

SENATE, No. 1294

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 10, 2020

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

SYNOPSIS

Permits family day care providers to care for up to 10 children; requires criminal history record background checks for family day care providers and certain household members.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning family day care homes, amending P.L.1987,
2 c.27, and supplementing 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. Section 2 of P.L.1987, c.27 (C.30:5B-17) is amended to read
8 as follows:

9 2. The Legislature finds that it is in the public interest to fund
10 and develop a system for the **【voluntary】** mandatory registration of
11 family day care providers to assure care, maintenance and
12 supervision for children which will be beneficial to their health,
13 safety, welfare and development.
14 (cf: P.L.1987, c.27, s.2)

15
16 2. Section 3 of P.L.1987, c.27 (C.30:5B-18) is amended to read
17 as follows:

18 3. As used in this act:

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

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

24 c. "Family day care home" means a private residence in which
25 child care services are provided for a fee to no less than three and
26 no more than **【five】** ten children at any one time for no less than 15
27 hours per week; except that the department shall **【not】** exclude a
28 family day care home with less than three children from
29 **【voluntary】** mandatory registration. A family day care home
30 providing child care services to more than five children shall meet
31 all applicable health and safety requirements in addition to the
32 provisions of P.L.1987, c.27 (C.30:5B-16 et seq.), and have at least
33 one assistant or substitute provider who has completed training
34 required pursuant to section 6 of P.L.1987, c.27 (C.30:5B-21)
35 present at all times providing care to the children. A child being
36 cared for under the following circumstances is not included in the
37 total number of children receiving child care services:

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

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

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

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.

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

5 f. "Monitor" means to visit a family day care provider to
6 review the provider's compliance with the standards established
7 pursuant to **【this act】** P.L.1987, c.27 (C.30:5B-16 et seq.).
8 (cf: P.L.2006, c.47, s.166)
9

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

12 4. a. The department has the responsibility and authority to
13 contract with family day care sponsoring organizations for the
14 **【voluntary】** mandatory registration of family day care providers
15 and shall adopt regulations for the operation and maintenance of
16 family day care sponsoring organizations.

17 b. The department shall contract in writing with an agency or
18 organization authorizing the agency or organization to operate as a
19 family day care sponsoring organization to assist in the **【voluntary】**
20 mandatory registration of family day care providers in a specific
21 geographical area and to perform other functions with regard to
22 family day care providers in accordance with the provisions of this
23 act and the regulations adopted thereunder for which purposes the
24 organization shall receive funds from the department based upon a
25 fee for the service. The department shall contract with a family day
26 care sponsoring organization for a period of one year.

27 c. The department shall contract with one family day care
28 sponsoring organization to serve each county; however, the
29 department may, as it deems appropriate, contract with additional
30 family day care sponsoring organizations in a county, except that
31 the department shall make all necessary arrangements to avoid
32 duplication of effort and to promote a cooperative working
33 relationship among the sponsoring organizations. Within one year
34 following the effective date of this act there shall be a family day
35 care sponsoring organization serving each county in this State.

36 (cf: P.L.2004, c.130, s.104)
37

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

40 5. a. A family day care sponsoring organization with which the
41 department contracts **【is authorized to】** shall register family day
42 care providers within its designated geographical area and **【is】** shall
43 be responsible for providing administrative services, including, but
44 not limited to, training, technical assistance, and consultation to
45 family day care providers and inspection, supervision, monitoring,
46 and evaluation of family day care providers.

1 b. The family day care sponsoring organization shall maintain
2 permanent records for each family day care provider it registers,
3 and copies of such records shall be made available to parents of
4 children attending the family day care home, upon request. The
5 sponsoring organization shall also maintain its own staff and
6 administrative and financial records. All records are open to
7 inspection by an authorized representative of the department for the
8 purpose of determining compliance with this act.

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

12 (cf: PL.2004, c.130, s.105)

13

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

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

26 b. The family day care sponsoring organization shall provide a
27 minimum of one preservice training or orientation session for each
28 applicant for a certificate of registration prior to the issuance of the
29 certificate of registration and shall provide appropriate training,
30 consultation, and technical assistance to the family day care
31 provider and any assistant or substitute provider employed by the
32 provider or volunteering to assist in the provision of child care
33 services after the certificate of registration has been issued.

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

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

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

1 f. (Deleted by amendment, P.L.1992, c.13).
2 (cf: P.L.1992, c.13, s.3)
3

4 6. (New section) a. As a condition of issuance or renewal of a
5 certificate of registration pursuant to section 5 of P.L.1987, c.27
6 (C.30:5B-20), the Department of Children and Families shall ensure
7 that a State and federal criminal history record background check is
8 conducted on a person registering as a prospective or current family
9 day care provider, an assistant provider or substitute provider of the
10 prospective or current family day care provider or any household
11 member 14 years of age or older of the prospective or current
12 family day care provider. The background check shall be conducted
13 by the Division of State Police in the Department of Law and Public
14 Safety and shall include an examination of its own files and the
15 obtaining of a similar examination by federal authorities.

16 b. If a prospective or current family day care provider, an
17 assistant provider or substitute provider of the prospective or
18 current family day care provider, or any household member 14
19 years of age or older of the family day care provider, refuses to
20 consent to, or cooperate in, the securing of a criminal history record
21 background check, a family day care sponsoring organization shall
22 deny the prospective or current family day care provider's
23 application for a certificate or renewal of registration.

24 c. If a prospective or current family day care provider, an
25 assistant provider or substitute provider of the prospective or
26 current family day care provider, or any household member 14
27 years of age or older of the family day care provider has a record of
28 criminal history, the department shall advise the sponsoring
29 organization of the results of the criminal history record
30 background check within a time period to be determined by the
31 department.
32

33 7. (New section) a. The department shall not issue a certificate
34 or renewal of registration to a prospective or current family day
35 care provider if a criminal history record background check of a
36 person registering as a prospective or current family day care
37 provider, an assistant provider or substitute provider of the
38 prospective or current family day care provider, or any household
39 member 14 years of age or older of the prospective or current
40 family day care provider, reveals a record of conviction for any of
41 the following crimes and offenses:

42 (1) In New Jersey, any crime or disorderly persons offense as
43 follows:

44 (a) a crime against a child, including endangering the welfare of
45 a child and child pornography pursuant to N.J.S.2C:24-4, and child
46 molestation as set forth in N.J.S.2C:14-1 et seq.;

47 (b) abuse, abandonment, cruelty, or neglect of a child pursuant to
48 R.S.9:6-3;

- 1 (c) endangering the welfare of an incompetent person pursuant to
- 2 N.J.S.2C:24-7.1;
- 3 (d) sexual assault, criminal sexual contact or lewdness pursuant
- 4 to N.J.S.2C:14-2 through N.J.S.2C:14-4;
- 5 (e) murder pursuant to N.J.S.2C:11-3 or manslaughter pursuant
- 6 to N.J.S.2C:11-4;
- 7 (f) stalking pursuant to P.L.1992, c.209 (C.2C:12-10);
- 8 (g) kidnapping and related offenses including criminal restraint;
- 9 false imprisonment; interference with custody; criminal coercion; or
- 10 enticing a child into a motor vehicle, structure, or isolated area
- 11 pursuant to N.J.S.2C:13-1 through 2C:13-6;
- 12 (h) arson pursuant to N.J.S.2C:17-1, or causing or risking
- 13 widespread injury or damage, which would constitute a crime of the
- 14 second degree pursuant to N.J.S.2C:17-2;
- 15 (i) terroristic threats pursuant to N.J.S.2C:12-3;
- 16 (j) aggravated assault, which would constitute a crime of the
- 17 second or third degree pursuant to subsection b. of N.J.S.2C:12-1;
- 18 (k) robbery, which would constitute a crime of the first degree
- 19 pursuant to N.J.S.2C:15-1;
- 20 (l) burglary, which would constitute a crime of the second degree
- 21 pursuant to N.J.S.2C:18-2;
- 22 (m) domestic violence pursuant to P.L.1991, c.261 (C.2C:25-17
- 23 et seq.); or
- 24 (n) an attempt or conspiracy to commit any of the crimes or
- 25 offenses listed in paragraphs (a) through (m) of this subsection.
- 26 (2) In any other state or jurisdiction, of conduct which, if
- 27 committed in New Jersey, would constitute any of the crimes or
- 28 disorderly persons offenses described in paragraph (1) of this
- 29 subsection.
- 30 b. Notwithstanding the provisions of subsection a. of this
- 31 section to the contrary, a certificate of registration or renewal of a
- 32 certificate of registration shall not be denied on the basis of any
- 33 conviction disclosed by a criminal history record check performed
- 34 pursuant to this act, if the individual has affirmatively demonstrated
- 35 to the Commissioner of Children and Families clear and convincing
- 36 evidence of rehabilitation. In determining whether an individual has
- 37 affirmatively demonstrated rehabilitation, the following factors
- 38 shall be considered:
- 39 (1) the nature and responsibility of the position which the
- 40 convicted individual would hold;
- 41 (2) the nature and seriousness of the offense;
- 42 (3) the circumstances under which the offense occurred;
- 43 (4) the date of the offense;
- 44 (5) the age of the individual when the offense was committed;
- 45 (6) whether the offense was an isolated or repeated incident;
- 46 (7) any social conditions which may have contributed to the
- 47 offense; and

1 (8) any evidence of rehabilitation, including good conduct in
2 prison or in the community, counseling or psychiatric treatment
3 received, acquisition of additional academic or vocational
4 schooling, successful participation in correctional work-release
5 programs, or the recommendation of those who have had the
6 individual under their supervision.

7 c. Notwithstanding the provisions of this section to the
8 contrary, a prospective or current provider's application for a
9 certificate or renewal of registration shall not be denied under this
10 act on the basis of any conviction disclosed by a criminal history
11 record background check performed pursuant to this act without an
12 opportunity to challenge the accuracy of the disqualifying criminal
13 history record pursuant to section 9 of P.L. , c. (C.) (pending
14 before the Legislature as this bill).

15

16 8. (New section) The department shall be responsible for the
17 cost of processing and funding all criminal history record
18 background checks conducted pursuant to section 6 of P.L. ,
19 c. (C.) (pending before the Legislature as this bill). The
20 department shall also be responsible for paying the cost of obtaining
21 the fingerprints or other identifier authorized by the Division of
22 State Police, unless that service is available at no cost to the
23 employee or individual seeking employment.

24

25 9. (New section) a. The Commissioner of Children and
26 Families is authorized to exchange fingerprint data with, and to
27 receive information from, the Division of State Police in the
28 Department of Law and Public Safety and the Federal Bureau of
29 Investigation.

30 Upon receipt of the criminal history record information for a
31 person registering as a prospective or current family day care
32 provider, an assistant provider or substitute provider, or any
33 household member 14 years of age or older of the family day care
34 provider from the Federal Bureau of Investigation and the Division
35 of State Police, the Department of Children and Families shall
36 notify the family day care provider, in writing, of the department's
37 decision to approve or deny the family day care provider's
38 application for a certificate or renewal of registration pursuant to
39 section 7 of P.L. , c. (C.) (pending before the Legislature as
40 this bill). If the application for a certificate or renewal of
41 registration is denied, the convictions that constitute the basis for
42 the denial shall be identified in the written notice to the family day
43 care provider. The family day care provider shall have 14 days from
44 the date of the written notice of denial to challenge the accuracy of
45 the criminal history record information. If no challenge is filed or if
46 the determination of the accuracy of the criminal history record
47 information upholds the denial, the department shall notify the

1 family day care sponsoring organization that the family day care
2 provider has been denied a certificate or renewal of registration.

3 b. The Division of State Police shall promptly notify the
4 department in the event a prospective or current family day care
5 provider, an assistant provider or substitute provider of the
6 prospective or current family day care provider, or any household
7 member 14 years of age or older of the family day care provider,
8 who was the subject of a criminal history record background check
9 conducted pursuant to section 7 of P.L. , c. (C.) (pending
10 before the Legislature as this bill), is convicted of a crime or
11 offense in this State after the date the background check was
12 performed. Upon receipt of such notification, the department shall
13 make a determination regarding the family day care provider's
14 certificate of registration.

15
16 10. (New section) The Commissioner of Children and Families
17 shall use federal block grant funds from the Child Care and
18 Development Block Grant, or any other federal funds available for
19 this purpose, to help defray the cost to the State for the criminal
20 history record background checks conducted pursuant to section 6
21 of P.L. , c. (C.) (pending before the Legislature as this bill).

22
23 11. The Commissioner of Children and Families shall, in
24 accordance with the "Administrative Procedure Act," P.L.1968,
25 c.410 (C.52:14B-1 et seq.), adopt any rules and regulations as the
26 commissioner deems necessary to carry out the provisions of this
27 act.

28
29 12. This act shall take effect on the first day of the seventh
30 month next following enactment, except the Commissioner of
31 Children and Families may take such anticipatory administrative
32 action in advance thereof as shall be necessary for the
33 implementation of this act.

34
35
36 STATEMENT

37
38 This bill requires the mandatory registration of family day care
39 homes. Currently, the "Family Day Care Provider Registration
40 Act," P.L.1987, c.27 (C.30:5B-16 et seq.) allows for voluntary
41 registration but does not require family day care homes to register
42 with the State.

43 The bill also increases, from five to 10, the number of children
44 that may be cared for by a registered family day care provider and
45 excludes a family day care home with less than three children from
46 mandatory registration. Under current law, a family day care
47 provider is permitted to care for no less than three and not more
48 than five children and may voluntarily register with the State even

1 if the provider's home has less than three children.

2 The bill requires a family day care home providing child care
3 services to more than five children to meet all applicable health and
4 safety code requirements, in addition to all of the provisions of the
5 "Family Day Care Provider Registration Act," P.L.1987, c.27
6 (C.30:5B-16 et seq.). The family day care home would also be
7 required to have at least one assistant or substitute provider,
8 employed by the provider or volunteering to assist in the provision
9 of child care services, trained by a family day care sponsoring
10 organization present at all times providing care to the children.

11 Currently, a family day care home is not required to meet health
12 and safety code requirements, regardless of the number of children
13 being cared for in the home, or to have another assistant or
14 substitute provider, employed by the provider or volunteering to
15 assist in the provision of child care services, with the requisite
16 training present at all times providing care for the children in the
17 home.

18 A sponsoring organization would also: make copies of records
19 maintained by the organization available to parents of children
20 attending a family day care home, upon request; monitor and
21 evaluate each registered family day care home once every three
22 years, instead of every two years as currently allowed by law; and
23 be permitted to monitor family day care homes in a specific
24 geographical area on a random basis.

25 Current law does not require a sponsoring organization to
26 provide the parents of children attending a family day care home
27 with records maintained by the organization or to monitor family
28 day care homes in a specific geographical area on a random basis.

29 The provisions of the bill also provide that as a condition of
30 issuance or renewal of a certificate of registration as a family day care
31 provider, the Department of Children and Families (DCF) is to ensure
32 that a State and federal criminal history record background check is
33 conducted on a person registering as a prospective or current family
34 day care provider, an assistant provider or substitute provider of the
35 prospective or current family day care provider, or any household
36 member 14 years of age or older of the prospective or current family
37 day care provider. Currently, registered family day care providers
38 submit to DCF child abuse registry checks pursuant to P.L.1993, c.350
39 (C.30:5B-25.1 et seq.) but are not required to undergo criminal history
40 record background checks.

41 The bill provides that DCF would not issue a certificate or renewal
42 of registration to a prospective or current family day care provider if
43 the criminal history record background checks required under the bill
44 reveal a record of conviction for any of the 14 crimes and offenses
45 enumerated in the bill.

46 Additionally, refusal to consent to, or cooperate in, the securing of
47 a criminal history record background check would result in denial of a
48 certificate of registration as a family day care provider.

1 The costs of the criminal history record background checks are to
2 be paid by the DCF.

3 The bill also provides for the Division of State Police to notify
4 DCF in the event a person who was the subject of a criminal history
5 record background check under the bill is convicted of a crime or
6 offense in this State after the date the background check was
7 performed.

8 The bill also requires the Commissioner of Children and Families
9 to use federal block grant funds from the Child Care and Development
10 Block Grant or any other available federal funds to help defray the
11 cost to the State for the criminal history record background checks
12 conducted pursuant to this bill.