

SENATE, No. 307

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

Requires successful applicants for employment 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
9 P.L.1983, c.492 (C.30:5B-1 et seq.), a successful applicant for
10 employment shall consent to and undergo drug testing for
11 controlled dangerous substances as provided in subsection f. of this
12 section. The drug testing shall be at the expense of the applicant.

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 may be
40 referred to employee advisory services or terminated from
41 employment, as applicable, based on the employee's job title. A
42 staff member who refuses to submit to drug testing shall be
43 terminated from employment. In all cases, however, the employee
44 shall retain any available right of review by the Civil Service
45 Commission.

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

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

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

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

10
11 2. Pursuant to the "Administrative Procedure Act,"
12 P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall adopt
13 rules and regulations necessary to effectuate the purposes of this
14 act, including, but not limited to, rules and regulations necessary to
15 ensure the confidentiality of the person undergoing drug testing,
16 and that drug test results are not reported to law enforcement
17 authorities.

18
19 3. This act shall take effect on the first day of the ninth month
20 next following enactment, except the commissioner may take any
21 anticipatory administrative action in advance as shall be necessary
22 for the implementation of this act.

23 24 25 STATEMENT

26
27 This bill stipulates that as a condition of employment, a
28 successful applicant for employment as a staff member of a child
29 care center licensed pursuant to the provisions of P.L.1983, c.492
30 (C.30:5B-1 et seq.) is required to undergo drug testing for
31 controlled dangerous substances. The drug testing would be at the
32 expense of the applicant.

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

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

43 The bill also stipulates that a staff member of a child care center
44 would be subject to random drug testing for controlled dangerous
45 substances. A staff member could also be required to undergo drug
46 testing for controlled dangerous substances if the staff member's
47 immediate supervisor has reasonable suspicion to believe that the
48 staff member is illegally using a controlled dangerous substance,

1 based on the staff member's visible impairment or professional
2 misconduct which relates adversely to patient care or safety.

3 The staff member's supervisor would be required to report this
4 information to his immediate supervisor, and if the supervisor
5 believes there is reasonable suspicion to believe that an employee is
6 illegally using a controlled dangerous substance, that supervisor
7 would notify the owner or sponsor of the child care center and
8 request approval, in writing, for the staff member to undergo drug
9 testing.

10 Under the bill's provisions, a staff member of a child care center
11 who tests positive for the unlawful use of any controlled dangerous
12 substance could be referred to employee advisory services, or
13 terminated from employment, as applicable, based on the
14 employee's job title. A staff member who refuses to submit to drug
15 testing would be terminated from employment, and all staff
16 members would retain any available right of review by the Civil
17 Service Commission.

18 The bill also: requires the Department of Children and Families
19 to cover the costs of drug testing of any person who is employed as
20 a staff member of a child care center or if there is reasonable
21 suspicion that the staff member is illegally using a controlled
22 dangerous substance; mandates that drug testing be performed by an
23 outside drug testing facility; stipulates that the Commissioner of
24 Children and Families notify all affected staff members of child
25 care centers of the provisions of the bill; and directs the
26 commissioner to adopt rules and regulations ensuring the
27 confidentiality of staff members undergoing drug testing and that
28 drug test results are not reported to law enforcement authorities.