

New Jersey Statutes Annotated \_Title 30. Institutions and Agencies \_Subtitle 2. Division of Child Protection and Permanency \_Chapter 5B. Child Care Centers

N.J.S.A. T. 30, Subt. 2, Ch. 5B, Refs & Annos

N.J.S.A. 30:5B-1

30:5B-1. Short title; Child Care Center Licensing Act

This act shall be known and may be cited as the “Child Care Center Licensing Act.”

**SENATE REVENUE, FINANCE AND APPROPRIATIONS COMMITTEE STATEMENT**

**Senate, No. 1674--L.1983, c. 492**

Senate Bill No. 1674 OCR provides for the licensing and inspection of child care centers. The centers to be licensed are those that provide care to six or more children six years old or younger who attend the facility for less than twenty-four hours per day. The Commissioner of Human Services is directed to establish licensing and inspection fees.

The bill specifically exempts from licensing provisions of this act and the program standards to be promulgated pursuant to the act, any center operated by an aid society of an accredited church that was exempt from the licensing provisions of N.J.S. 18A:70-1, but the center must be in compliance with the facilities standards promulgated by the Department of Human Services.

An advisory council of at least 15 members is created in section 14 of the bill. The council is to be appointed by the Directors of the Division of Youth and Family Services and the Division on Women.

The bill appropriates \$125,000.00, of which \$100,000.00 is to the Department of Human Services to implement the act and \$25,000.00 to the council to implement its responsibilities.

The bill takes effect 120 days following enactment.

The committee amendments restore the licensing period from two to three years. They also provide that church sponsored child care centers are not required to be licensed pursuant to this act, but would be certified so long as facility and life safety standards were met. The age of the children was reduced from eight to six and the total appropriation was reduced from \$300,000.00 to \$125,000.00. The advisory council is to be appointed by the two division directors and is to include not less than 15 members.

**N.J.S.A. 30:5B-2**

**30:5B-2. Legislative findings and declarations**

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The Legislature finds that it is in the public interest to license and regulate child care programs and facilities in order to insure the continuous growth and development of children. The Legislature further finds that comprehensive child care programs are of value to the health, safety, education, physical, social and intellectual growth and general well-being of the children served and that the programs strengthen and supplement the family unit. The Legislature further finds that child care programs provide places for preventive health measures, early detection of illnesses and handicaps and development of special talents and interests. The Legislature further finds that the State and parents have a responsibility in the education of children and that the role of the teacher as caregiver is essential to the continuous development of children. The Legislature further finds that experience indicates that the development of child care centers should be encouraged, whether publicly or privately supported, to provide a full range of services benefiting the child, parent and community and that there is a great need for expansion of existing centers and for the establishment of additional centers and other child care programs.

N.J.S.A. 30:5B-3

30:5B-3. Definitions

Effective: July 1, 2006

As used in this act:

a. "Child" means any person under the age of 13.

b. "Child care center" or "center" means any facility which is maintained for the care, development or supervision of six or more children who attend the facility for less than 24 hours a day. In the case of a center operating in a sponsor's home, children who reside in the home shall not be included when counting the number of children being served. This term shall include, but shall not be limited to, day care centers, drop-in centers, nighttime centers, recreation centers sponsored and operated by a county or municipal government recreation or park department or agency, day nurseries, nursery and play schools, cooperative child centers, centers for children with special needs, centers serving sick children, infant-toddler programs, school age child care programs, employer supported centers, centers that had been licensed by the Department of Human Services prior to the enactment of the "Child Care Center Licensing Act," P.L.1983, c. 492 (C.30:5B-1 et seq.) and kindergartens that are not an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth, seventh or eighth. This term shall not include:

(1) (Deleted by amendment, P.L.1992, c. 95).

(2) A program operated by a private school which is run solely for educational purposes. This exclusion shall include kindergartens, prekindergarten programs or child care centers that are an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth, seventh or eighth;

(3) Centers or special classes operated primarily for religious instruction or for the temporary care of children while persons responsible for such children are attending religious services;

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(4) A program of specialized activity or instruction for children that is not designed or intended for child care purposes, including, but not limited to, Boy Scouts, Girl Scouts, 4-H clubs, and Junior Achievement, and single activity programs such as athletics, gymnastics, hobbies, art, music, and dance and craft instruction, which are supervised by an adult, agency or institution;

(5) Youth camps required to be licensed under the “New Jersey Youth Camp Safety Act,” P.L.1973, c. 375 (C.26:12-1 et seq.). To qualify for an exemption from licensing under this provision, a program must have a valid and current license as a youth camp issued by the Department of Health and Senior Services. A youth camp sponsor who also operates a child care center shall secure a license from the Department of Children and Families for the center;

(6) Day training centers operated by or under contract with the Division of Developmental Disabilities within the Department of Human Services;

(7) Programs operated by the board of education of the local public school district that is responsible for their implementation and management;

(8) A program such as that located in a bowling alley, health spa or other facility in which each child attends for a limited time period while the parent is present and using the facility;

(9) A child care program operating within a geographical area, enclave or facility that is owned or operated by the federal government;

(10) A family day care home that is registered pursuant to the “Family Day Care Provider Registration Act,” P.L.1987, c. 27 (C.30:5B-16 et seq.); and

(11) Privately operated infant and preschool programs that are approved by the Department of Education to provide services exclusively to local school districts for handicapped children, pursuant to N.J.S.18A:46-1 et seq.

c. “Commissioner” means the Commissioner of Children and Families.

d. “Department” means the Department of Children and Families.

e. “Parent” means a natural or adoptive parent, guardian, or any other person having responsibility for, or custody of, a child.

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f. "Person" means any individual, corporation, company, association, organization, society, firm, partnership, joint stock company, the State or any political subdivision thereof.

g. "Sponsor" means any person owning or operating a child care center.

**N.J.S.A. 30:5B-4**

**30:5B-4. License requirement; separate locations; posting; nontransferability; changes in sponsors**

No person shall conduct, maintain or operate a child care center unless a license has been obtained from the department pursuant to the terms of this act. A separate license shall be obtained for each location. The license shall be posted and displayed by the sponsor at all times in a prominent location within the center. No license issued pursuant to this act shall be transferable. A change in the sponsor of a licensed child care center shall require notification to the department within 14 calendar days and reapplication for licensure.

**N.J.S.A. 30:5B-5**

**30:5B-5. Authority to license and inspect; rules and regulations; standards; inspections; objections to medical examinations or treatment**

**Effective: September 14, 2000**

a. The department shall have responsibility and authority to license and inspect child care centers. The commissioner shall promulgate rules and regulations for the operation and maintenance of child care centers which shall prescribe standards governing the safety and adequacy of the physical plant or facilities; the education, health, safety, general well-being and physical and intellectual development of the children; the quality and quantity of food served; the number of staff and the qualifications of each staff member; the implementation of a developmentally appropriate program; the maintenance and confidentiality of records and furnishing of required information; the transportation of children; and the administration of the center. The commissioner shall also promulgate rules and regulations for license application, issuance, renewal, expiration, denial, suspension and revocation. In developing, revising or amending such rules and regulations, the commissioner shall consult with the Child Care Advisory Council created pursuant to section 14 of P.L.1983, c. 492 (C.30:5B-14), and with other appropriate administrative officers and agencies, including the Departments of Health and Senior Services, Education, Labor, Community Affairs and the Division of Motor Vehicles giving due weight to their recommendations. The rules and regulations promulgated pursuant to this act shall be adopted and amended in accordance with the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.).

b. The department shall conduct an on site facility inspection and shall evaluate the program of the child care center to determine whether the center complies with the provisions of this act.

c. Any rule or regulation involving physical examination, immunization or medical treatment shall include an appropriate exemption for any child whose parent or parents object thereto on the ground that it conflicts with the tenets and practice of a recognized church or religious denomination of which the parent or child is an adherent or

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member.

d. The department shall have the authority to inspect and examine the physical plant or facilities of a child care center and to inspect all documents, records, files or other data maintained pursuant to this act during normal operating hours and without prior notice.

e. The department shall request the appropriate State and local fire, health and building officials to conduct examinations and inspections to determine compliance with State and local ordinances, codes and regulations by a child care center. The inspections shall be conducted and the results reported to the department within 60 days after the request.

f. Nothing in this act shall be interpreted to permit the adoption of any code or standard which exceeds the standards established pursuant to the "State Uniform Construction Code Act," P.L.1975, c. 217 (C.52:27D-119 et seq.).

g. Any rules and regulations adopted by the department pursuant to this act prescribing standards governing the safety and adequacy of the physical plant or facilities of child care centers shall not apply to a child care center operated by a non-profit organization in a public school building used as a public school.

**N.J.S.A. 30:5B-5.1**

**30:5B-5.1. Requirements for certificate of approval; exemptions**

a. The department shall issue a certificate of approval to those centers meeting the requirements set forth in this section.

b. A center shall be required to comply only with physical facility and life or safety requirements of the department's regulations and with the requirements for administration and control of medication, environmental sanitation and reporting communicable diseases when a center:

(1) Operates on a seasonal or short-term basis for eight weeks or less and does not offer a continuous program that extends across the three-year period of licensure; or

(2) Was operating on or before May 16, 1984 and was exempt from the licensing provisions because it was operated by an aid society of a properly organized and accredited church.

c. A center certified pursuant to this section shall be exempt from the other rules and regulations for the operation and maintenance of child care centers promulgated pursuant to section 5 of P.L.1983, c. 492 (C. 30:5B-5).

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d. Nothing shall prevent a center exempted under this section from securing a regular license on a voluntary basis.

**N.J.S.A. 30:5B-5.2**

**30:5B-5.2. Radon testing of child care centers; posting of test results**

**Effective: September 14, 2000**

a. Except as provided in subsection c. of this section, within six months of the effective date of this act, the owner of any building in which a child care center licensed pursuant to the provisions of P.L.1983, c. 492 (C.30:5B-1 et seq.) is located shall test or cause to be tested the space in the building in which the child care center is located for the presence of radon gas and radon progeny. The test shall be conducted at least once every five years. If the building has been tested less than five years prior to the effective date of this act, then the test shall be performed within five years of that test and once every five years thereafter.

b. The provisions of section 4 of P.L.1986, c. 83 (C.26:2D-73) to the contrary notwithstanding, any owner of a building who tests for the presence of radon gas and radon progeny pursuant to this act or who has performed the test within five years prior to the effective date of this act shall post, within 30 days of the completion of the testing procedures, or within 30 days of the effective date of this act if the test has been performed prior thereto, the results of the test, and any measures taken or proposed to mitigate the presence of radon gas or radon progeny, at a location in the building which is readily visible to persons having responsibility for any child that attends the child care center.

c. The provisions of P.L.1997, c. 44 (C.30:5B-5.2) shall not apply to a child care center operated by a non-profit organization in a public school building used as a public school, until September 1, 2001.

**N.J.S.A. 30:5B-5.3**

**30:5B-5.3. Repealed by L.2005, c. 383, § 11, eff. April 15, 2006**

**Effective: April 15, 2006**

**N.J.S.A. 30:5B-5.4**

**30:5B-5.4. Regulations**

**Effective: July 1, 2006**

The Commissioner of Children and Families, pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), shall adopt regulations to provide for the implementation by licensed child care centers, registered family day care homes, and unified child care agencies of such procedures as the commissioner deems necessary to effectuate the purposes of subsection f. of section 4 of P.L.1997, c. 272 (C.30:4I-4).

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N.J.S.A. 30:5B-5.5

**30:5B-5.5. Posting of Consumer Confidence Reports; sponsor of child care center**

Effective: January 14, 2001

a. The sponsor of a child care center who is required to prepare a Consumer Confidence Report pursuant to the "Safe Drinking Water Act Amendments of 1996,"<sup>42 U.S.C.s.300f et al.</sup>, or who receives a Consumer Confidence Report from the owner or operator of a public community water system, shall post each Consumer Confidence Report it prepares or receives in at least one conspicuous location in the child care center.

b. The sponsor of a child care center who is a supplier of water but is not required to prepare a Consumer Confidence Report pursuant to the "Safe Drinking Water Act Amendments of 1996," and who is required to conduct tests of its drinking water by the Department of Environmental Protection, shall post a chart setting forth the results of the water tests, including the level of detection and, as appropriate for each contaminant, the maximum contaminant level, highest level allowed, action level, treatment technique, or other expression of an acceptable level, for each contaminant, in at least one conspicuous location in the child care center. The chart also shall include in bold print the statement required to be included in a Consumer Confidence Report pursuant to 40 CFR s.141.154(a). The chart shall not include contaminants that are not detected.

c. As used in this section, "child care center" shall mean any child care center licensed pursuant to P.L.1983, c. 492 (C.30:5B-1 et seq.) and "sponsor" shall have the same meaning as in section 3 of P.L.1983, c. 492 (C.30:5B-3).

d. The provisions of this section shall be enforced by the Department of Human Services. The Department of Human Services shall not be required to conduct on-site inspections to determine compliance with this section more frequently than any on-site inspections of child care centers are conducted by the department pursuant to any other law.

N.J.S.A. 30:5B-6

**30:5B-6. License application; contents; issuance; expiration; renewal**

a. Any person operating a child care center on the effective date of this act or desiring to operate a child care center shall make application in the manner and on the forms prescribed by the commissioner. The license application form shall include, but shall not be limited to, the following information: the name and address of the child care center, its sponsor, the staff, the qualifications of the staff members, each member of the board of directors of the corporation, the child care center operator if different from the sponsor, a description of the center's premises, facilities and programs, the number and age of children to be enrolled in the center and the hours of its operation.

b. If a child care center meets the requirements of this act and of the rules and regulations promulgated hereunder, the department shall issue a license to the center. A license shall be valid for a period of three years and may be renewed at the end of that period, subject to continued compliance with the provisions of this act.

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N.J.S.A. 30:5B-6.1

30:5B-6.1. Definitions

Effective: June 29, 2012

As used in P.L.1997, c. 254 (C.30:5B-6.1 et seq.):<sup>1</sup>

“Department” means the Department of Children and Families.

“Division” means the Division of Child Protection and Permanency in the Department of Children and Families.

“Staff member” means any owner, sponsor, director, or person employed by or working at a child care center on a regularly scheduled basis during the center’s operating hours, including full-time, part-time, voluntary, contract, consulting, and substitute staff, whether compensated or not.

“Child care center” or “center” means any facility which is maintained for the care, development or supervision of six or more children under 13 years of age who attend the facility for less than 24 hours a day, and which is subject to State licensure or life-safety approval, pursuant to the provisions of the “Child Care Center Licensing Act,” P.L.1983, c. 492 (C.30:5B-1 to 30:5B-15).

N.J.S.A. 30:5B-6.2

30:5B-6.2. Licensing; substantiated incidents of abuse or neglect

Effective: August 27, 2004

a. As a condition of securing a new or renewal license or approval, the division shall conduct a check of the division’s child abuse records to determine if an incident of child abuse or neglect has been substantiated pursuant to section 4 of P.L.1971, c. 437 (C.9:6-8.11), against any staff member of a child care center.

b. The department shall not issue a regular license or approval to a center until the department determines that no staff member employed by or working at the center has a record of substantiated child abuse or neglect.

c. The department shall deny, revoke or refuse to renew the center’s license or approval, as appropriate, if the department determines that an incident of child abuse or neglect by an owner or sponsor of a center has been substantiated.

N.J.S.A. 30:5B-6.3

30:5B-6.3. Consent to record check

Effective: August 27, 2004



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- a. The staff member shall provide prior written consent for the division to conduct a check of its child abuse records.
  
- b. If the owner or sponsor of the center refuses to consent to, or cooperate in, the securing of a division child abuse record information check, the department shall suspend, deny, revoke or refuse to renew the center's license or approval, as appropriate.
  
- c. If a staff member of a center, other than the owner or sponsor, refuses to consent to, or cooperate in, the securing of a division child abuse record information check, the person shall be immediately terminated from employment at the center.

**N.J.S.A. 30:5B-6.4**

**30:5B-6.4. New employees; child abuse record check**

- a. Within two weeks after a new staff member's employment, the owner or sponsor of a center shall notify the division to conduct a check of its child abuse records to determine if an incident of child abuse or neglect has been substantiated against the staff member.
  
- b. Until the results of the child abuse record information check on a new staff member have been received by the center owner or sponsor, the staff member shall not be left alone at the center caring for children.
  
- c. If the division determines that an incident of child abuse or neglect by the staff member has been substantiated, the division shall advise the center owner or sponsor of the results of the child abuse record information check and the center shall immediately terminate the person from employment at the center.

**N.J.S.A. 30:5B-6.5**

**30:5B-6.5. Time limit for completing record check**

The division shall complete the child abuse record information check within 45 days after receiving the request for the check.

**N.J.S.A. 30:5B-6.6**

**30:5B-6.6. Limitations; incidents under consideration for purposes of this act**

**Effective: August 27, 2004**

The department shall consider, for the purposes of this act<sup>1</sup>, any incidents of child abuse or neglect that were substantiated on or after June 29, 1995, to ensure that perpetrators have had an opportunity to appeal a substantiated

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finding of abuse or neglect; except that the department may consider substantiated incidents prior to that date if the department, in its judgment, determines that the individual poses a risk of harm to children in a child care center. In cases involving incidents substantiated prior to June 29, 1995, the department shall offer the individual an opportunity for a hearing to contest its action restricting the individual from employment in a child care center.

**N.J.S.A. 30:5B-6.7**

**30:5B-6.7. Adoption of rules and regulations; child abuse record checks**

In accordance with the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), the Department shall adopt rules and regulations necessary to implement the provisions of this act,<sup>1</sup> including but not limited to:

- a. Procedures for centers to follow in submitting requests for child abuse record information checks on staff members;
- b. Implementation of an appeals process to be used in the case of a suspension, denial, revocation, or refusal to renew a license or approval based on a finding of substantiated child abuse or neglect; and
- c. Establishment of procedures for conducting a child abuse record information check and providing the center with the results of the check.

**N.J.S.A. 30:5B-6.8**

**30:5B-6.8. Report to Governor and Legislature; child abuse record information check program**

The Commissioner of Human Services shall report to the Governor and the Legislature no later than three years from the effective date of this act<sup>1</sup> on the effectiveness of the child abuse record information checks in screening staff members and sponsors of child care centers. The commissioner shall include in the report recommendations for modifying the provisions of this act which he believes to be necessary and appropriate.

**N.J.S.A. 30:5B-6.9**

**30:5B-6.9. Fees; collection, disbursement**

a. Notwithstanding the provisions of section 2 of P.L.1985, c. 69 (C.53:1-20.6), a staff member subject to this act shall be charged a fee established by the department to help defray the cost to the State of the division's child abuse record information check. The center may use its own discretion in offering to pay or reimburse the staff member for the cost of the child abuse record information check.

b. The money collected by the division for child abuse record information checks shall be deposited in a special fund

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and shall constitute dedicated revenues to be used as necessary by the division to effectuate the purpose of this act.

N.J.S.A. 30:5B-6.10

30:5B-6.10. Definitions

Effective: June 29, 2012

As used in sections 1 through 7 and 9 through 12 of P.L.2000, c. 77 (C. 30:5B-6.10 et seq.):

“Child care center” or “center” means any facility which is maintained for the care, development, or supervision of six or more children under 13 years of age who attend the facility for less than 24 hours a day, and which is subject to State licensure or life-safety approval pursuant to P.L.1983, c. 492 (C.30:5B-1 et seq.).

“Department” means the Department of Children and Families.

“Division” means the Division of Child Protection and Permanency in the Department of Children and Families.

“Staff member” means a person 18 years of age or older who owns, sponsors, or directs a child care center, or who is employed by or works in a child care center on a regularly scheduled basis during the center’s operating hours, including full-time, part-time, voluntary, contract, consulting, and substitute staff, whether compensated or not.

## SENATE BUDGET AND APPROPRIATIONS COMMITTEE STATEMENT

**Senate, No. 1170--L.2000, c. 77**

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 1170 (1R).

This bill requires criminal history record background checks for existing staff and employment applicants at licensed and life-safety approved child care centers in New Jersey, including those centers that contract with the State’s Abbott school districts and other school districts providing early childhood education programs.

Specifically, the bill requires that all child care center owners, sponsors, staff members and employment applicants undergo criminal history record background checks through the New Jersey Division of State Police and the Federal Bureau of Investigation as a condition of continued or new employment at child care centers in the State. If an owner or sponsor of a child care center refuses to consent to or cooperate in such a background check, the center’s license or life-safety approval (as appropriate) would be subject to suspension, revocation, or non-renewal.

Staff members and employment applicants with a record of conviction for certain specified crimes would be permanently disqualified from employment at, or ownership or sponsorship of, a child care center. Disqualifying crimes and offenses include:

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- (1) a crime against a child, including endangering the welfare of a child and child pornography under N.J.S.2C:24-4, and child molestation as set forth in N.J.S.2C:14-1 et seq.;
- (2) abuse, abandonment or neglect of a child under R.S.9:6-3;
- (3) endangering the welfare of an incompetent person under N.J.S.2C:24-7;
- (4) sexual assault, criminal sexual contact or lewdness under N.J.S.2C:14-2 through N.J.S.2C:14-4;
- (5) murder under N.J.S.2C:11-3 or manslaughter under N.J.S.2C:11-4;
- (6) stalking under P.L.1992, c.209 (C.2C:12-10);
- (7) kidnapping and related offenses, including criminal restraint; false imprisonment; interference with custody; criminal coercion; or enticing a child into a motor vehicle, structure or isolated area under N.J.S.2C:13-1 through 2C:13-6;
- (8) arson pursuant to N.J.S.2C:17-1, or causing or risking widespread injury or damage which would constitute a crime of the second degree under N.J.S.2C:17-2;
- (9) terroristic threats pursuant to N.J.S.2C:12-3; and
- (10) an attempt or conspiracy to commit any of the above crimes or offenses.

The bill provides that in the case of any crime or offense other than those listed above, an applicant or staff member may be eligible for employment or ownership or sponsorship of a child care center if the Division of Youth and Family Services (DYFS) determines that the person has affirmatively demonstrated to DYFS clear and convincing evidence of rehabilitation. The following factors shall be considered in making this determination:

- (1) the nature and responsibility of the position at the child care center which the convicted person would hold, has held or currently holds, as the case may be;
- (2) the nature and seriousness of the offense;
- (3) the circumstances under which the offense occurred;
- (4) the date of the offense;
- (5) the age of the person when the offense was committed;

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(6) whether the offense was an isolated or repeated incident;

(7) any social conditions which may have contributed to the offense; and

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

The bill provides that DYFS shall make the final determination regarding the employment of an applicant or staff member with a criminal conviction.

Upon receipt of the results of a criminal history record background check for an employment applicant or staff member, DYFS would be required to notify the person, and the child care center in question, of the individual's qualification or disqualification for employment or service. The individual would have 14 days from the date of a notice of disqualification to challenge the accuracy of the background check.

To ensure that the background check information is kept current, the bill provides that the Division of State Police shall promptly notify DYFS in the event an applicant or staff member who was the subject of a criminal history record background check conducted pursuant to this bill, is convicted of a crime or offense in this State after the date on which the background check was performed. Upon receipt of such notification, DYFS shall make a determination regarding the employment of the applicant or staff member. Further, the bill provides that if a child care center owner or sponsor has knowledge of criminal charges pending against a staff member, the owner or sponsor shall promptly notify DYFS to determine whether any action concerning the staff member is necessary in order to ensure the safety of the children who attend the center.

The bill provides immunity from liability to a child care center for acting upon or disclosing information about the disqualification or termination to another center seeking to employ that person if the center has (1) received notice from DYFS that the applicant or staff member has been determined by DYFS to be disqualified from employment in a child care center, or (2) terminated the employment of a staff member because the person was disqualified from employment at the center on the basis of a conviction of a crime pursuant to this bill after commencing employment at the center.

The bill requires the Commissioner of Human Services to report to the Governor and Legislature within three years on the effectiveness of the criminal history record background checks in screening applicants and staff members of child care centers.

Finally, the bill provides that the Department of Human Services (DHS) shall be responsible for the cost of processing and funding all criminal history record background checks required under the legislation.

#### COMMITTEE AMENDMENTS

Committee amendments to this bill (1) clarify that the requirement, applicable to child care centers

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licensed or granted life-safety approval prior to the enactment of the legislation, that a background check be conducted on active staff members at the time of the renewal of the license or approval would apply only upon the first such renewal, and (2) extend the responsibility of DHS to pay the cost of processing and funding all criminal history record background checks required under the legislation to include the cost of obtaining the fingerprints or other identifier authorized by the Division of State Police (unless that service is available at no cost to the employee or individual seeking employment).

**FISCAL IMPACT**

As noted above, DHS is to be responsible for paying the cost of performing the background checks required under the bill. The department indicates that the cost of a background check is \$63 and estimates that the number of persons employed at licensed day care centers in New Jersey is currently 50,000 and rising, indicating that the total cost for the conduct of checks on current personnel would be about \$3.15 million. The bill provides, however, that performance of the required checks of personnel at existing licensed centers will occur, not simultaneously for all facilities in a single year, but rather triennially as the license for each facility comes up for renewal, so that the initial cost of the bill's implementation will be spread over three years. The mitigating effect of this phased implementation on that initial cost is offset in part by the annual turnover among day care staff, currently about 40%. Taking all factors into account, DHS estimates that the cost of the background checks for which the legislation provides will be about \$2.6 million in each of the first three years after enactment and decline to about \$1.5 million in the fourth year and thereafter.

It is noted that the FY2000 adjusted appropriation and the FY2001 recommended budget allocate \$1.3 million and \$2.6 million, respectively, in federal Temporary Assistance to Needy Families (TANF) funds to support costs associated with this legislation.

**N.J.S.A. 30:5B-6.11**

**30:5B-6.11. Criminal history background check as condition of licensing**

**Effective: January 22, 2001**

As a condition of securing or maintaining a license or life-safety approval, a child care center owner or sponsor shall ensure that a criminal history record background check is conducted on all staff members of the center.

**N.J.S.A. 30:5B-6.12**

**30:5B-6.12. Suspension, denial, revocation or refusal to renew licenses**

**Effective: August 27, 2004**

a. If the owner or sponsor of the child care center refuses to consent to, or cooperate in, the securing of a criminal history record background check, the department shall suspend, deny, revoke or refuse to renew the center's license or life-safety approval, as appropriate.

b. If a staff member of a child care center, other than the owner or sponsor, refuses to consent to, or cooperate in, the securing of a criminal history record background check, the person shall be immediately terminated from

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employment at the center.

**N.J.S.A. 30:5B-6.13**

**30:5B-6.13. Application to certain child care centers**

**Effective: January 13, 2008**

a. In the case of a child care center established after the effective date of P.L.2000, c. 77 (C.30:5B-6.10 et al.), the owner or sponsor of the center, prior to the center's opening, shall ensure that a request for a criminal history record background check on each staff member is sent to the Department of Human Services for processing by the Division of State Police in the Department of Law and Public Safety and the Federal Bureau of Investigation.

A staff member shall not be left alone as the only adult caring for a child at the center until the criminal history record background has been reviewed by the department pursuant to P.L.2000, c. 77 (C.30:5B-6.10 et al.).

b. In the case of a child care center licensed or granted life-safety approval prior to the effective date of P.L.2000, c. 77 (C.30:5B-6.10 et al.), the owner or sponsor of the center, at the time of the center's first renewal of license or life-safety approval next following that effective date, shall ensure that a request for a criminal history record background check for each staff member is sent to the department for processing by the Division of State Police and the Federal Bureau of Investigation.

c. Within two weeks after a new staff member begins employment at a child care center, the owner or sponsor of the center shall ensure that a request for a criminal history record background check is sent to the department for processing by the Division of State Police and the Federal Bureau of Investigation.

A new staff member shall not be left alone as the only adult caring for a child at the center until the criminal history record background has been reviewed by the department pursuant to P.L.2000, c. 77 (C.30:5B-6.10 et al.).

d. In the case of child care centers under contract to implement early childhood education programs in school districts, the department shall ensure that a criminal history record background check is conducted on all current staff members as soon as practicable, but no later than six months after the effective date of P.L.2000, c. 77 (C.30:5B-6.10 et al.).

**N.J.S.A. 30:5B-6.14**

**30:5B-6.14. Permanent disqualification from employment, ownership or sponsorship; conviction of certain offenses**

**Effective: January 22, 2001**

A current staff member and an individual seeking employment shall be permanently disqualified from employment at, or ownership or sponsorship of, a child care center if the criminal history record background check of the staff

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member or individual reveals a record of conviction for any of the following crimes and offenses:

a. In New Jersey, any crime or disorderly persons offense as follows:

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

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

(3) endangering the welfare of an incompetent person pursuant to N.J.S.2C:24-7;

(4) sexual assault, criminal sexual contact or lewdness pursuant to N.J.S .2C:14-2 through N.J.S.2C:14-4;

(5) murder pursuant to N.J.S.2C:11-3 or manslaughter pursuant to N.J.S.2C:11-4;

(6) stalking pursuant to P.L.1992, c. 209 (C.2C:12-10);

(7) kidnapping and related offenses including criminal restraint; false imprisonment; interference with custody; criminal coercion; or enticing a child into a motor vehicle, structure or isolated area pursuant to N.J.S.2C:13-1 through 2C:13-6;

(8) arson pursuant to N.J.S.2C:17-1, or causing or risking widespread injury or damage which would constitute a crime of the second degree pursuant to N.J.S.2C:17-2;

(9) terroristic threats pursuant to N.J.S.2C:12-3; and

(10) an attempt or conspiracy to commit any of the crimes or offenses listed in paragraphs (1) through (9) of this subsection.

b. In any other state or jurisdiction, of conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in subsection a. of this section.

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c. Notwithstanding the provisions of this section to the contrary, an individual shall not be disqualified from employment or ownership or sponsorship under P.L.2000, c. 77 (C.30:5B-6.10 et al.) on the basis of any conviction disclosed by a criminal history record background check performed pursuant to P.L.2000, c. 77 (C.30:5B-6.10 et al.) without an opportunity to challenge the accuracy of the disqualifying criminal history record pursuant to the provisions of section 8 of P.L.2000, c. 77 (C.53:1-20.9b).

**N.J.S.A. 30:5B-6.15**

**30:5B-6.15. Termination**

**Effective: August 27, 2004**

a. If a staff member of a child care center is convicted of a crime specified in section 5 of P.L.2000, c. 77 (C.30:5B-6.14) after the effective date of P.L.2000, c. 77 (C.30:5B-6.10 et al.), the staff member shall be terminated from employment at, or ownership or sponsorship of, a child care center.

b. For crimes and offenses other than those cited in section 5 of P.L.2000, c. 77 (C.30:5B-6.14), an applicant or staff member may be eligible for employment at, or ownership or sponsorship of, a child care center if the department determines that the person has affirmatively demonstrated to the department clear and convincing evidence of the person's rehabilitation pursuant to subsection c. of this section.

c. In determining whether a person has affirmatively demonstrated rehabilitation, the following factors shall be considered:

(1) the nature and responsibility of the position at the child care center which the convicted person would hold, has held or currently holds, as the case may be;

(2) the nature and seriousness of the offense;

(3) the circumstances under which the offense occurred;

(4) the date of the offense;

(5) the age of the person when the offense was committed;

(6) whether the offense was an isolated or repeated incident;

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(7) any social conditions which may have contributed to the offense; and

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

d. The department shall make the final determination regarding the employment of an applicant or staff member with a criminal conviction.

**N.J.S.A. 30:5B-6.16**

**30:5B-6.16. Knowledge of pending criminal charges; notification**

**Effective: August 27, 2004**

If a child care center owner or sponsor has knowledge that a staff member has criminal charges pending against the staff member, the owner or sponsor shall promptly notify the department to determine whether any action concerning the staff member is necessary in order to ensure the safety of the children who attend the center.

**N.J.S.A. 30:5B-6.17**

**30:5B-6.17. Limitation on liability for disclosure of information**

**Effective: August 27, 2004**

a. A child care center that has received an employment application from an individual or currently employs a staff member shall be immune from liability for acting upon or disclosing information about the disqualification or termination to another center seeking to employ that person if the center has:

(1) received notice from the department that the applicant or staff member, as applicable, has been determined by the department to be disqualified from employment in a child care center pursuant to section 5 or 6 of P.L.2000, c. 77 (C.30:5B-6.14 or C. 30:5B-6.15); or

(2) terminated the employment of a staff member because the person was disqualified from employment at the center on the basis of a conviction of a crime pursuant to section 5 or 6 of P.L.2000, c. 77 (C.30:5B-6.14 or C.30:5B-6.15) after commencing employment at the center.

b. A child care center which acts upon or discloses information pursuant to subsection a. of this section shall be presumed to be acting in good faith unless it is shown by clear and convincing evidence that the center acted with

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actual malice toward the person who is the subject of the information.

**N.J.S.A. 30:5B-6.18**

**30:5B-6.18. Applicability**

**Effective: January 13, 2008**

Notwithstanding the provisions of any other law to the contrary, the provisions of P.L.1986, c. 116 (C.18A:6-7.1 et seq.) shall not apply to employees of a child care center licensed or life-safety approved by the Department of Human Services pursuant to P.L.1983, c. 492 (C.30:5B-1 et seq.) if the center contracts with a school district to implement an early childhood education program.

**N.J.S.A. 30:5B-6.19**

**30:5B-6.19. Report on effectiveness**

**Effective: January 22, 2001**

The commissioner shall report to the Governor and Legislature no later than three years after the effective date of P.L.2000, c. 77 (C.30: 5B-6.10 et al.) on the effectiveness of the criminal history record background checks in screening applicants and staff members of child care centers. The commissioner shall include in the report recommendations for modifying the provisions of P.L.2000, c. 77 (C.30:5B-6.10 et al.) that the commissioner deems to be necessary and appropriate.

**N.J.S.A. 30:5B-6.20**

**30:5B-6.20. Responsibility for costs**

**Effective: January 22, 2001**

The department shall be responsible for the cost of processing and funding all criminal history record background checks required pursuant to P.L.2000, c. 77 (C.30:5B-6.10 et al.). The department shall also be responsible for paying the cost of obtaining the fingerprints or other identifier authorized by the Division of State Police, unless that service is available at no cost to the employee or individual seeking employment.

**N.J.S.A. 30:5B-6.21**

**30:5B-6.21. Rules and regulations**

**Effective: January 22, 2001**

The commissioner shall adopt rules and regulations necessary to implement the provisions of this act in accordance with the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.).

**N.J.S.A. 30:5B-7**

Current with laws effective through L.2014, c. 9 and J.R. No. 1.

**30:5B-7. Temporary license; renewal; expiration**

If the department determines that, although in substantial compliance, a child care center does not meet all the applicable provisions of this act and the rules and regulations promulgated hereunder, but that the extent of the center's deviation from legal requirements is not deemed hazardous to the education, health, safety, general well-being, and physical and intellectual development of the children, the department may issue a temporary license which may be issued for a period up to six months. The department may renew the temporary license as often as it deems necessary, but no child care center may operate with a temporary license for more than a total of 18 months.

**N.J.S.A. 30:5B-8**

**30:5B-8. Fees**

The commissioner shall establish a minimum fee to be paid by each child care center at the time of application for a license and at every renewal of a license.

**N.J.S.A. 30:5B-9**

**30:5B-9. Denial, suspension, revocation or refusal to renew licenses**

The department may deny, suspend, revoke or refuse to renew a license for good cause, including, but not limited to:

- a. Failure of a child care center or its sponsor to comply with the provisions of this act;
- b. Violation of the terms and conditions of a license by a child care center or its sponsor;
- c. Use of fraud or misrepresentation by a child care center or its sponsor in obtaining a license or in the subsequent operation of the center;
- d. Refusal by a center or its sponsor to furnish the department with required files, reports or records;
- e. Refusal by a center or its sponsor to permit an inspection by an authorized representative of the department during normal operating hours;

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f. Any conduct, engaged in or permitted, which adversely affects or presents a serious hazard to the education, health, safety and general well-being and physical and intellectual development of a child attending the child care center, or which otherwise demonstrates unfitness to operate a child care center;

g. Failure to provide a developmental or age-appropriate program that meets the physical, social, emotional and cognitive needs of the children in the center as set forth by regulation; or

h. Failure of a child care center or its sponsor to comply with the provisions of section 1 of P.L.1998, c.35 (C.30:5B-5.3).

**N.J.S.A. 30:5B-10**

**30:5B-10. Notice; hearing**

a. The department, before denying, suspending, revoking or refusing to renew a license, shall give notice to the sponsor personally, or by certified or registered mail to the last known address of the sponsor with return receipt requested. The notice shall afford the sponsor with an opportunity to be heard. The hearing shall take place within 60 days from the issuance or mailing 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.).

b. If the center's license is suspended or revoked, the parent of a child in the center shall receive notice thereof personally and in writing, by the center's sponsor or operator.

**N.J.S.A. 30:5B-11**

**30:5B-11. Injunctions**

The commissioner is authorized to institute a civil action in a court of competent jurisdiction for injunctive relief to enjoin the operation of a child care center whenever the commissioner determines that:

a. There is an imminent danger or hazard that threatens the health and safety of children in the center;

b. The center or its sponsor has repeatedly violated the provisions of this act; or

c. A child care center has opened or is operating without a license or without complying with the provisions of this act.

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The commissioner may, in addition, request such other relief as is deemed necessary. In any such action the court may proceed in a summary manner.

**N.J.S.A. 30:5B-12**

**30:5B-12. Review**

Any person aggrieved by a final decision of the commissioner is entitled to seek judicial review in the Appellate Division of the Superior Court. All petitions for review shall be filed in accordance with the rules of the court.

**N.J.S.A. 30:5B-13**

**30:5B-13. Violations; crimes of fourth degree**

Any person who operates or assists in the operation of a child care center which does not have a license or temporary license, or who has used fraud or misrepresentation in obtaining a license or in the subsequent operation of a center, or who offers, advertises or provides any service not authorized by a valid license or who violates any other provision of this act shall be guilty of a crime of the fourth degree.

**N.J.S.A. 30:5B-14**

**30:5B-14. Advisory council; membership; duties; grants or contributions**

**Effective: June 29, 2012**

a. The Director of the Division of Family Development in the Department of Human Services, a designee of the Commissioner of Children and Families, and the Director of the Division on Women in the Department of Children and Families shall establish a Child Care Advisory Council which shall consist of at least 15 individuals who have experience, training, or other interests in child care issues. To the extent possible, the directors shall designate members of existing councils or task forces heretofore established on child care in New Jersey as the advisory council.

b. The advisory council shall:

(1) Review rules and regulations or proposed revisions to existing rules and regulations governing the licensing of child care centers;

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(2) Review proposed statutory amendments governing the licensing of child care centers and make recommendations to the commissioner;

(3) Advise the commissioner on the administration of the licensing responsibilities under this act;

(4) Advise the Commissioners of Human Services and Children and Families and other appropriate units of State government on the needs, priorities, programs, and policies relating to child care throughout the State;

(5) Study and recommend alternative resources for child care; and

(6) Facilitate employer supported child care through information and technical assistance.

c. The advisory council may accept from any governmental department or agency, public or private body, or any other source grants or contributions to be used in carrying out its responsibilities under P.L.1983, c. 492 (C.30:5B-1 et seq.).

N.J.S.A. 30:5B-15

30:5B-15. Reports

The Child Care Advisory Council shall prepare and submit to the Senate and General Assembly an annual report of its findings and recommendations.

N.J.S.A. 30:5B-15.1

30:5B-15.1. Prohibition upon products deemed unsafe on center premises; exemptions; list of unsafe products

Effective: March 1, 2008

a. A child care center licensed pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.) may not use or have on its premises a children's product deemed unsafe in accordance with section 2 of P.L.2007, c. 124 (C.56:8-53.2). This subsection does not apply to an antique or collectible children's product if it is not used by, or accessible to, any child in the child care center.

b. The Department of Children and Families shall make the list created by the Division of Consumer Affairs regarding unsafe children's products pursuant to section 3 of P.L.2007, c. 124 (C.56:8-53.3), available to child care centers by posting the list on the department's website or providing electronic access to the list through its website to the list's posting on the Internet by the Division of Consumer Affairs, so that child care centers may more effectively inspect children's products and identify unsafe children's products.

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c. (1) The department shall prepare a certification form and require each center to complete the certification form during the process of licensing, renewal, or periodic updating.

(2) The department shall retain the certification form completed by each center in each respective center's licensing file.

d. Each child care center shall:

(1) as part of the licensing, licensing renewal, or periodic inspection process conducted by the department, certify in writing that it has reviewed the list created by the Division of Consumer Affairs regarding unsafe children's products pursuant to section 3 of P.L.2007, c. 124 (C.56: 8-53.3), and that there are no unsafe products in the center; and

(2) review the list periodically and make the list accessible to the center staff members and to parents of the children who attend the center.

e. The department may revoke or refuse to renew the license of any child care center, or refuse to issue a license to a center, should the center not comply with any section of P.L.2007, c. 124 (C.56:8-53.1 et al.).

**N.J.S.A. T. 30, Subt. 2, Ch. 5B, Refs & Annos**

**N.J.S.A. 30:5B-16**

**30:5B-16. Short title**

This act shall be known and may be cited as the "Family Day Care Provider Registration Act."

**N.J.S.A. 30:5B-17**

**30:5B-17. Legislative findings**

**The Legislature finds that it is in the public interest to fund and develop a system for the voluntary 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.**

**N.J.S.A. 30:5B-18**

Current with laws effective through L.2014, c. 9 and J.R. No. 1.



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30:5B-18. Definitions

Effective: July 1, 2006

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.

f. "Monitor" means to visit a family day care provider to review the provider's compliance with the standards established pursuant to this act.

N.J.S.A. 30:5B-19

30:5B-19. Authority and responsibility of division to contract with family day care sponsoring organizations; regulations for operation and maintenance; geographic areas; fees; time

Effective: August 27, 2004

Current with laws effective through L.2014, c. 9 and J.R. No. 1.

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a. The department has the responsibility and authority to contract with family day care sponsoring organizations for the voluntary 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 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.

N.J.S.A. 30:5B-20

30:5B-20. Family day care sponsoring organizations; duties and responsibilities; records; staff

Effective: August 27, 2004

a. A family day care sponsoring organization with which the department contracts is authorized to register family day care providers within its designated geographical area and is 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. 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 of the provisions of this act.

N.J.S.A. 30:5B-21

30:5B-21. Evaluation, inspection and monitoring of family day care providers; renewal of registration; list of providers; record of complaints; preservice training and orientation; display of certificate

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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 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 monitor and evaluate each registered family day care provider at least once every two years. In addition, the sponsoring organization shall annually 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).

**N.J.S.A. 30:5B-22**

**30:5B-22. Family day care providers' qualifications and requirements**

a. Each family day care provider registered by a family day care sponsoring organization shall be of good character with sufficient intelligence, stability, energy and maturity to care for children and shall guarantee that each child being cared for within the provider's home is under competent supervision at all times. The provider shall provide appropriate discipline, excluding physical punishment, as necessary.

b. Each registered family day care home shall meet minimum life safety requirements, including adequate space, light, and ventilation, in addition to providing clean, nonhazardous facilities and furnishings.

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N.J.S.A. 30:5B-22.1

30:5B-22.1. Legislative findings and declarations; child care delivery system as a valued and vital service

Effective: January 17, 2010

The Legislature finds and declares that:

a. Family child care providers in the State of New Jersey provide an invaluable and essential service to working parents and guardians by providing a healthy, safe and productive environment for their children while they are engaged in work or training;

b. The State recognizes the importance of these services and recognizes the need to continue and improve both the quality of care and the living and working conditions of the providers;

c. The Department of Children and Families is vested with the authority to regulate and set standards for the registration of family child care homes, and the Department of Human Services provides funding for the administration and enforcement of the operation of family childcare homes, establishes reimbursement rates, and administers child care subsidy services for the Child Care Development Fund;

d. To ensure quality standards of care, it is in the public interest for New Jersey to maintain a child care delivery system that encourages the recruitment and retention of quality family child care providers to deliver these vital services;

e. In 2006, a majority of family child care providers selected a union to be their representative by individually signed authorization cards, and the State Board of Mediation certified the Child Care Workers Union (CCWU), a union formed by the American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME) and the Communications Workers of America, AFL-CIO (CWA) to be the providers' exclusive majority representative; and

f. The State subsequently entered into an agreement with the CCWU in its capacity as exclusive majority representative for the family child care providers.

N.J.S.A. 30:5B-22.2

30:5B-22.2. Authority of the State to negotiate with family child care providers; selection of a representative; written agreement

Effective: January 17, 2010

**New Jersey Statutes Annotated \_Title 30. Institutions and Agencies \_Subtitle 2. Division of Child Protection and Permanency \_Chapter 5B. Child Care Centers**

a. The Commissioner of the Department of Human Services or, if applicable, the Commissioner of the Department of Children and Families, on behalf of the State of New Jersey, shall, in a timely manner, meet in good faith with a recognized exclusive majority representative of all family child care providers who are registered and approved as family day care providers pursuant to P.L.1987, c. 27 (C.30:5B-16 et seq.), for the purpose of entering into an agreement, or negotiating a renewal or extension, with any agreed upon modifications, of any agreement in effect upon the effective date of this act, regarding reimbursement rates, collection and payment of fees, dispute resolution, reporting procedures, benefits, health and safety conditions, and any other matters that would improve recruitment and retention of qualified family child care providers and the quality of the programs they provide, subject to the provisions of this section. Although family child care providers are not State employees, the subjects which may be included in an agreement shall be consistent with the areas which are considered negotiable for public employees who are subject to the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c. 100 (C.34:13A-1 et seq.). Nothing in this act shall require that an agreement be reached on any particular matter, provided the parties act in good faith.

b. The purpose of this section is to permit family child care providers to select an exclusive majority representative to represent them as provided in this section. This act is intended by the Legislature to provide state action immunity under federal and State antitrust laws for any actions of the State, or joint actions of family child care providers and their exclusive majority representative, to the extent those actions are authorized by this act. The protections and prohibitions regarding unfair practices provided by section 1 of P.L.1974, c. 123 (C.34:13A-5.4) shall apply to any family child care providers subject to this act, to the State as their employer, and to their employee organizations, representatives or agents.

c. Any agreement entered into, renewed or extended pursuant to this section shall be embodied in writing, shall be binding upon the State of New Jersey, and shall provide for the payment of union dues and representation fees in a manner consistent with the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c. 100 (C.34:13A-1 et seq.) which apply to the payment of union dues and representation fees by public employees.

d. For the purposes of this act, "family child care provider" shall include all in-home, voluntary, registered, approved family friend and neighbor caregivers and nationally accredited child care providers included in any agreement entered into under the provisions of Executive Order 23, signed August 2, 2006.

**N.J.S.A. 30:5B-22.3**

**30:5B-22.3. Agreement not to interfere with certain rights or employment statuses**

**Effective: January 17, 2010**

No provision of this act or provision of any agreement entered into, renewed or extended pursuant to this act, shall be construed as:

a. Interfering with the rights of parents or guardians to choose family child care providers;

b. Granting family child care providers any right to engage in a strike or collective cessation of the delivery of child

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care services; or

c. Granting family child care providers status as employees of the State for the purposes of the “New Jersey Tort Claims Act,” N.J.S.59:1-1 et seq., the “Temporary Disability Benefits Law,” P.L.1948, c. 110 (C.43:21-25 et seq.), the New Jersey “unemployment compensation law,” R.S.43:21-1 et seq., and the workers’ compensation law, R.S.34:15-1 et seq., nor status as employees of the State for any other purposes except for the purposes indicated in sections 1 and 2 of this act,<sup>1</sup> including selecting representatives to negotiate and enter into agreements with the State as provided in section 2.

**N.J.S.A. 30:5B-22.4**

**30:5B-22.4. Scope of authority of the Department and the Commissioner**

**Effective: January 17, 2010**

No action may be taken under this act that would derogate from the status, functions or authority of the Department of Human Services in its capacity as Lead Agency pursuant to the State Plan for Child Care Development Services filed by the Commissioner of Human Services with the U.S. Secretary of Health and Human Services. No provision of this act shall supersede the authority of the Commissioner of the Department of Children and Families under the provisions of P.L.1987, c. 27 (C.30:5B-16 et seq.).

**N.J.S.A. 30:5B-23**

**30:5B-23. Issuance, renewal, denial, suspension and revocation of certificates of registration**

**Effective: August 27, 2004**

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, 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.).

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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).

**N.J.S.A. 30:5B-23.1**

**30:5B-23.1 to 30:5B-23.7. Repealed by L.1993, c. 350, § 8, eff. Dec. 29, 1993**

**N.J.S.A. 30:5B-23.2**

**30:5B-23.1 to 30:5B-23.7. Repealed by L.1993, c. 350, § 8, eff. Dec. 29, 1993**

**N.J.S.A. 30:5B-23.3**

**30:5B-23.1 to 30:5B-23.7. Repealed by L.1993, c. 350, § 8, eff. Dec. 29, 1993**

**N.J.S.A. 30:5B-23.4**

**30:5B-23.1 to 30:5B-23.7. Repealed by L.1993, c. 350, § 8, eff. Dec. 29, 1993**

**N.J.S.A. 30:5B-23.5**

**30:5B-23.1 to 30:5B-23.7. Repealed by L.1993, c. 350, § 8, eff. Dec. 29, 1993**

**N.J.S.A. 30:5B-23.6**

**30:5B-23.1 to 30:5B-23.7. Repealed by L.1993, c. 350, § 8, eff. Dec. 29, 1993**

**N.J.S.A. 30:5B-23.7**

**30:5B-23.1 to 30:5B-23.7. Repealed by L.1993, c. 350, § 8, eff. Dec. 29, 1993**

**N.J.S.A. 30:5B-24**

**30:5B-24. Report to Governor and Legislature**

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.

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N.J.S.A. 30:5B-25

30:5B-25. Regulations

Effective: July 1, 2006

The Commissioner of Children and Families shall, pursuant to the “Administrative Procedure Act,” P.L. 1968, c. 410 (C. 52:14B-1 et seq.), adopt regulations necessary to implement the provisions of this act.

N.J.S.A. 30:5B-25.1

**30:5B-25.1. Legislative findings and declarations**

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 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 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.

**SENATE COMMERCE COMMITTEE STATEMENT**

**Senate, No. 2204--L.1993, c. 350**

Current with laws effective through L.2014, c. 9 and J.R. No. 1.



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The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 2204.

This bill, as amended, requires the Division of Youth and Family Services to conduct a search of its central registry to determine if a report of child abuse or neglect has been filed involving a prospective or current family day care provider or a household member of that provider. If the search uncovers a substantiated charge of child abuse or neglect, the division is prohibited from issuing a certificate of registration or renewing a registration of a prospective or current family day care provider. The bill also allows the division to disclose information concerning child abuse or neglect reports, found in its central registry, to family day care sponsoring organizations for the purpose of providing information on child abuse or neglect allegations involving prospective or current family day care providers or household members of that provider's home and for the use in administrative appeals based on information uncovered during a central registry search.

If a prospective or current provider or household member refuses to provide the division with written consent to conduct the search, the bill provides that the sponsoring organization would be required to deny the provider's application for registration.

The bill also eliminates the requirement that a person must undergo a criminal history record background check to secure or renew a certificate of registration of a family day care provider. Sections 6 through 13 of P.L.1991, c. 278 (C.30:5B-23.1 through 30:5B-23.7 and C.53:1-20.9), which require all family day care providers to undergo a criminal history background check in order to register with a family day care sponsoring organization, are repealed.

The bill appropriates \$95,000 to the Department of Human Services to allow the division to conduct the central registry searches and to assign and fill additional positions and increase the division's full-time position fill levels, as necessary, to implement the provisions of the bill.

**N.J.S.A. 30:5B-25.2**

**30:5B-25.2. Definitions**

**Effective: June 29, 2012**

As used in sections 1 through 4 of P.L.1993, c. 350 (C.30:5B-25.1 through C.30:5B-25.4):

“Child abuse registry” means the child abuse registry of the Division of Child Protection and Permanency in the Department of Children and Families established pursuant to section 4 of P.L.1971, c. 437 (C.9:6-8.11).

“Provider” means a family day care provider as defined by section 3 of P.L.1987, c. 27 (C.30:5B-18) and includes, but is not limited to, a family day care provider's assistant and a substitute family day care provider.

“Family day care sponsoring organization” means an agency or organization which contracts with the Department of Human Services to assist in the registration of family day care providers in a specific geographic area pursuant to P.L.1987, c. 27 (C.30:5B-16 et seq.).

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“Household member” means an individual over 14 years of age who resides in a family day care provider’s home.

**N.J.S.A. 30:5B-25.3**

**30:5B-25.3. Prospective or current providers and household members to be investigated for reports of child abuse or neglect; consent required; effect of withholding consent; issuance of certificates or renewals of registration**

**Effective: June 29, 2012**

a. The Division of Child Protection and Permanency in the Department of Children and Families shall conduct a search of its child abuse registry to determine if a report of child abuse or neglect has been filed, pursuant to section 3 of P.L.1971, c. 437 (C.9:6-8.10), involving a person registering as a prospective provider or a household member of the prospective provider or as a current provider or household member of the current provider.

b. The division shall conduct the search only upon receipt of the prospective or current provider or household member’s written consent to the search. If the person refuses to provide his consent, the family day care sponsoring organization shall deny the prospective or current provider’s application for a certificate or renewal of registration.

c. The division shall advise the sponsoring organization of the results of the child abuse registry search within a time period to be determined by the Department of Children and Families.

d. The department shall not issue a certificate or renewal of registration to a prospective or current provider unless the department has first determined that no substantiated charge of child abuse or neglect against the prospective or current provider or household member is found during the child abuse registry search.

**N.J.S.A. 30:5B-25.4**

**30:5B-25.4. Rules and regulations**

**Effective: July 1, 2006**

In accordance with the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.), the Department of Children and Families shall adopt rules and regulations necessary to implement the provisions of sections 1 through 4 of P.L.1993, c. 350 (C.30:5B-25.1 through C.30:5B-25.4) including, but not limited to:

a. Implementation of an appeals process to be used in the case of the denial of an application for a certificate or for renewal of registration based upon information obtained during a child abuse registry search; and

b. Establishment of time limits for conducting a child abuse registry search and providing a family day care sponsoring organization with the results of the search.

Current with laws effective through L.2014, c. 9 and J.R. No. 1.

**N.J.S.A. T. 30, Subt. 2, Ch. 5B, Refs & Annos**

**N.J.S.A. 30:5B-26**

**30:5B-26. Legislative findings and declarations**

**The Legislature finds and declares:**

a. That the increase in single-parent households and two-career families has resulted in a growing number of young children who are unsupervised from the time school ends until a parent returns from work, with one national study estimating that 6,000,000 children, aged five to 13, are unsupervised daily.

b. That unsupervised children are more likely to engage in drug abuse, alcohol abuse, or other delinquent behavior, and are at greater risk of being the victims of criminal acts.

c. That in many communities child care programs to serve these school-age children are nonexistent, too limited to accommodate the demand, or too expensive for some families to utilize.

d. That the State can play a useful and important role in the promotion of quality and adequate day care services which will benefit the well-being of children and families.

#### **ASSEMBLY APPROPRIATIONS COMMITTEE STATEMENT**

**Senate, No. 1721--L.1987, c. 215**

The Assembly Appropriations Committee favorably reports Senate Bill No. 1721 (OCR).

Senate Bill No. 1721 (OCR) creates a program in the Department of Human Services to support the provision of child care before and after regular school hours for school children, since, due to the large increase of two-career families, many school-aged children are unsupervised from the time school ends until a parent returns home from work. Under the bill, the Commissioner of Human Services is required to establish a grant program to encourage and support nonsectarian child care through the awarding of grants to assist local school boards, public agencies, and nonprofit organizations proposing to offer such care.

As part of the application process, each grant applicant must describe the need for and nature of its proposed program, specify the experience and qualifications of its employees, present a tentative budget, including a sliding-fee schedule based on a family's ability to pay for services, and provide evidence that the applicant will be able to use suitable facilities. In addition, the applicant shall provide assurances that

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parents will be involved in the development and implementation of the program.

No more than 10% of the funds appropriated under the bill may be used for administrative costs.

**FISCAL IMPACT:**

The bill appropriates \$500,000.00 from the General Fund to the Department of Human Services to effectuate the purposes of the act.

**N.J.S.A. 30:5B-27**

**30:5B-27. Grant program for before and after school child care; establishment**

The Commissioner of Human Services shall establish a grant program to encourage and support the provision of nonsectarian child care in public and nonpublic school buildings or another appropriate location as approved by the commissioner before and after the regular school day for children. Subject to the availability of funds, the commissioner may award annual grants to assist local school boards, public agencies and nonprofit organizations which propose to offer nonsectarian child care to school-age children.

**N.J.S.A. 30:5B-28**

**30:5B-28. Criteria; application procedures**

**Effective: June 29, 2012**

The Commissioner of Human Services, in consultation with the Commissioner of Education and the Advisory Council on Child Care established pursuant to section 14 of P.L.1983, c. 492 (C.30:5B-14) and the Division on Women in the Department of Children and Families, shall establish criteria for assessing the suitability of grant applicants. Each applicant for a grant under this act shall:

- a. Describe the need for and type of child care services to be furnished;
- b. Provide assurances that the applicant has knowledge of and experience in the special nature of child care services for school-age children;
- c. Provide assurances that each person to be employed by the applicant for child care has appropriate experience and character including a criminal history records check of the files of the State Bureau of Identification and the Federal Bureau of Investigation, Identification Division;
- d. Provide evidence that the applicant will be afforded use of an appropriate school facility or another appropriate location as approved by the commissioner, which may be a child care center licensed pursuant to P.L.1983, c. 492

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(C.30:5B-1 et seq.);

e. Provide assurances that the program will be in conformity with all appropriate statutes, regulations, ordinances, and such programs as shall be developed for the program created by P.L.1987, c. 215 (C.30:5B-26 et seq.);

f. Provide a tentative budget for the program, including a proposed sliding-fee schedule which should reflect a family's capacity to pay;

g. Provide assurances that the parents of school-age children will be involved in the development and implementation of the child care program; and

h. Provide such other assurances and information as the commissioner shall reasonably require to carry out the provisions of P.L.1987, c. 215.

**N.J.S.A. 30:5B-29**

**30:5B-29. Rules and regulations**

The Commissioner of Human Services shall adopt pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.) rules and regulations necessary to implement the provisions of this act.

**N.J.S.A. 30:5B-30**

**30:5B-30. Legislative findings and declaration**

The Legislature finds and declares that it is in the public interest to develop comprehensive child care policies in order to establish a uniform system of subsidized child care services and to secure the maximum funding available under federal law authorizing grants to the states for child care services.

**SENATE WOMEN'S ISSUES, CHILDREN AND FAMILY SERVICES COMMITTEE STATEMENT**

**Senate, No. 1077--L.1993, c. 46**

The Senate Women's Issues, Children and Family Services Committee favorably reports Senate Bill No. 1077.

This bill codifies New Jersey's public policy favoring a uniform system of subsidized child care services and the maximizing of federal funding for such purposes.

Current with laws effective through L.2014, c. 9 and J.R. No. 1.

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Both the recently enacted federal child care programs, the Child Care and Development Block Grant (CCDBG) and Aid to Families with Dependent Children At-Risk Child Care Program (IV-A “At-Risk”), as well as the Family Support Act/JOBS funding for child care, mandate a system of cost sharing by families based on the income and size of the family.

Since parent fees are a requirement and condition of receiving federal funding, the bill enables New Jersey to receive such funds. The bill also creates uniformity in cost sharing among parents across the whole range of funding streams, thereby providing a “seamless” experience for both consumers and providers of child care.

**N.J.S.A. 30:5B-31**

**30:5B-31. Commissioner to establish uniform criteria for determining eligibility for subsidized child care**

a. The Commissioner of Human Services is authorized to establish criteria for determining financial and programmatic eligibility for child care services subsidized through State and federal funding sources, including provisions for the submission of proof of income and resources, and such other documentation as may be necessary to establish programmatic eligibility.

b. The commissioner is authorized to establish resource limits and a sliding fee scale applicable to participants based on income guidelines for all families eligible for subsidized child care services. In setting such fees, the Commissioner shall give consideration to maximizing federal funding and to effectively utilizing all State and federal funding sources available for the purpose of subsidizing child care services in New Jersey.

c. The commissioner shall adopt such rules and regulations pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C. 52:14B-1 et seq.) as are necessary to carry out the purposes of this act.

**N.J.S.A. 30:5B-32**

**30:5B-32. Child abuse record information check; denial of application to provide child care services; notification of parents**

**Effective: June 29, 2012**

a. A unified child care agency contracted with the Department of Human Services pursuant to N.J.A.C.10:15-2.1, shall request that the Division of Child Protection and Permanency in the Department of Children and Families conduct a child abuse record information check of the division’s child abuse records, as promptly as possible, to determine if an incident of child abuse or neglect has been substantiated, pursuant to section 4 of P.L.1971, c. 437 (C.9:6-8.11), against:

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(1) a prospective approved home provider as defined in N.J.A.C.10:15-1.2 providing child care services under the “New Jersey Cares for Kids Program” established pursuant to N.J.A.C.10:15-5.1, or to a child whose parent is receiving assistance under the Work First New Jersey program established pursuant to P.L.1997, c. 38 (C.44:10-55 et seq.) or is employed but continues to receive supportive services pursuant to the provisions of section 5 of P.L.1997, c. 13 (C.44:10-38); or

(2) any adult member of the prospective provider’s household.

b. The division shall conduct the child abuse record information check only upon receipt of the prospective approved home provider’s or any adult household member’s written consent to the check. If the person refuses to provide his consent, the unified child care agency shall deny the prospective approved home provider’s application to provide child care services.

c. If the division determines that an incident of child abuse or neglect by the prospective approved home provider or any adult member of the household has been substantiated, the division shall release the results of the child abuse record information check to the unified child care agency pursuant to subsection g. of section 1 of P.L.1977, c. 102 (C.9:6-8.10a) and the agency shall deny the prospective approved home provider’s application to provide child care services.

d. Before denying the prospective approved home provider’s application to provide child care services, the unified child care agency shall give notice personally or by certified or registered mail to the last known address of the prospective approved home provider with return receipt requested, of the reasons why the application will be denied. The notice shall afford the prospective approved home provider the opportunity to be heard and to contest the agency’s action. The hearing shall be conducted in accordance with the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.).

e. If a prospective approved home provider’s application to provide child care services is denied, the unified child care agency shall notify the parent of the child who would be eligible to receive such services, personally and in writing, of the reasons why the application was denied and the parent’s right to select another provider. The parent shall keep such information confidential and shall not disclose the information except as authorized by law.

**N.J.S.A. 30:5B-33**

**30:5B-33. Rules and regulations**

**Effective: March 24, 2004**

Pursuant to the “Administrative Procedure Act,” P. L.1968, c. 410 (C.52:14B-1 et seq.), the Commissioner of Human Services shall adopt rules and regulations necessary to effectuate the purposes of this act, including but not limited to:

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- a. Procedures for a unified child care agency to follow in submitting a request for a child abuse record information check on a prospective approved home provider or any adult member of the prospective provider's household;
  
- b. Implementation of an appeals process to be used in the case of a denial of a prospective approved home provider's application to provide child care services based on a finding of substantiated child abuse or neglect; and
  
- c. Establishment of time limits for conducting a child abuse record information check and providing a unified child care agency with the results of the check.