

PROGRAM BILL # 35

GOVERNOR'S PROGRAM BILL 2016

MEMORANDUM

An Act to amend the Social Services Law, in relation to safety in child day care programs, and to repeal certain portions of such law relating thereto.

Purpose:

This bill would amend the Social Services Law (SSL) to strengthen statewide enforcement action taken against child day care programs, and to provide parents and caregivers with improved access to information about child day care programs.

Summary of provisions:

Section one of the bill would amend SSL § 390(3) to require Office of Children and Family Services (OCFS) or New York City Department of Health and Mental Hygiene (NYCDOHMH), as applicable, to require the provider to cease operations immediately, and post a notice advising parents and caregivers that the program is closed.

Section two of the bill would amend SSL § 390(8) to require OCFS to maintain a searchable registry of all child day care programs located in the State, including any program whose license, registration, or permit was revoked in the last six years.

Section three of the bill would amend SSL § 390(10) to clarify the circumstances under which OCFS may suspend or limit a child day care provider's license or registration prior to a hearing upon written notice. Presently, OCFS must find that imminent danger exists. This bill would allow OCFS to take such action when necessary to protect the public health or the health and safety of children.

Section four of the bill would amend SSL § 390(11)(a) to increase the maximum civil penalty for violations to two thousand dollars per day for licensed or regulated child day care providers that commit violations and two thousand five hundred dollars for child day care providers that are not properly licensed or registered. Presently, the maximum civil penalty for both of these categories of providers is \$500 per day. This section would also provide for a tiered system of maximum civil penalties for violations that takes into consideration the severity, and if applicable, the repeat nature of the offense.

Section five of the bill would amend SSL § 390(11)(c) to permit OCFS to collect a civil penalty in expanded circumstances for regulatory or statutory infractions that are subsequently rectified by a child day care program.

Section six of the bill would amend SSL § 390(11)(e) to increase the time frame during which an applicant for a child day care license or registration must be denied from two to three

years if OCFS previously: (i) suspended or revoked the applicant's child day care license or registration; or (ii) denied or rejected the applicant's request to renew its child day care license or registration. It would also prohibit OCFS from approving a child day care license or registration for a period of five years if the applicant was previously found to be operating an illegal child day care program on more than one occasion.

Section seven of the bill would add a new SSL § 390(11)(f) to require OCFS to deny: (i) a new application for licensure or registration; or (ii) an application to renew an existing license or registration of a child day care provider, if another child day care program operated by such provider had its permit revoked, suspended, denied or rejected by NYCDOHMH within the last three years.

Section eight of the bill would add a new SSL § 390(11-a) to authorize OCFS to commence investigations and enforcement actions against a provider's other child day care programs if one of the programs owned by the provider is suspended or revoked.

Section nine of the bill would amend SSL § 390(13) to note that the regulatory standard for child day care programs in New York City shall not be less stringent than OCFS child day care center regulations that are applicable to child day care centers in all areas outside of New York City . This section would also establish that other provisions of law relating to the operation of child day care programs and the creation of a single-statewide child care registry would apply to child day care centers in New York City. Finally, this section would explicitly state that OCFS has the authority to direct NYCDOHMH to take any action, consistent with the provision of SSL § 390, in relation to any child day care centers in New York City when needed to protect the public health or child health or safety.

Section ten would amend SSL § 390-i to require all child day care programs to post all notices of limitation, suspension or revocation of licenses.

Section eleven would provide the effective date provisions and authorize OCFS to promulgate any rule or regulation necessary to effectuate timely implementation.

Statement in Support:

Parents and caregivers deserve to know that child day care providers authorized to provide care by OCFS or NYCDOHMH provide the safest, most secure environment for children. This bill would strengthen the State's authority to take enforcement action against child day care providers that violate laws designed to keep children safe and would impose more uniform safety standards for child day care centers statewide.

This bill would also empower parents and caregivers to make the most informed choice about the care for their children. It would direct OCFS to develop a single, comprehensive, web-based, resource that would provide an accurate and complete history of a provider's recent compliance history, and would also expand the information that is required to be posted at day care programs.

Budget Implications:

None.

Effective date:

The bill would take effect within ninety days following enactment, with the exception of sections two, seven and ten. Sections two and seven of the bill would take effect eighteen months following enactment. Section ten would take effect one year from enactment.

