to such agencies or provider agencies, as defined in subdivision three of section four hundred twenty-four-a of this title for employment or who have applied to such state agencies or licensing agency as defined in subdivision four of section four hundred twenty-four-a of this title, for a license, certificate, permit or approval to be an adoptive parent, provider of day care services in a day care center, **outdoor nature-based child care program,** family day care home or group family day care home, an operator of a camp subject to the provisions of article thirteen-B of the public health law, or an operator of a foster family home subject to the provisions of subdivision seven of section five hundred one, section five hundred two or subdivision three of section five hundred thirty-two-a of the executive law or section three hundred seventy-six and three hundred seventy-seven of this article.

§ 20. This act shall take effect immediately; provided however, that section sixteen of this act shall take effect on the same date and in the same manner as chapter 733 of the laws of 2023 takes effect.