

STATE OF NEW YORK

9049

IN SENATE

January 27, 2026

Introduced by Sen. ROLISON -- 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 staffing flexibility for licensed child day care programs during workforce shortages, clarification of director staffing roles, and modification of infant age definitions

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

1 Section 1. Legislative findings. The legislature finds that in
2 response to ongoing child care workforce shortages that continue to
3 reduce availability and affordability for working families across New
4 York state. The goal of this bill is to preserve licensed child care
5 capacity through limited, targeted statutory changes that emphasize
6 child safety while preventing unnecessary closures, reduced enrollment,
7 and punitive enforcement actions for non-safety-related staffing issues.

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

10 (h) "Director, operator, or program administrator" means any individ-
11 ual who has primary responsibility for the administration, oversight,
12 and management of a child day care program, including but not limited
13 to:

14 (i) a director or administrator responsible for the day-to-day oper-
15 ations of a child day care center, family day care home, group family
16 day care home, or school-age child care program;

17 (ii) an operator who holds the license or registration for the facili-
18 ty or program; or

19 (iii) any individual designated by the licensee and authorized under
20 regulations of the office of children and family services to perform
21 administrative or supervisory duties.

22 § 3. Paragraphs (d) and (e) of subdivision 1 of section 390 of the
23 social services law, as amended by chapter 117 of the laws of 2010, are
24 amended to read as follows:

25 (d) "Group family day care home" shall mean a program caring for chil-
26 dren for more than three hours per day per child in which child day care

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

LBD14422-01-6

1 is provided in a family home for seven to twelve children of all ages,
2 except for those programs operating as a family day care home, as such
3 term is defined in paragraph (e) of this subdivision, which care for
4 seven or eight children. A group family day care provider may provide
5 child day care services to four additional children if such additional
6 children are of school age and such children receive services only
7 before or after the period such children are ordinarily in school or
8 during school lunch periods, or school holidays, or during those periods
9 of the year in which school is not in session. There shall be one care-
10 giver for every two children under [~~two-years~~] eighteen months of age in
11 the group family home. A group family day care home must have at least
12 one assistant to the operator present when child day care is being
13 provided to seven or more children when none of the children are school
14 age, or nine or more children when at least two of the children are
15 school age and such children receive services only before or after the
16 period such children are ordinarily in school or during school lunch
17 periods, or school holidays, or during those periods of the year in
18 which school is not in session. This assistant shall be selected by the
19 group family day care operator and shall meet the qualifications estab-
20 lished for such position by the regulations of the office of children
21 and family services.

22 (e) "Family day care home" shall mean a program caring for children
23 for more than three hours per day per child in which child day care is
24 provided in a family home for three to six children. There shall be one
25 caregiver for every two children under [~~two-years~~] eighteen months
26 of age in the family day care home. A family day care provider may, howev-
27 er, care for seven or eight children at any one time if no more than six
28 of the children are less than school age and the school-aged children
29 receive care primarily before or after the period such children are
30 ordinarily in school, during school lunch periods, on school holidays,
31 or during those periods of the year in which school is not in session in
32 accordance with the regulations of the office of children and family
33 services and the office inspects such home to determine whether the
34 provider can care adequately for seven or eight children.

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

37 2-b. (a) Notwithstanding any provision of law or regulation to the
38 contrary, the office of children and family services is authorized to
39 grant temporary and limited flexibility in staff-to-child ratios and
40 maximum group size requirements for licensed child day care centers,
41 family day care homes, and group family day care homes during documented
42 workforce shortages.

43 (b) Such temporary flexibility may be granted only where the office of
44 children and family services determines that:

45 (i) the provider has demonstrated a good-faith effort to recruit and
46 retain qualified staff;

47 (ii) the provider is unable to meet staffing requirements due to work-
48 force shortages beyond the provider's reasonable control; and

49 (iii) the provider remains in compliance with all applicable health,
50 safety, and supervision requirements.

51 (c) Any flexibility granted pursuant to this subdivision shall:

52 (i) be time-limited;

53 (ii) not exceed ratio or group size limits established by the office
54 of children and family services pursuant to regulation; and

55 (iii) be subject to periodic review and revocation by the office of
56 children and family services.

1 (d) The authority granted pursuant to this subdivision shall not be
2 contingent upon a declared state of emergency and may be exercised in
3 response to statewide, regional, or program-specific workforce short-
4 ages, as determined by the office of children and family services.

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

7 2-c. (a) Notwithstanding any provision of law or regulation to the
8 contrary, a child day care program director, assistant director, or site
9 supervisor who otherwise meets applicable staff qualification require-
10 ments may temporarily serve in a classroom staffing role, including as a
11 lead teacher, for the purpose of maintaining required child supervision
12 during staffing shortages.

13 (b) A licensed child day care program shall not be cited for a staff-
14 ing or ratio violation solely on the basis that a director, assistant
15 director, or site supervisor is serving in a classroom role pursuant to
16 this subdivision, provided that:

- 17 (i) required supervision of children is maintained;
- 18 (ii) all applicable health and safety requirements are met; and
- 19 (iii) such temporary service is documented by the provider.

20 (c) The office of children and family services shall distinguish
21 administrative staffing deficiencies arising from documented workforce
22 shortages from violations that pose a direct and immediate risk to child
23 health or safety, and shall ensure that such administrative deficiencies
24 do not automatically result in adverse licensing actions or insurance-
25 related consequences.

26 § 6. Section 390 of the social services law is amended by adding a
27 new subdivision 10-a to read as follows:

28 10-a. Notwithstanding any other provision of this section, a director,
29 operator, program administrator, or other individual designated by the
30 licensee and authorized under regulations of the office of children and
31 family services may provide direct care and supervision of children in a
32 child day care center, group family day care home, family day care home,
33 or school-age child care program. Such participation shall not consti-
34 tute a violation of licensure or registration requirements, nor shall it
35 serve as a basis for citations, fines, or other penalties, provided that
36 all applicable background checks, training, and qualification require-
37 ments for such individual have been satisfied in accordance with the
38 regulations of the office of children and family services.

39 § 7. This act shall take effect on the one hundred eightieth day after
40 it shall have become a law.