STATE OF NEW YORK

5352

2025-2026 Regular Sessions

IN ASSEMBLY

February 13, 2025

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

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

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

Section 1. Legislative findings and statement of purpose. The legislature hereby finds that it is in the interest of the state to provide children with the opportunity to learn and develop in natural outdoor environments. Not only do outdoor activities promote physical fitness and reduce the risk of obesity and related health issues among children, but numerous studies have shown that exposure to nature enhances cognitive abilities, creativity, problem-solving skills, and overall mental health. In addition, outdoor child care fosters a sense of connection and appreciation for the natural environment, promotes the development of self-efficacy, autonomy, and overall confidence in interacting with the natural environment, instills environmental values, and promotes sustainable practices.

The purpose of this act is to recognize the importance of nature in children's development by providing them with access to outdoor learning environments, thereby encouraging them to engage in physical activities and explore nature, fostering a naturally healthy lifestyle from an early age and contributing to the development and well-being of children in our state and, ultimately, contributing to the preservation and conservation of our natural resources.

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

(h) "Outdoor, nature-based child care" shall mean a program caring for children that: (i) enrolls preschool or school-age children; (ii) provides early learning services in an outdoor space for not less than four hours per day or fifty percent of the total daily program hours,

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

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whichever is less; and (iii) employs a curriculum with nature to teach enrolled children.

§ 3. Section 390 of the social services law is amended by adding a new subdivision 2-b to read as follows:

2-b. (a) The office of children and family services shall establish an outdoor, nature-based child care program and shall adopt rules and regulations to implement such program, waiving or adapting existing child care licensing requirements designed for indoor child care facilities where necessary in order to allow for the operation of licensed outdoor, nature-based child care classrooms, including but not limited to rules for: (i) ensuring adequate shelter to ensure safety during inclement weather but not requiring a building configured for indoor program delivery; (ii) use of buildings for emergencies; (iii) fire drills for programs without a permanent indoor space; (iv) requirements related to the safety of children during inclement weather conditions and accounting for outdoor hazards; (v) reporting of falls, cuts, and scrapes, or other minor non-emergency injuries; (vi) additional training for staff in skills for outdoor child care settings, including outdoor classroom management, behavior management, risky play analysis, directional proficiency in the use of cardinal directions, compasses, and the navigation of natural terrain, familiarity with flora and fauna, wilderness first aid and skills; and (vii) minimum standards for an outdoor, nature-based, early learning curriculum.

(b) The office of children and family services shall convene an advisory group of outdoor, nature-based early learning practitioners to inform and support implementation of the outdoor, nature-based child care program. Such advisory group shall review best practices and research for outdoor education and child care in outdoor education settings and help inform the development of outdoor, nature-based child care regulations, including minimum standards for a nature-based early learning curriculum. The advisory group shall be compensated only for travel.

(c) The office of children and family services shall establish a pilot program for licensed outdoor, nature-based child cares in order to:

(i) expand access to affordable, high-quality early learning and child care programs; and

(ii) investigate the benefits of outdoor, nature-based classrooms.

(d) The office of children and family services shall select, or develop with eligible child care providers, up to ten outdoor, nature-based child care programs to participate in the pilot program during the first year of the pilot program.

(e) when selecting and approving outdoor, nature-based child care programs to participate in the pilot program, the office of children and family services shall:

(i) give priority to:

(1) existing outdoor, nature-based child care programs that are already licensed as camps; and

(2) existing licensed child care centers or registered family child care homes seeking to expand into nature-based early learning;

(3) areas where there are few or limited licensed child care programs; and

(4) areas of need where licensed child care programs are at or near full capacity, and where access may be restricted by enrollment waitlists.

(ii) to the extent practicable, select a mix of rural, urban, and suburban programs.

(f) Within two years after the establishment of the pilot program, the office of children and family services shall prepare and publish a report on the activities and outcomes of the outdoor, nature-based child care pilot program.

§ 4. Subdivision 2 of section 390 of the social services law, as added by chapter 750 of the laws of 1990, paragraph (a) as amended by section 3, clause (A) of subparagraph (ii) of paragraph (d) as amended by section 4 and paragraph (d-1) as added by section 2-a of part H of chapter 56 of the laws of 2019 and subparagraphs (i) and (ii) of paragraph (d) as amended by chapter 416 of the laws of 2000, is amended to read as follows:

2. (a) Child day care centers **or outdoor, nature-based child cares** caring for seven or more children 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.

(b) Family day care homes, child day care centers caring for at least three but fewer than seven children, **outdoor, nature-based child cares,** and school-age child care programs shall register with the department and shall operate in compliance with the regulations of the department.

(c) Any child day care provider not required to obtain a license pursuant to paragraph (a) of this subdivision or to register with the department pursuant to paragraph (b) of this subdivision may register with the department.

(d) (i) The office of children and family services shall promulgate regulations for licensure and for registration of child day care pursuant to this section. Procedures for obtaining a license or registration or renewing a license shall include a satisfactory inspection of the facility **or outdoor, nature-based child care** by the office of children and family services prior to issuance of the license or registration or renewal of the license.

(ii) (A) Initial registrations and subsequent registrations 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.

(B) After initial registration by the child day care provider, the office of children and family services shall not accept any subsequent registration by such provider, unless:

(1) such provider has met the training requirements set forth in section three hundred ninety-a of this title;

(2) such provider has met the requirements of section three hundred ninety-b of this title relating to criminal history screening;

(3) such provider has complied with the requirements of section four hundred twenty-four-a of this article; and

(4) the office of children and family services has received no complaints about the home, center, **outdoor, nature-based child care,** or program alleging statutory or regulatory violations, or, having received such complaints, the office of children and family services has determined, after inspection pursuant to paragraph (a) of subdivision three of this section, that the home, center, **outdoor, nature-based child care,** or program is operated in compliance with applicable statutory and regulatory requirements.

(C) Where the office of children and family services has determined that a registration should not be continued because the requirements of clause (B) of this subparagraph have not been satisfied, the office of children and family services may terminate the registration. If the office of children and family services does not terminate the registration, the office of children and family services shall inspect the home**, outdoor, nature-based child care,** or program before acknowledging any subsequent registration. Where the home**, outdoor, nature-based child care,** or program has failed to meet the requirements of this section, the office of children and family services may reject any subsequent registration of a provider. Nothing herein shall prohibit the office of children and family services from terminating or suspending registration pursuant to subdivision ten of this section where the office of children and family services determines that termination or suspension is necessary.

[~~(iv)~~] **(iii)** Child day care providers who have been issued a license shall openly display such license in the facility**, outdoor, nature-based child care location,** or home for which the license is issued. Child day care providers who have registered with the department shall provide proof of registration upon request.

(d-1) (i) The office of children and family services shall promulgate regulations for inspections of enrolled legally exempt providers, which shall include the completion of a satisfactory inspection of the premises where care is to be provided, by the office of children and family services.

(ii) Provided however, unless a complaint is made in or as otherwise authorized such inspections shall not be required when the enrolled legally exempt provider is an individual, age eighteen or older, and who, by virtue of blood, marriage or court decree, is, to all of the children that such person is enrolled to provide subsidized child care services to in accordance with title five-C of this article:

(A) a grandparent;

(B) a great-grandparent;

(C) a sibling, provided that such sibling resides in a separate household from the child; **or**

(D) [~~an aunt; or~~

~~(E) an uncle~~] **a sibling of a parent**.

(e) Notwithstanding any other provision of this section, where a child is cared for by a parent, guardian or relative within the third degree of consanguinity of the parent of such child and such person simultaneously provides child day care for other children, only the other children shall be considered in determining whether such person must be registered or licensed, provided that such person is not caring, in total, for more than eight children.

§ 5. 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:

2-a. (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**, outdoor, nature-based child cares** 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, **outdoor,**

nature-based child cares, school age day 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 (v) minimum standards for sanitation, health, infection control, nutrition, buildings and equipment, **the size and suitability of a facility or location for an outdoor, nature-based child care,** 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.

(b) The use of electronic monitors as a sole means of supervision of children in day care shall be prohibited, except that electronic monitors may be used in family day care homes and group family day care homes as an indirect means of supervision where the parents of any child to be supervised have agreed in advance to the use of such monitors as an indirect means of supervision and the use of such monitors is restricted to situations where the children so supervised are sleeping.

(c) No child less than six weeks of age may be cared for by a licensed or registered day care provider, except in extenuating circumstances where prior approval for care of such children has been given by the office of children and family services. Extenuating circumstances for the purposes of this section shall include but not be limited to the medical or health needs of the parent or child, or the economic hardship of the parent.

§ 6. Paragraphs (c) and (d) of subdivision 3 of section 390 of the social services law, as amended by chapter 416 of the laws of 2000, are amended to read as follows:

(c) (i) The office of children and family services shall establish a toll-free statewide telephone number to receive inquiries about child day care homes, **outdoor, nature-based child cares,** programs and facilities and complaints of violations of the requirements of this section or regulations promulgated under this section. The office of children and family services shall develop a system for investigation, which shall include inspection, of such complaints. The office of children and family services may provide for such investigations through purchase of services. The office of children and family services shall develop a process for publicizing such toll-free telephone number to the public for making inquiries or complaints about child day care homes, **outdoor, nature-based child cares,** programs or facilities.

(ii) Information to be maintained and available to the public through such toll-free telephone number shall include, but not be limited to:

(A) current license and registration status of child day care homes, **outdoor, nature-based child cares,** programs and facilities including whether a license or registration is in effect or has been revoked or suspended; and

(B) child care resource and referral programs providing services pursuant to title five-B of this article and other resources known to the office of children and family services which relate to child day care homes, **outdoor, nature-based child cares,** programs and facilities in the state.

(iii) Upon written request identifying a particular child day care home, **outdoor, nature-based child care,** program or facility, the office of children and family services shall provide the information set forth

below. The office of children and family services may charge reasonable fees for copies of documents provided, consistent with the provisions of article six of the public officers law. The information available pursuant to this clause shall be:

(A) the results of the most recent inspection for licensure or registration and any subsequent inspections by the office of children and family services;

(B) complaints filed against child day care homes, **outdoor, nature-based child cares,** programs or facilities which describes the nature of the complaint and states how the complaint was resolved, including the status of the office of children and family services investigation, the steps taken to rectify the complaint, and the penalty, if any, imposed; and

(C) child day care homes, **outdoor, nature-based child cares,** programs or facilities which have requested or received a waiver from any applicable rule or regulation, and the regulatory requirement which was waived.

(iv) Nothing in this paragraph shall be construed to require or permit the disclosure either orally or in writing of any information that is confidential pursuant to law.

(d) Where investigation or inspection reveals that a child day care provider which must be licensed or registered is not, the office of children and family services shall advise the child day care provider in writing that the provider is in violation of the licensing or registration requirements and shall take such further action as is necessary to cause the provider to comply with the law, including directing an unlicensed or unregistered provider to cease operation. In addition, the office of children and family services shall require the provider to notify the parents or guardians of children receiving care from the provider that the provider is in violation of the licensing or registration requirements and shall require the provider to notify the office of children and family services that the provider has done so. Any provider who is directed to cease operations pursuant to this paragraph shall be entitled to a hearing before the office of children and family services. If the provider requests a hearing to contest the directive to cease operations, 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. The provider may not operate the center, **outdoor, nature-based child care,** home or program after being directed to cease operations, regardless of whether a hearing is requested. If the provider does not cease operations, the office of children and family services may impose a civil penalty pursuant to subdivision eleven of this section, seek an injunction pursuant to section three hundred ninety-one of this title, or both.

§ 7. Paragraph (b) of subdivision 4 of section 390 of the social services law, as added by chapter 750 of the laws of 1990, is amended to read as follows:

(b) Any family day care home**, outdoor, nature-based care** or school-age child care program licensed, registered, or certified by the department or by any authorized agency on the effective date of this section shall be deemed registered until the expiration of its then-current license or certificate unless such license or certificate is suspended or revoked pursuant to subdivision ten of this section. Family day care homes**, outdoor, nature-based child cares,** and school-age child care programs not licensed, registered, or certified on the effective date of this section shall register pursuant to subdivision two of this section.

§ 8. Subdivision 6 of section 390 of the social services law, as added by chapter 750 of the laws of 1990, is 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, **outdoor, nature-based child care location** or family day care home 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.

§ 9. Subdivision 8-a of section 390 of the social services law, as added by chapter 354 of the laws of 2009, is amended to read as follows:

8-a. The office of children and family services shall not make available to the public online any group family day care home provider's**, outdoor, nature-based child care provider's,** or family day care provider's home street address or map showing the location of such provider's home **or outdoor, nature-based child care location** where such provider has requested to opt out of the online availability of this information. The office shall provide a written form informing a provider of their right to opt out of providing information online, and shall also permit a provider to request to opt out through the office's website.

§ 10. Subdivision 10 of section 390 of the social services law, as amended by chapter 416 of the laws of 2000, is amended to read as follows:

10. Any home**, outdoor, nature-based child care,** 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,** 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.

§ 11. Subdivision 11 of section 390 of the social services law, as added by chapter 750 of the laws of 1990, paragraphs (a) and (b) as amended and paragraph (d) as added by chapter 416 of the laws of 2000 and paragraph (c) as amended and paragraph (e) as added by chapter 117 of the laws of 2010, is amended to read as follows:

11. (a) (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, **outdoor, nature-based child cares,** school age child care programs, group family day care homes or family day care homes 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 cares,** 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,** 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.

(iv) The hearing shall be held by the commissioner of the office of children and family services or the commissioner's designee. The burden of proof at such hearing shall be on the office of children and family services to show that the charges are supported by a preponderance of the evidence. The commissioner of the office of children and family services or the commissioner's designee, in [~~his or her~~] **their** discretion, may allow the child day care center operator or provider to

attempt to prove by a preponderance of the evidence any matter not included in the answer. Where the child day care provider satisfactorily demonstrates that it has rectified the violations in accordance with the requirements of paragraph (c) of this subdivision, no penalty shall be imposed except as provided in paragraph (c) of this subdivision.

(b)(i) In assessing penalties pursuant to this subdivision, the office of children and family services may consider the completeness of any rectification made and the specific circumstances of such violations as mitigating factors.

(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, **outdoor, nature-based child care,** group family day care home or family day care home for the recovery of any penalty assessed by the office of children and family services in accordance with the provisions of this subdivision.

(iii) Any such penalty assessed by the office of children and family services may be released or compromised by the office of children and family services before the matter has been referred to the attorney general; when such matter has been referred to the attorney general, such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the attorney general with the consent of the office of children and family services.

(c)(i) Except as provided for in this paragraph, a child day care provider shall avoid payment of a penalty imposed pursuant to this subdivision where the provider has rectified the condition which resulted in the imposition of the penalty within thirty days of notification of the existence of the violation of statute or regulation.

(ii) [~~Clause~~] **Subparagraph** (i) of this paragraph notwithstanding, rectification shall not preclude the imposition of a penalty pursuant to this subdivision where:

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

(B) the child day care provider has operated a family day care home, **outdoor, nature-based child care,** school-age child care program or child day care center required to be registered without being registered, has refused to seek registration for the operation of such home, **outdoor, nature-based child care,** program or center or has continued to operate such a home, program or center after denial of a registration application, revocation of an existing registration or suspension of an existing registration;

(C) there has been a total or substantial failure of the facility's fire detection or prevention systems or emergency evacuation procedures;

(D) the child day care provider or an assistant, employee or volunteer has failed to provide adequate and competent supervision;

(E) the child day care provider or an assistant, employee or volunteer has failed to provide adequate sanitation;

(F) the child day care provider or an assistant, employee, volunteer or, for a family day care home or group family day care home, a member of the provider's household, has injured a child in care, unreasonably

failed to obtain medical attention for a child in care requiring such attention, used corporal punishment against a child in care or abused or maltreated a child in care;

(G) the child day care provider has violated the same statutory or regulatory standard more than once within a six month period;

(H) the child day care provider or an assistant, employee or volunteer has failed to make a report of suspected child abuse or maltreatment when required to do so pursuant to section four hundred thirteen of this article; or

(I) the child day care provider or an assistant, employee or volunteer has submitted to the office of children and family services a forged document as defined in section 170.00 of the penal law.

(d) Any civil penalty received by the office of children and family services pursuant to this subdivision shall be deposited to the credit of the "quality child care and protection fund" established pursuant to section ninety-seven-www of the state finance law.

(e)(i) The office of children and family services shall deny a new application for licensure or registration made by a day care provider whose license or registration was previously revoked or terminated based on a violation of statute or regulation for a period of two years from the date that the revocation or termination of the license or registration became finally effective, unless such office determines, in its discretion, that approval of the application will not in any way jeopardize the health, safety or welfare of children in the center, program or home. For the purposes of this paragraph, the date that the revocation or termination became finally effective shall be, as applicable:

(A) the date that the revocation or termination became effective based on the notice of revocation or termination;

(B) the date that the hearing decision was issued upholding the revocation or termination;

(C) the date of issuance of a final court order affirming the revocation or termination or affirming a hearing decision that upheld the revocation or termination; or

(D) another date mutually agreed upon by the office of children and family services and the provider.

(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, **outdoor, nature-based child care,** group family day care home, family day care home 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, **outdoor, nature-based child care,** group family day care home, family day care home 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.

(iii) A day care provider who surrenders the provider's license or registration while such office is engaged in enforcement seeking suspension, revocation or termination of such provider's license or registration pursuant to the regulations of such office, shall be deemed to have had their license or registration revoked or terminated and shall be subject to the prohibitions against licensing or registration pursuant to subparagraph (i) of this paragraph for a period of two years from the date of surrender of the license or registration.

§ 12. This act shall take effect immediately.