ASSEMBLY, No. 202

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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SYNOPSIS

Requires mandatory registration of family day care providers.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning family day care providers and amending P.L.1987, c.27 and P.L.1993, c.350.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 2 of P.L.1987, c.27 (C.30:5B-17) is amended to read as follows:

2. The Legislature finds that it is in the public interest to fund and develop a system for the **[**voluntary**]** mandatory registration of family day care providers to assure care, maintenance and supervision for children which will be beneficial to their health, safety, welfare and development.

(cf: P.L.1987, c.27, s.2)

2. Section 3 of P.L.1987, c.27 (C.30:5B-18) is amended to read as follows:

3. As used in this act:

a. "Certificate of registration" means a certificate issued by the department to a family day care provider, acknowledging that the provider is registered pursuant to the provisions of this act.

b. "Department" means the Department of Children and Families.

c. "Family day care home" means a private residence in which child care services are provided for a fee to no less than three and no more than five children at any one time for no less than 15 hours per week; except that the department shall not exclude a family day care home with less than three children from **[**voluntary**]** registration. A child being cared for under the following circumstances is not included in the total number of children receiving child care services:

(1) The child being cared for is legally related to the provider; or

(2) Care is being provided as part of an employment agreement between the family day care provider and an assistant or substitute provider where no payment for the care is being provided.

d. "Family day care provider" means a person at least 18 years of age who is responsible for the operation and management of a family day care home.

e. "Family day care sponsoring organization" means an agency or organization which contracts with the department to assist in the registration of family day care providers in a specific geographical area.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

f. "Monitor" means to visit a family day care provider to review the provider's compliance with the standards established pursuant to this act.
(cf: P.L.2006, c.47, s.166)

3. Section 4 of P.L.1987, c.27 (C.30:5B-19) is amended to read as follows:

4. a. The department [has the responsibility and authority to] shall contract with family day care sponsoring organizations for the [voluntary] mandatory registration of family day care providers and shall adopt regulations for the operation and maintenance of family day care sponsoring organizations.

b. The department shall contract in writing with an agency or organization authorizing the agency or organization to operate as a family day care sponsoring organization to assist in the [voluntary] mandatory registration of family day care providers in a specific geographical area and to perform other functions with regard to family day care providers in accordance with the provisions of this act and the regulations adopted thereunder for which purposes the organization shall receive funds from the department based upon a fee for the service. The department shall contract with a family day care sponsoring organization for a period of one year.

c. The department shall contract with one family day care sponsoring organization to serve each county; however, the department may, as it deems appropriate, contract with additional family day care sponsoring organizations in a county, except that the department shall make all necessary arrangements to avoid duplication of effort and to promote a cooperative working relationship among the sponsoring organizations. Within one year following the effective date of this act there shall be a family day care sponsoring organization serving each county in this State.
(cf: P.L.2004, c.130, s.104)

4. Section 5 of P.L.1987, c.27 (C.30:5B-20) is amended to read as follows:

5. a. A family day care sponsoring organization with which the department contracts [is authorized to] shall register family day care providers within its designated geographical area and [is] shall be responsible for providing administrative services, including, but not limited to, training, technical assistance, and consultation to family day care providers and inspection, supervision, monitoring and evaluation of family day care providers.

b. The family day care sponsoring organization shall maintain permanent records for each family day care provider it registers, and copies of such records shall be made available to parents of children attending the family day care home, upon request. The sponsoring organization shall also maintain its own staff and

administrative and financial records. All records are open to inspection by an authorized representative of the department for the purpose of determining compliance with this act.

c. The family day care sponsoring organization shall provide a program of outreach and public relations to inform providers and parents of the provisions of this act.

(cf: P.L.2004, c.130, s.105)

5. Section 6 of P.L.1987, c.27 (C.30:5B-21) is amended to read as follows:

6. a. The family day care sponsoring organization shall evaluate a family day care provider prior to the issuance of a certificate of registration. The evaluation shall include at least one visit to the family day care home in addition to personal and health references, and shall be made part of the family day care sponsoring organization's permanent records for that provider. The certificate of registration shall be renewed every three years. The family day care provider is required to pay a registration fee of **[**$25.00**]** $25 to the sponsoring organization each time a certificate is granted or renewed.

b. The family day care sponsoring organization shall provide a minimum of one preservice training or orientation session for each applicant for a certificate of registration prior to the issuance of the certificate of registration and shall provide appropriate training, consultation and technical assistance to the family day care provider after the certificate of registration has been issued.

c. The family day care sponsoring organization **[**is authorized to**]** shall monitor and evaluate each registered family day care provider **[**at least once every two years**]** once a year. In addition, the sponsoring organization **[**shall annually**]** may monitor **[**no less than 20% of the**]** family day care providers in its designated geographic area on a random basis to insure compliance with the standards established under this act, provide assistance and insure that corrective action is taken as needed.

d. The family day care provider registered by a family day care sponsoring organization shall post and display the certificate of registration at all times in a prominent location within the home. A certificate of registration issued pursuant to this act is not transferable.

e. (Deleted by amendment, P.L.1992, c.13).

f. (Deleted by amendment, P.L.1992, c.13).

(cf: P.L.1992, c.13, s.3)

6. Section 8 of P.L.1987, c.27 (C.30:5B-23) is amended to read as follows:

8. a. The department shall also establish standards for the issuance, renewal, denial, suspension and revocation of a certificate

of registration which the family day care sponsoring organization shall apply. In developing the standards, the department shall consult with the Advisory Council on Child Care established pursuant to the "Child Care Center Licensing Act," P.L.1983, c.492 (C.30:5B-1 et seq.).

b. A person operating as a registered family day care provider who violates the provisions of this act by failing to adhere to the standards established by the department pursuant to this act shall be notified in writing of the violation of the provisions of this act and provided with an opportunity to comply with those provisions. For a subsequent violation, the person's certificate of registration may be revoked, or the person may be fined in an amount determined by the Commissioner of **[**Human Services**]** Children and Families, or both. The receipt of excessive complaints by the municipal police or other local or State authorities concerning neglect of children, excessive noise, or property damage resulting from the operation of a family day care home may be considered by the department when renewing, suspending or revoking a certificate of registration.

c. The department, before denying, suspending, revoking or refusing to renew a certificate of registration, shall give notice thereof to the provider personally, or by certified or registered mail to the last known address of the family day care home with return receipt requested. The notice shall afford the provider the opportunity to be heard. The hearing shall take place within 60 days from the receipt of the notice and shall be conducted in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. If the certificate of registration is suspended or revoked or not renewed, the provider shall so notify the parent of each child attending the family day care home in writing within 10 days of the action.

e. (Deleted by amendment, P.L.1993, c.350).

(cf: P.L.2004, c.130, s.106)

7. Section 9 of P.L.1987, c.27 (C. 30:5B-24) is amended to read as follows:

9. The **[**division shall prepare and submit to the Governor and the Legislature a report of its findings and recommendations no later than two years after the effective date of this act. The report shall include, but not be limited to, the following information: the number of family day care homes registered; the number of children served and their ages; the estimated number of family day care homes not registered; the number of inquiries by parents or guardians to the family day care sponsoring organizations or to the State-operated child care clearinghouse; and an evaluation of the need for mandatory family day care registration**]** department shall prepare and submit an annual report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1).

The report shall include, but not be limited to, the following information: the number of registered family day care homes; the number of children served and their ages; the number of requests by parents for copies of the permanent records of registered family day care providers received by the family day care sponsoring organizations; and the number of inquiries by parents or guardians to the family day care sponsoring organizations or to the State-operated child care clearinghouse. A summary of the report shall be made available on the department's official Internet site or in writing to the public, upon request.
(cf: P.L.1987, c.27, s.9)

8. Section 1 of P.L.1993, c.350 (C.30:5B-25.1) is amended to read as follows:

1. The Legislature finds and declares that:

a. The need for a variety of child care options for families with children between birth and 13 years of age has grown significantly in the past 20 years. As a result, family day care has become one of the most used forms of child care in the State.

b. In 1987, New Jersey implemented a voluntary registration system through the "Family Day Care Provider Registration Act," P.L.1987, c.27 (C.30:5B-16 et seq.). The purpose of the act was to provide Statewide health and safety standards to protect children in family day care homes. Through this voluntary system, providers [are] were able to qualify for the purchase of insurance, enroll in the Child Care Food Program, list their homes with Statewide child care resource and referral agencies, and provide care for children through State-funded programs. Parents were assured that minimum safety standards were met and the training of providers and the monitoring of homes was taking place.

c. When the 1987 law was amended in 1991 to require criminal history record background checks for all adults in the home of a family day care provider, both registrations and renewals dropped significantly. This was due to the cost of criminal history record background checks. Since the family day care registration system [is] was voluntary, providers chose to continue to operate without State supervision. In 1992, the State established an 18 month moratorium on background checks during which time[,] an alternative procedure for checking the background of prospective family day care providers could be developed.

d. It is therefore in the best interests of the State to find a system of background checks which balances the rights of family day care providers with the State's duty to protect the safety of its youngest citizens.
(cf: P.L.1993, c.350, s.1)

9. This act shall take effect on the 180th day after the date of enactment, but the Commissioner of Children and Families may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

STATEMENT

This bill makes various statutory changes to the "Family Day Care Provider Registration Act," P.L.1987, c.27 (C.30:5B-16 et seq.). Specifically, the bill requires the Department of Children and Families (DCF) to contract with family day care sponsoring organizations for the mandatory registration of family day care providers. Currently, family day care providers are registered on a voluntary basis.

The bill also stipulates that a family day care sponsoring organization shall monitor and evaluate a registered family day care provider once every year, instead of every two years as the law allows.

Under the provisions of the bill, a family day care sponsoring organization shall make available to parents copies of the permanent records it maintains for each registered family day care provider, upon request. The sponsoring organization shall also provide a program of outreach and public relations to inform parents of the provisions of the bill.

The bill requires DCF to prepare and submit an annual report to the Governor and the Legislature which includes, but is not limited to:

- the number of registered family day care homes;
- the number of children served and their ages;
- the number of requests by parents for copies of the permanent records of registered family day care providers received by family day care sponsoring organizations; and
- the number of inquiries by parents or guardians to the family day care sponsoring organizations or to the State-operated child care clearinghouse.

Finally, the bill stipulates that a summary of the report be made available on the DCF Internet site or in writing to the public, upon request.