

**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 enforcement action taken against child day care programs, and to provide parents and caregivers with improved access to information about child day care programs. It would also better align health and safety standards for New York City-based child day care programs overseen by the New York City Department of Health and Mental Hygiene (NYCDOHMH) with child day care programs overseen by the Office of Children and Family Services (OCFS).

Summary of provisions:

Section one of the bill would amend SSL § 390(3) to require OCFS or NYCDOHMH, as applicable, to notify law enforcement when a child day care provider is operating without a valid license, registration, or permit. It would also authorize OCFS or NYCDOHMH 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of all child day care programs located in the State, including any program whose license, registration, or permit was revoked in the last six years.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 without 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 health and safety of children or the public health, including but not limited to when a child has been injured or died in a program; the physical environment in the program poses a health or hazard risk; or the provider is not adequately, sufficiently, or competently supervising children.

Section four of the bill would amend SSL § 390(11)(a) to increase the maximum penalty for violations from five hundred dollars per day to five thousand dollars per day for: (i) licensed or regulated child day care providers that commit violations; and (ii) child day care providers that are not properly licensed or registered.

Section five of the bill would repeal SSL § 390(11)(c) to remove any prohibition against OCFS's ability to collect fines 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 five 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 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 five 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 OCFS child day care center regulations are applicable to child day care centers located within the City of New York when expressly stated. 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 child health or safety or public health.

Section ten of the bill would amend SSL § 390-i to require all child day care programs to post their care inspection results as well as all notices of limitation, suspension or revocation of licenses.

Section eleven of the bill would add a new SSL § 389(3) to make the penalty for knowingly operating an illegal child day care program anywhere in the State from a misdemeanor to a Class E Felony.

Section twelve of the bill 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 their 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 child day care programs.

Budget Implications:

Revenue derived from increased statutory compliance would offset any costs associated with this bill.

Effective date:

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