

ASSEMBLY, No. 1398

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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SYNOPSIS

Requires prospective and current staff members of child care centers to undergo drug testing as condition of employment.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning child care centers and supplementing chapter
2 5B of Title 30 of the Revised Statutes.

3

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

6

7 1. a. As a condition of employment as a staff member of a
8 child care center licensed pursuant to the provisions of P.L.1983,
9 c.492 (C.30:5B-1 et seq.), a successful applicant for employment
10 shall consent to and undergo drug testing for controlled dangerous
11 substances as provided in subsection f. of this section. The drug
12 testing shall be at the expense of the child care center.

13 If a successful applicant for employment at a licensed child care
14 center on or after the effective date of this act tests positive for the
15 unlawful use of any controlled dangerous substance, or refuses to
16 submit to drug testing, the person shall be removed from
17 consideration for employment.

18 b. A person who is employed as a staff member of a licensed
19 child care center shall be subject to random drug testing for
20 controlled dangerous substances performed at such intervals as the
21 Commissioner of Children and Families deems appropriate.

22 c. A person who is employed as a staff member of a licensed
23 child care center may be required to undergo drug testing for
24 controlled dangerous substances if the staff member's immediate
25 supervisor has reasonable suspicion to believe that the staff member
26 is illegally using a controlled dangerous substance, based on the
27 staff member's visible impairment or professional misconduct
28 which relates adversely to patient care or safety. The supervisor
29 shall report this information to his immediate supervisor in a form
30 and manner specified by the commissioner, and if the supervisor
31 concurs that there is reasonable suspicion to believe that a staff
32 member is illegally using a controlled dangerous substance, that
33 supervisor shall notify the owner or sponsor of the child care center
34 and request approval in writing for ordering the staff member to
35 undergo drug testing. Drug testing of a staff member shall not be
36 ordered without the written approval of the owner or sponsor of the
37 child care center.

38 d. A staff member of a licensed child care center who tests
39 positive for the unlawful use of any controlled dangerous substance
40 may be referred to a substance use treatment program or terminated
41 from employment, as applicable, based on the employment policies
42 and procedures of the child care center. A staff member who
43 refuses to submit to drug testing shall be terminated from
44 employment.

45 e. The drug testing required pursuant to subsection b. of this
46 section shall be at the expense of the Department of Children and
47 Families, and the drug testing required pursuant to subsection c. of

1 this section shall be at the expense of the licensed child care center
2 employing the staff member who is being drug tested.

3 f. Drug testing shall be performed by an outside drug testing
4 facility in a manner prescribed by the commissioner.

5 g. The commissioner shall notify all affected staff members of
6 licensed child care centers of the provisions of this section.

7 h. As used in this section, "staff member" means a person
8 employed by or working at a licensed child care center on a
9 regularly scheduled basis during the center's operating hours,
10 including full-time, part-time, voluntary, contract, consulting, and
11 substitute staff.

12
13 2. Pursuant to the "Administrative Procedure Act," P.L.1968,
14 c.410 (C.52:14B-1 et seq.), the commissioner shall adopt rules and
15 regulations necessary to effectuate the purposes of this act,
16 including, but not limited to, rules and regulations necessary to
17 ensure the confidentiality of the person undergoing drug testing,
18 and that drug test results are not reported to law enforcement
19 authorities.

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21 3. This act shall take effect on the first day of the ninth month
22 next following enactment, except the commissioner may take any
23 anticipatory administrative action in advance as shall be necessary
24 for the implementation of this act.

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STATEMENT

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29 This bill stipulates that as a condition of employment, a
30 successful applicant for employment as a staff member of a child
31 care center licensed pursuant to the provisions of P.L.1983, c.492
32 (C.30:5B-1 et seq.) is required to undergo drug testing for
33 controlled dangerous substances. The drug testing would be at the
34 expense of the child care center.

35 As defined in the bill, "staff member" means a person employed
36 by or working at a licensed child care center on a regularly
37 scheduled basis during the center's operating hours, including full-
38 time, part-time, voluntary, contract, consulting, and substitute staff,
39 whether compensated or not.

40 If a successful applicant for employment as a staff member of a
41 child care center on or after the effective date of the bill tests
42 positive for any controlled dangerous substance, or refuses to
43 submit to drug testing, the person would be removed from
44 consideration for employment.

45 The bill also stipulates that a staff member of a child care center
46 would be subject to random drug testing for controlled dangerous
47 substances at intervals deemed appropriate by the Commissioner of

1 Children and Families. Such random drug testing would be at the
2 expense of the Department of Children and Families.

3 A staff member could also be required to undergo drug testing
4 for controlled dangerous substances if the staff member's immediate
5 supervisor has reasonable suspicion to believe that the staff member
6 is illegally using a controlled dangerous substance, based on the
7 staff member's visible impairment or professional misconduct
8 which relates adversely to patient care or safety.

9 The staff member's supervisor would be required to report this
10 information to his immediate supervisor, and if the supervisor
11 believes there is reasonable suspicion to believe that an employee is
12 illegally using a controlled dangerous substance, that supervisor
13 would notify the owner or sponsor of the child care center and
14 request approval, in writing, for the staff member to undergo drug
15 testing. Drug testing based on a staff member's suspected use of a
16 controlled dangerous substance will be at the expense of the
17 licensed child care center employing the staff member.

18 Under the bill's provisions, a staff member of a child care center
19 who tests positive for the unlawful use of any controlled dangerous
20 substance could be referred to a substance use treatment program,
21 or terminated from employment, as applicable, based on the child
22 care center's employment policies and procedures. A staff member
23 who refuses to submit to drug testing would be terminated from
24 employment.

25 The bill also: mandates that drug testing be performed by an
26 outside drug testing facility; requires the commissioner to notify all
27 affected staff members of child care centers of the provisions of the
28 bill; and directs the commissioner to adopt rules and regulations
29 ensuring the confidentiality of staff members undergoing drug
30 testing and that drug test results are not reported to law enforcement
31 authorities.