

	SENATE:	No
FLOOR AMENDMENT STATEMENTS:		No
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REPORTS:	No
HEARINGS:	No
NEWSPAPER ARTICLES:	Yes

"Bill requires criminal check son day care workers," 7-27-2000 Asbury Park Press, p.A8
 "Background checks now required for day care staffers," 7-27-2000 Star Ledger, p.51

SENATE, No. 1170

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MARCH 23, 2000

Sponsored by:

Senator DONALD T. DIFRANCESCO

District 22 (Middlesex, Morris, Somerset and Union)

Senator DIANE ALLEN

District 7 (Burlington and Camden)

SYNOPSIS

Requires criminal history record background checks for child care center employees.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT requiring criminal history record background checks for child
2 care center staff, and supplementing Titles 30 and 53 of the Revised
3 Statutes.

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

7
8 1. As used in sections 1 through 7 and 9 through 12 of
9 P.L. , c. (C.)(pending before the Legislature as this bill):

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

15 "Department" means the Department of Human Services.

16 "Division" means the Division of Youth and Family Services in the
17 Department of Human Services.

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

23
24 2. As a condition of securing or maintaining a license or life-safety
25 approval, a child care center owner or sponsor shall ensure that a
26 criminal history record background check is conducted on all staff
27 members of the center.

28
29 3. a. If the owner or sponsor of the child care center refuses to
30 consent to, or cooperate in, the securing of a criminal history record
31 background check, the division shall suspend, deny, revoke or refuse
32 to renew the center's license or life-safety approval, as appropriate.

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

37
38 4. a. In the case of a child care center established after the
39 effective date of P.L. , c. (C.)(pending before the Legislature as
40 this bill), the owner or sponsor of the center, prior to the center's
41 opening, shall ensure that a request for a criminal history record
42 background check on each staff member is sent to the Department of
43 Human Services for processing by the Division of State Police in the
44 Department of Law and Public Safety and the Federal Bureau of
45 Investigation.

46 A staff member shall not be left alone as the only adult caring for

1 a child at the center until the criminal history record background has
2 been reviewed by the division pursuant to P.L. , c. (C.)(pending
3 before the Legislature as this bill).

4 b. In the case of a child care center licensed or granted life-safety
5 approval prior to the effective date of P.L. , c. (C.)(pending
6 before the Legislature as this bill), the owner or sponsor of the center,
7 at the time of the center's renewal of license or life-safety approval,
8 shall ensure that a request for a criminal history record background
9 check for each staff member is sent to the department for processing
10 by the Division of State Police and the Federal Bureau of
11 Investigation.

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

17 A new staff member shall not be left alone as the only adult caring
18 for a child at the center until the criminal history record background
19 has been reviewed by the division pursuant to P.L. , c. (C.)(pending
20 before the Legislature as this bill).

21 d. In the case of child care centers under contract to implement
22 early childhood education programs in the Abbott districts as defined
23 in P.L.1996, c.138 (C.18A:7F-3) and in other school districts, the
24 division shall ensure that a criminal history record background check
25 is conducted on all current staff members as soon as practicable, but
26 no later than six months after the effective date of
27 P.L. , c. (C.)(pending before the Legislature as this bill).

28
29 5. A current staff member and an individual seeking employment
30 shall be permanently disqualified from employment at, or ownership or
31 sponsorship of, a child care center if the criminal history record
32 background check of the staff member or individual reveals a record
33 of conviction for any of the following crimes and offenses:

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

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

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

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

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

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

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

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

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

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

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

11 b. In any other state or jurisdiction, of conduct which, if committed
12 in New Jersey, would constitute any of the crimes or disorderly
13 persons offenses described in paragraph (1) of this section.

14 c. Notwithstanding the provisions of this section to the contrary,
15 an individual shall not be disqualified from employment or ownership
16 or sponsorship under P.L. , c. (C.)(pending before the Legislature
17 as this bill) on the basis of any conviction disclosed by a criminal
18 history background record check performed pursuant to
19 P.L. , c. (C.)(pending before the Legislature as this bill) without
20 an opportunity to challenge the accuracy of the disqualifying criminal
21 history record pursuant to the provisions of section 8 of
22 P.L. , c. (C.)(pending before the Legislature as this bill).

23
24 6. a. If a staff member of a child care center is convicted of a crime
25 specified in section 5 of P.L. , c. (C.)(pending before the
26 Legislature as this bill) after the effective date of
27 P.L. , c. (C.)(pending before the Legislature as this bill), the staff
28 member shall be terminated from employment at, or ownership or
29 sponsorship of, a child care center.

30 b. For crimes and offenses other than those cited in section 5 of
31 P.L. , c. (C.)(pending before the Legislature as this bill), an
32 applicant or staff member may be eligible for employment at, or
33 ownership or sponsorship of, a child care center if the division
34 determines that the person has affirmatively demonstrated to the
35 division clear and convincing evidence of the person's rehabilitation
36 pursuant to subsection c. of this section.

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

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

42 (2) the nature and seriousness of the offense;

43 (3) the circumstances under which the offense occurred;

44 (4) the date of the offense;

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

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

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

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

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

12
13 7. If a child care center owner or sponsor has knowledge that a
14 staff member has criminal charges pending against the staff member,
15 the owner or sponsor shall promptly notify the division to determine
16 whether any action concerning the staff member is necessary in order
17 to ensure the safety of the children who attend the center.

18
19 8. a. The Commissioner of Human Services is authorized to
20 exchange fingerprint data with, and to receive information from, the
21 Division of State Police in the Department of Law and Public Safety
22 and the Federal Bureau of Investigation.

23 Upon receipt of the criminal history record information for an
24 applicant or staff member of a child care center from the Federal
25 Bureau of Investigation and the Division of State Police, the Division
26 of Youth and Family Services shall notify the applicant or staff
27 member, as applicable, and the child care center, in writing, of the
28 applicant's or staff member's qualification or disqualification for
29 employment or service under P.L. , c. (C.)(pending before the
30 Legislature as this bill). If the applicant or staff member is
31 disqualified, the convictions that constitute the basis for the
32 disqualification shall be identified in the written notice to the applicant
33 or staff member. The applicant or staff member shall have 14 days
34 from the date of the written notice of disqualification to challenge the
35 accuracy of the criminal history record information. If no challenge is
36 filed or if the determination of the accuracy of the criminal history
37 record information upholds the disqualification, the Division of Youth
38 and Family Services shall notify the center that the applicant or staff
39 member has been disqualified from employment.

40 b. The Division of State Police shall promptly notify the Division
41 of Youth and Family Services in the event an applicant or staff member
42 who was the subject of a criminal history record background check
43 conducted pursuant to subsection a. of this section, is convicted of a
44 crime or offense in this State after the date the background check was
45 performed. Upon receipt of such notification, the Division of Youth
46 and Family Services shall make a determination regarding the

1 employment of the applicant or staff member.

2

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

8 (1) received notice from the division that the applicant or staff
9 member, as applicable, has been determined by the division to be
10 disqualified from employment in a child care center pursuant to
11 sections 5 or 6 of P.L. , c. (C.)(pending before the Legislature as
12 this bill); or

13 (2) terminated the employment of a staff member because the
14 person was disqualified from employment at the center on the basis of
15 a conviction of a crime pursuant to sections 5 or 6 of
16 P.L. , c. (C.)(pending before the Legislature as this bill) after
17 commencing employment at the center.

18 b. A child care center which acts upon or discloses information
19 pursuant to subsection a. of this section shall be presumed to be
20 acting in good faith unless it is shown by clear and convincing
21 evidence that the center acted with actual malice toward the person
22 who is the subject of the information.

23

24 10. Notwithstanding the provisions of any other law to the
25 contrary, the provisions of P.L.1986, c.116 (C.18A:6-7.1 et seq.) shall
26 not apply to employees of a child care center licensed or life-safety
27 approved by the Department of Human Services pursuant to P.L.1983,
28 c.492 (C.30:5B-1 et seq.) if the center contracts with a school district,
29 including, but not limited to, an Abbott district as defined in P.L.1996,
30 c.138 (C.18A:7F-3), to implement an early childhood education
31 program.

32

33 11. The commissioner shall report to the Governor and Legislature
34 no later than three years after the effective date of
35 P.L. , c. (C.)(pending before the Legislature as this bill) on the
36 effectiveness of the criminal history record background checks in
37 screening applicants and staff members of child care centers. The
38 commissioner shall include in the report recommendations for
39 modifying the provisions of P.L. , c. (C.)(pending before the
40 Legislature as this bill) that the commissioner deems to be necessary
41 and appropriate.

42

43 12. The department shall be responsible for the cost of processing
44 and funding all criminal history record background checks required
45 pursuant to P.L. , c. (C.)(pending before the Legislature as this
46 bill).

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

5
6 14. This act shall take effect on the 180th day after enactment.
7

8
9 STATEMENT
10

11 This bill requires criminal history record background checks for
12 existing staff and employment applicants at licensed and life-safety
13 approved child care centers in New Jersey, including those centers that
14 contract with the State's Abbott school districts and other school
15 districts that provide early childhood education programs.
16 Specifically, the bill requires that all child care center owners,
17 sponsors, staff members and employment applicants undergo criminal
18 history record background checks through the State Division of State
19 Police and the Federal Bureau of Investigation as a condition of
20 continued or new employment at child care centers in the State.

21 Staff members and employment applicants with a record of
22 conviction for certain specified crimes would not be permitted to
23 continue their employment or be hired at a licensed child care center.
24 Disqualifying crimes and offenses include:

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

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

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

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

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

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

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

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

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

44 (10) an attempt or conspiracy to commit any of the above crimes or
45 offenses.

46 The bill provides that in the case of any crime or offense other than

1 those listed above, an applicant or staff member may be eligible for
2 employment or ownership or sponsorship of a child care center if the
3 Division of Youth and Family Services (DYFS) determines that the
4 person has affirmatively demonstrated to DYFS clear and convincing
5 evidence of the person's rehabilitation. The following factors shall be
6 considered in making this determination:

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

10 (2) the nature and seriousness of the offense;

11 (3) the circumstances under which the offense occurred;

12 (4) the date of the offense;

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

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

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

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

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

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

39 The bill provides immunity from liability to a child care center for
40 acting upon or disclosing information about the disqualification or
41 termination to another center seeking to employ that person if the
42 center has: received notice from DYFS that the applicant or staff
43 member has been determined by DYFS to be disqualified from
44 employment in a child care center; or terminated the employment of
45 a staff member because the person was disqualified from employment
46 at the center on the basis of a conviction of a crime pursuant to this

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9

1 bill after commencing employment at the center.

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

6 Finally, the bill provides that the Department of Human Services
7 shall be responsible for the cost of processing and funding all criminal
8 history record background checks required pursuant to this bill.

SENATE WOMEN'S ISSUES, CHILDREN AND FAMILY
SERVICES COMMITTEE

STATEMENT TO

SENATE, No. 1170

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 11, 2000

The Senate Women's Issues, and Family Services Committee reports favorably Senate Bill No. 1170 with committee amendments.

As amended by committee, 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 that provide 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 State 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.

Staff members and employment applicants with a record of conviction for certain specified crimes would not be permitted to continue their employment or be hired at a licensed child care center. Disqualifying crimes and offenses include:

(1) a crime against a child, including endangering the welfare of a child and child pornography pursuant to 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 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 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 the person's 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;

(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.

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 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 that a staff member has criminal charges pending against the 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: 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 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 shall be responsible for the cost of processing and funding all criminal history record background checks required pursuant to this bill.

The committee adopted a technical amendment which replaces the term "criminal history background record check" with "criminal history record background check" in subsection c. of section 5 of the bill.

[First Reprint]

SENATE, No. 1170

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MARCH 23, 2000

Sponsored by:

Senator DONALD T. DIFRANCESCO

District 22 (Middlesex, Morris, Somerset and Union)

Senator DIANE ALLEN

District 7 (Burlington and Camden)

Co-Sponsored by:

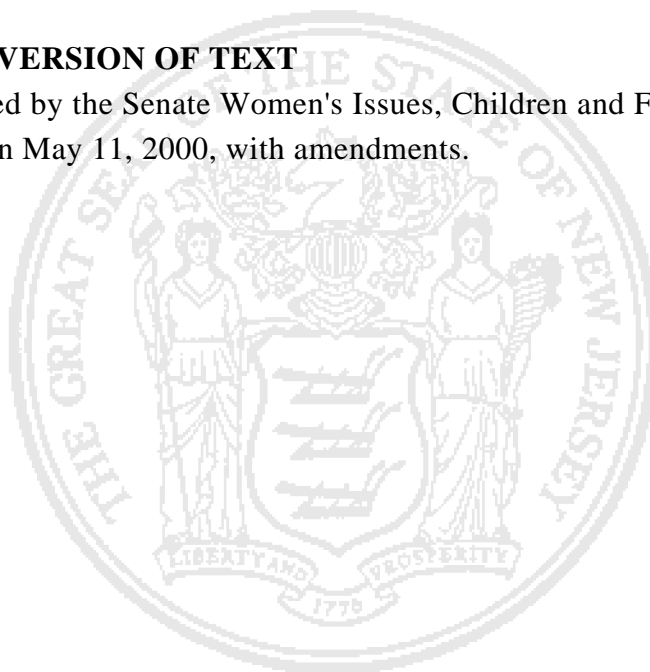
Senators Robertson, Inverso, Matheussen, Sinagra, Bucco, Singer and Kosco

SYNOPSIS

Requires criminal history record background checks for child care center employees.

CURRENT VERSION OF TEXT

As reported by the Senate Women's Issues, Children and Family Services Committee on May 11, 2000, with amendments.



(Sponsorship Updated As Of: 5/26/2000)

1 AN ACT requiring criminal history record background checks for child
2 care center staff, and supplementing Titles 30 and 53 of the Revised
3 Statutes.

4

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

7

8 1. As used in sections 1 through 7 and 9 through 12 of
9 P.L. , c. (C.)(pending before the Legislature as this bill):

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

15 "Department" means the Department of Human Services.

16 "Division" means the Division of Youth and Family Services in the
17 Department of Human Services.

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

23

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

28

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

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

37

38 4. a. In the case of a child care center established after the
39 effective date of P.L. , c. (C.)(pending before the Legislature as
40 this bill), the owner or sponsor of the center, prior to the center's
41 opening, shall ensure that a request for a criminal history record
42 background check on each staff member is sent to the Department of

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SWF committee amendments adopted May 11, 2000.

1 Human Services for processing by the Division of State Police in the
2 Department of Law and Public Safety and the Federal Bureau of
3 Investigation.

4 A staff member shall not be left alone as the only adult caring for
5 a child at the center until the criminal history record background has
6 been reviewed by the division pursuant to P.L. , c. (C.)(pending
7 before the Legislature as this bill).

8 b. In the case of a child care center licensed or granted life-safety
9 approval prior to the effective date of P.L. , c. (C.)(pending
10 before the Legislature as this bill), the owner or sponsor of the center,
11 at the time of the center's renewal of license or life-safety approval,
12 shall ensure that a request for a criminal history record background
13 check for each staff member is sent to the department for processing
14 by the Division of State Police and the Federal Bureau of
15 Investigation.

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

21 A new staff member shall not be left alone as the only adult caring
22 for a child at the center until the criminal history record background
23 has been reviewed by the division pursuant to P.L. , c. (C.)(pending
24 before the Legislature as this bill).

25 d. In the case of child care centers under contract to implement
26 early childhood education programs in the Abbott districts as defined
27 in P.L.1996, c.138 (C.18A:7F-3) and in other school districts, the
28 division shall ensure that a criminal history record background check
29 is conducted on all current staff members as soon as practicable, but
30 no later than six months after the effective date of
31 P.L. , c. (C.)(pending before the Legislature as this bill).

32
33 5. A current staff member and an individual seeking employment
34 shall be permanently disqualified from employment at, or ownership or
35 sponsorship of, a child care center if the criminal history record
36 background check of the staff member or individual reveals a record
37 of conviction for any of the following crimes and offenses:

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

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

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

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

46 (4) sexual assault, criminal sexual contact or lewdness pursuant to

1 N.J.S.2C:14-2 through N.J.S.2C:14-4;

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

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

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

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

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

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

15 b. In any other state or jurisdiction, of conduct which, if committed
16 in New Jersey, would constitute any of the crimes or disorderly
17 persons offenses described in paragraph (1) of this section.

18 c. Notwithstanding the provisions of this section to the contrary,
19 an individual shall not be disqualified from employment or ownership
20 or sponsorship under P.L. , c. (C.)(pending before the Legislature
21 as this bill) on the basis of any conviction disclosed by a criminal
22 history ¹[background record] record background¹ check performed
23 pursuant to P.L. , c. (C.)(pending before the Legislature as this
24 bill) without an opportunity to challenge the accuracy of the
25 disqualifying criminal history record pursuant to the provisions of
26 section 8 of P.L. , c. (C.)(pending before the Legislature as this
27 bill).

28

29 6. a. If a staff member of a child care center is convicted of a crime
30 specified in section 5 of P.L. , c. (C.)(pending before the
31 Legislature as this bill) after the effective date of
32 P.L. , c. (C.)(pending before the Legislature as this bill), the staff
33 member shall be terminated from employment at, or ownership or
34 sponsorship of, a child care center.

35 b. For crimes and offenses other than those cited in section 5 of
36 P.L. , c. (C.)(pending before the Legislature as this bill), an
37 applicant or staff member may be eligible for employment at, or
38 ownership or sponsorship of, a child care center if the division
39 determines that the person has affirmatively demonstrated to the
40 division clear and convincing evidence of the person's rehabilitation
41 pursuant to subsection c. of this section.

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

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

- 1 (2) the nature and seriousness of the offense;
- 2 (3) the circumstances under which the offense occurred;
- 3 (4) the date of the offense;
- 4 (5) the age of the person when the offense was committed;
- 5 (6) whether the offense was an isolated or repeated incident;
- 6 (7) any social conditions which may have contributed to the
7 offense; and
- 8 (8) any evidence of rehabilitation, including good conduct in prison
9 or in the community, counseling or psychiatric treatment received,
10 acquisition of additional academic or vocational schooling, successful
11 participation in correctional work-release programs, or the
12 recommendation of those who have had the person under their
13 supervision.

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

17

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

23

24 8. a. The Commissioner of Human Services is authorized to
25 exchange fingerprint data with, and to receive information from, the
26 Division of State Police in the Department of Law and Public Safety
27 and the Federal Bureau of Investigation.

28 Upon receipt of the criminal history record information for an
29 applicant or staff member of a child care center from the Federal
30 Bureau of Investigation and the Division of State Police, the Division
31 of Youth and Family Services shall notify the applicant or staff
32 member, as applicable, and the child care center, in writing, of the
33 applicant's or staff member's qualification or disqualification for
34 employment or service under P.L. , c. (C.)(pending before the
35 Legislature as this bill). If the applicant or staff member is
36 disqualified, the convictions that constitute the basis for the
37 disqualification shall be identified in the written notice to the applicant
38 or staff member. The applicant or staff member shall have 14 days
39 from the date of the written notice of disqualification to challenge the
40 accuracy of the criminal history record information. If no challenge is
41 filed or if the determination of the accuracy of the criminal history
42 record information upholds the disqualification, the Division of Youth
43 and Family Services shall notify the center that the applicant or staff
44 member has been disqualified from employment.

45 b. The Division of State Police shall promptly notify the Division
46 of Youth and Family Services in the event an applicant or staff member

1 who was the subject of a criminal history record background check
2 conducted pursuant to subsection a. of this section, is convicted of a
3 crime or offense in this State after the date the background check was
4 performed. Upon receipt of such notification, the Division of Youth
5 and Family Services shall make a determination regarding the
6 employment of the applicant or staff member.

7
8 9. a. A child care center that has received an employment
9 application from an individual or currently employs a staff member
10 shall be immune from liability for acting upon or disclosing information
11 about the disqualification or termination to another center seeking to
12 employ that person if the center has:

13 (1) received notice from the division that the applicant or staff
14 member, as applicable, has been determined by the division to be
15 disqualified from employment in a child care center pursuant to
16 sections 5 or 6 of P.L. , c. (C.)(pending before the Legislature as
17 this bill); or

18 (2) terminated the employment of a staff member because the
19 person was disqualified from employment at the center on the basis of
20 a conviction of a crime pursuant to sections 5 or 6 of
21 P.L. , c. (C.)(pending before the Legislature as this bill) after
22 commencing employment at the center.

23 b. A child care center which acts upon or discloses information
24 pursuant to subsection a. of this section shall be presumed to be
25 acting in good faith unless it is shown by clear and convincing
26 evidence that the center acted with actual malice toward the person
27 who is the subject of the information.

28
29 10. Notwithstanding the provisions of any other law to the
30 contrary, the provisions of P.L.1986, c.116 (C.18A:6-7.1 et seq.) shall
31 not apply to employees of a child care center licensed or life-safety
32 approved by the Department of Human Services pursuant to P.L.1983,
33 c.492 (C.30:5B-1 et seq.) if the center contracts with a school district,
34 including, but not limited to, an Abbott district as defined in P.L.1996,
35 c.138 (C.18A:7F-3), to implement an early childhood education
36 program.

37
38 11. The commissioner shall report to the Governor and Legislature
39 no later than three years after the effective date of
40 P.L. , c. (C.)(pending before the Legislature as this bill) on the
41 effectiveness of the criminal history record background checks in
42 screening applicants and staff members of child care centers. The
43 commissioner shall include in the report recommendations for
44 modifying the provisions of P.L. , c. (C.)(pending before the
45 Legislature as this bill) that the commissioner deems to be necessary
46 and appropriate.

- 1 12. The department shall be responsible for the cost of processing
2 and funding all criminal history record background checks required
3 pursuant to P.L. , c. (C.)(pending before the Legislature as this
4 bill).
5
- 6 13. The commissioner shall adopt rules and regulations necessary
7 to implement the provisions of this act in accordance with the
8 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
9 seq.).
10
- 11 14. This act shall take effect on the 180th day after enactment.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1170

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 8, 2000

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:

(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;

(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 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.

[Second Reprint]

SENATE, No. 1170

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MARCH 23, 2000

Sponsored by:

Senator DONALD T. DIFRANCESCO

District 22 (Middlesex, Morris, Somerset and Union)

Senator DIANE ALLEN

District 7 (Burlington and Camden)

Co-Sponsored by:

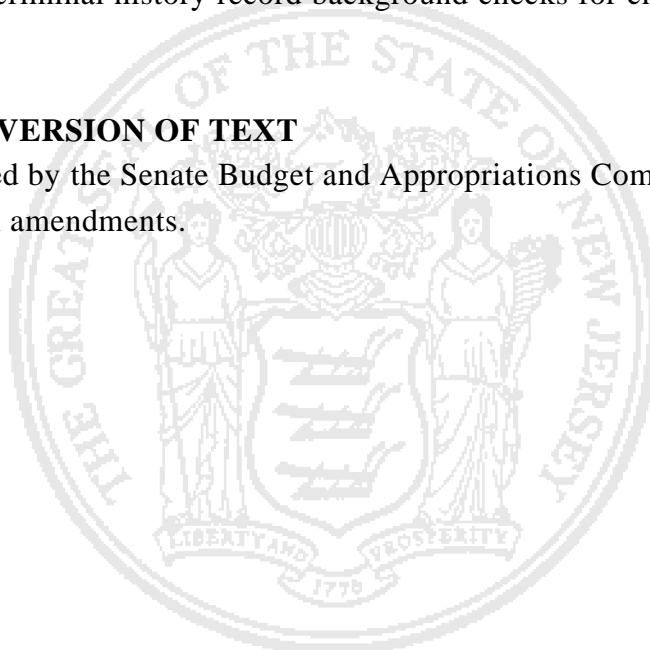
Senators Robertson, Inverso, Matheussen, Sinagra, Bucco, Singer, Kosco, Turner, Assemblywoman Vandervalk, Assemblyman Collins, Assemblywoman Buono, Assemblymen Sires, Assemblywoman Crecco, Assemblymen R.Smith, Conaway and Assemblywoman Previte

SYNOPSIS

Requires criminal history record background checks for child care center employees.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 8, 2000, with amendments.



(Sponsorship Updated As Of: 6/30/2000)

1 AN ACT requiring criminal history record background checks for child
2 care center staff, and supplementing Titles 30 and 53 of the Revised
3 Statutes.

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

7
8 1. As used in sections 1 through 7 and 9 through 12 of
9 P.L. , c. (C.)(pending before the Legislature as this bill):

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

15 "Department" means the Department of Human Services.

16 "Division" means the Division of Youth and Family Services in the
17 Department of Human Services.

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

23
24 2. As a condition of securing or maintaining a license or life-safety
25 approval, a child care center owner or sponsor shall ensure that a
26 criminal history record background check is conducted on all staff
27 members of the center.

28
29 3. a. If the owner or sponsor of the child care center refuses to
30 consent to, or cooperate in, the securing of a criminal history record
31 background check, the division shall suspend, deny, revoke or refuse
32 to renew the center's license or life-safety approval, as appropriate.

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

37
38 4. a. In the case of a child care center established after the
39 effective date of P.L. , c. (C.)(pending before the Legislature as
40 this bill), the owner or sponsor of the center, prior to the center's
41 opening, shall ensure that a request for a criminal history record

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SWF committee amendments adopted May 11, 2000.

² Senate SBA committee amendments adopted June 8, 2000.

1 background check on each staff member is sent to the Department of
2 Human Services for processing by the Division of State Police in the
3 Department of Law and Public Safety and the Federal Bureau of
4 Investigation.

5 A staff member shall not be left alone as the only adult caring for
6 a child at the center until the criminal history record background has
7 been reviewed by the division pursuant to P.L. , c. (C.)(pending
8 before the Legislature as this bill).

9 b. In the case of a child care center licensed or granted life-safety
10 approval prior to the effective date of P.L. , c. (C.)(pending
11 before the Legislature as this bill), the owner or sponsor of the center,
12 at the time of the center's ²first² renewal of license or life-safety
13 approval ²next following that effective date², shall ensure that a
14 request for a criminal history record background check for each staff
15 member is sent to the department for processing by the Division of
16 State Police and the Federal Bureau of Investigation.

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

22 A new staff member shall not be left alone as the only adult caring
23 for a child at the center until the criminal history record background
24 has been reviewed by the division pursuant to P.L. , c. (C.)(pending
25 before the Legislature as this bill).

26 d. In the case of child care centers under contract to implement
27 early childhood education programs in the Abbott districts as defined
28 in P.L.1996, c.138 (C.18A:7F-3) and in other school districts, the
29 division shall ensure that a criminal history record background check
30 is conducted on all current staff members as soon as practicable, but
31 no later than six months after the effective date of
32 P.L. , c. (C.)(pending before the Legislature as this bill).

33
34 5. A current staff member and an individual seeking employment
35 shall be permanently disqualified from employment at, or ownership or
36 sponsorship of, a child care center if the criminal history record
37 background check of the staff member or individual reveals a record
38 of conviction for any of the following crimes and offenses:

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

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

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

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

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

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

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

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

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

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

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

16 b. In any other state or jurisdiction, of conduct which, if committed
17 in New Jersey, would constitute any of the crimes or disorderly
18 persons offenses described in paragraph (1) of this section.

19 c. Notwithstanding the provisions of this section to the contrary,
20 an individual shall not be disqualified from employment or ownership
21 or sponsorship under P.L. , c. (C.)(pending before the Legislature
22 as this bill) on the basis of any conviction disclosed by a criminal
23 history ¹[background record] record background¹ check performed
24 pursuant to P.L. , c. (C.)(pending before the Legislature as this
25 bill) without an opportunity to challenge the accuracy of the
26 disqualifying criminal history record pursuant to the provisions of
27 section 8 of P.L. , c. (C.)(pending before the Legislature as this
28 bill).

29

30 6. a. If a staff member of a child care center is convicted of a crime
31 specified in section 5 of P.L. , c. (C.)(pending before the
32 Legislature as this bill) after the effective date of
33 P.L. , c. (C.)(pending before the Legislature as this bill), the staff
34 member shall be terminated from employment at, or ownership or
35 sponsorship of, a child care center.

36 b. For crimes and offenses other than those cited in section 5 of
37 P.L. , c. (C.)(pending before the Legislature as this bill), an
38 applicant or staff member may be eligible for employment at, or
39 ownership or sponsorship of, a child care center if the division
40 determines that the person has affirmatively demonstrated to the
41 division clear and convincing evidence of the person's rehabilitation
42 pursuant to subsection c. of this section.

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

45 (1) the nature and responsibility of the position at the child care
46 center which the convicted person would hold, has held or currently

1 holds, as the case may be;

2 (2) the nature and seriousness of the offense;

3 (3) the circumstances under which the offense occurred;

4 (4) the date of the offense;

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

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

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

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

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

18

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

24

25 8. a. The Commissioner of Human Services is authorized to
26 exchange fingerprint data with, and to receive information from, the
27 Division of State Police in the Department of Law and Public Safety
28 and the Federal Bureau of Investigation.

29 Upon receipt of the criminal history record information for an
30 applicant or staff member of a child care center from the Federal
31 Bureau of Investigation and the Division of State Police, the Division
32 of Youth and Family Services shall notify the applicant or staff
33 member, as applicable, and the child care center, in writing, of the
34 applicant's or staff member's qualification or disqualification for
35 employment or service under P.L. , c. (C.)(pending before the
36 Legislature as this bill). If the applicant or staff member is
37 disqualified, the convictions that constitute the basis for the
38 disqualification shall be identified in the written notice to the applicant
39 or staff member. The applicant or staff member shall have 14 days
40 from the date of the written notice of disqualification to challenge the
41 accuracy of the criminal history record information. If no challenge is
42 filed or if the determination of the accuracy of the criminal history
43 record information upholds the disqualification, the Division of Youth
44 and Family Services shall notify the center that the applicant or staff
45 member has been disqualified from employment.

46 b. The Division of State Police shall promptly notify the Division

1 of Youth and Family Services in the event an applicant or staff member
2 who was the subject of a criminal history record background check
3 conducted pursuant to subsection a. of this section, is convicted of a
4 crime or offense in this State after the date the background check was
5 performed. Upon receipt of such notification, the Division of Youth
6 and Family Services shall make a determination regarding the
7 employment of the applicant or staff member.

8
9 9. a. A child care center that has received an employment
10 application from an individual or currently employs a staff member
11 shall be immune from liability for acting upon or disclosing information
12 about the disqualification or termination to another center seeking to
13 employ that person if the center has:

14 (1) received notice from the division that the applicant or staff
15 member, as applicable, has been determined by the division to be
16 disqualified from employment in a child care center pursuant to
17 sections 5 or 6 of P.L. , c. (C.)(pending before the Legislature as
18 this bill); or

19 (2) terminated the employment of a staff member because the
20 person was disqualified from employment at the center on the basis of
21 a conviction of a crime pursuant to sections 5 or 6 of
22 P.L. , c. (C.)(pending before the Legislature as this bill) after
23 commencing employment at the center.

24 b. A child care center which acts upon or discloses information
25 pursuant to subsection a. of this section shall be presumed to be
26 acting in good faith unless it is shown by clear and convincing
27 evidence that the center acted with actual malice toward the person
28 who is the subject of the information.

29
30 10. Notwithstanding the provisions of any other law to the
31 contrary, the provisions of P.L.1986, c.116 (C.18A:6-7.1 et seq.) shall
32 not apply to employees of a child care center licensed or life-safety
33 approved by the Department of Human Services pursuant to P.L.1983,
34 c.492 (C.30:5B-1 et seq.) if the center contracts with a school district,
35 including, but not limited to, an Abbott district as defined in P.L.1996,
36 c.138 (C.18A:7F-3), to implement an early childhood education
37 program.

38
39 11. The commissioner shall report to the Governor and Legislature
40 no later than three years after the effective date of
41 P.L. , c. (C.)(pending before the Legislature as this bill) on the
42 effectiveness of the criminal history record background checks in
43 screening applicants and staff members of child care centers. The
44 commissioner shall include in the report recommendations for
45 modifying the provisions of P.L. , c. (C.)(pending before the
46 Legislature as this bill) that the commissioner deems to be necessary

1 and appropriate.

2

3 12. The department shall be responsible for the cost of processing
4 and funding all criminal history record background checks required
5 pursuant to P.L. , c. (C.)(pending before the Legislature as this
6 bill). ²The department shall also be responsible for paying the cost of
7 obtaining the fingerprints or other identifier authorized by the Division
8 of State Police, unless that service is available at no cost to the
9 employee or individual seeking employment.²

10

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

15

16 14. This act shall take effect on the 180th day after enactment.

§§1-7,9-13 -
C.30:5B-6.10
to 30:5B-6.21
§8 - C.53:1-20.9b
§14 - Note to §§1-13

P.L. 2000, CHAPTER 77, *approved July 26, 2000*
Senate, No. 1170 (*Second Reprint*)

1 **AN ACT** requiring criminal history record background checks for child
2 care center staff, and supplementing Titles 30 and 53 of the Revised
3 Statutes.

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

7
8 1. As used in sections 1 through 7 and 9 through 12 of
9 P.L. , c. (C.)(pending before the Legislature as this bill):

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

15 "Department" means the Department of Human Services.

16 "Division" means the Division of Youth and Family Services in the
17 Department of Human Services.

18 "Staff member" means a person 18 years of age or older who owns,
19 sponsors, or directs a child care center, or who is employed by or
20 works in a child care center on a regularly scheduled basis during the
21 center's operating hours, including full-time, part-time, voluntary,
22 contract, consulting, and substitute staff, whether compensated or not.
23

24 2. As a condition of securing or maintaining a license or life-safety
25 approval, a child care center owner or sponsor shall ensure that a
26 criminal history record background check is conducted on all staff
27 members of the center.
28

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

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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SWF committee amendments adopted May 11, 2000.

² Senate SBA committee amendments adopted June 8, 2000.

1 4. a. In the case of a child care center established after the
2 effective date of P.L. , c. (C.)(pending before the Legislature as
3 this bill), the owner or sponsor of the center, prior to the center's
4 opening, shall ensure that a request for a criminal history record
5 background check on each staff member is sent to the Department of
6 Human Services for processing by the Division of State Police in the
7 Department of Law and Public Safety and the Federal Bureau of
8 Investigation.

9 A staff member shall not be left alone as the only adult caring for
10 a child at the center until the criminal history record background has
11 been reviewed by the division pursuant to P.L. , c. (C.)(pending
12 before the Legislature as this bill).

13 b. In the case of a child care center licensed or granted life-safety
14 approval prior to the effective date of P.L. , c. (C.)(pending
15 before the Legislature as this bill), the owner or sponsor of the center,
16 at the time of the center's ²first² renewal of license or life-safety
17 approval ²next following that effective date², shall ensure that a
18 request for a criminal history record background check for each staff
19 member is sent to the department for processing by the Division of
20 State Police and the Federal Bureau of Investigation.

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

26 A new staff member shall not be left alone as the only adult caring
27 for a child at the center until the criminal history record background
28 has been reviewed by the division pursuant to P.L. , c. (C.)(pending
29 before the Legislature as this bill).

30 d. In the case of child care centers under contract to implement
31 early childhood education programs in the Abbott districts as defined
32 in P.L.1996, c.138 (C.18A:7F-3) and in other school districts, the
33 division shall ensure that a criminal history record background check
34 is conducted on all current staff members as soon as practicable, but
35 no later than six months after the effective date of
36 P.L. , c. (C.)(pending before the Legislature as this bill).

37
38 5. A current staff member and an individual seeking employment
39 shall be permanently disqualified from employment at, or ownership or
40 sponsorship of, a child care center if the criminal history record
41 background check of the staff member or individual reveals a record
42 of conviction for any of the following crimes and offenses:

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

45 (1) a crime against a child, including endangering the welfare of a
46 child and child pornography pursuant to N.J.S.2C:24-4; child

- 1 molestation as set forth in N.J.S. 2C:14-1 et seq.;
- 2 (2) abuse, abandonment or neglect of a child pursuant to R.S.9:6-3;
- 3 (3) endangering the welfare of an incompetent person pursuant to
4 N.J.S.2C:24-7;
- 5 (4) sexual assault, criminal sexual contact or lewdness pursuant to
6 N.J.S.2C:14-2 through N.J.S.2C:14-4;
- 7 (5) murder pursuant to N.J.S.2C:11-3 or manslaughter pursuant to
8 N.J.S.2C:11-4;
- 9 (6) stalking pursuant to P.L.1992, c.209 (C.2C:12-10);
- 10 (7) kidnapping and related offenses including criminal restraint;
11 false imprisonment; interference with custody; criminal coercion; or
12 enticing a child into a motor vehicle, structure or isolated area
13 pursuant to N.J.S.2C:13-1 through 2C:13-6;
- 14 (8) arson pursuant to N.J.S.2C:17-1, or causing or risking
15 widespread injury or damage which would constitute a crime of the
16 second degree pursuant to N.J.S.2C:17-2;
- 17 (9) terroristic threats pursuant to N.J.S.2C:12-3; and
- 18 (10) an attempt or conspiracy to commit any of the crimes or
19 offenses listed in paragraphs (1) through (9) of this subsection.
- 20 b. In any other state or jurisdiction, of conduct which, if committed
21 in New Jersey, would constitute any of the crimes or disorderly
22 persons offenses described in paragraph (1) of this section.
- 23 c. Notwithstanding the provisions of this section to the contrary,
24 an individual shall not be disqualified from employment or ownership
25 or sponsorship under P.L. , c. (C.)(pending before the Legislature
26 as this bill) on the basis of any conviction disclosed by a criminal
27 history ¹[background record] record background¹ check performed
28 pursuant to P.L. , c. (C.)(pending before the Legislature as this
29 bill) without an opportunity to challenge the accuracy of the
30 disqualifying criminal history record pursuant to the provisions of
31 section 8 of P.L. , c. (C.)(pending before the Legislature as this
32 bill).
- 33
- 34 6. a. If a staff member of a child care center is convicted of a crime
35 specified in section 5 of P.L. , c. (C.)(pending before the
36 Legislature as this bill) after the effective date of
37 P.L. , c. (C.)(pending before the Legislature as this bill), the staff
38 member shall be terminated from employment at, or ownership or
39 sponsorship of, a child care center.
- 40 b. For crimes and offenses other than those cited in section 5 of
41 P.L. , c. (C.)(pending before the Legislature as this bill), an
42 applicant or staff member may be eligible for employment at, or
43 ownership or sponsorship of, a child care center if the division
44 determines that the person has affirmatively demonstrated to the
45 division clear and convincing evidence of the person's rehabilitation
46 pursuant to subsection c. of this section.

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

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

6 (2) the nature and seriousness of the offense;

7 (3) the circumstances under which the offense occurred;

8 (4) the date of the offense;

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

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

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

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

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

22
23 7. If a child care center owner or sponsor has knowledge that a
24 staff member has criminal charges pending against the staff member,
25 the owner or sponsor shall promptly notify the division to determine
26 whether any action concerning the staff member is necessary in order
27 to ensure the safety of the children who attend the center.

28
29 8. a. The Commissioner of Human Services is authorized to
30 exchange fingerprint data with, and to receive information from, the
31 Division of State Police in the Department of Law and Public Safety
32 and the Federal Bureau of Investigation.

33 Upon receipt of the criminal history record information for an
34 applicant or staff member of a child care center from the Federal
35 Bureau of Investigation and the Division of State Police, the Division
36 of Youth and Family Services shall notify the applicant or staff
37 member, as applicable, and the child care center, in writing, of the
38 applicant's or staff member's qualification or disqualification for
39 employment or service under P.L. , c. (C.)(pending before the
40 Legislature as this bill). If the applicant or staff member is
41 disqualified, the convictions that constitute the basis for the
42 disqualification shall be identified in the written notice to the applicant
43 or staff member. The applicant or staff member shall have 14 days
44 from the date of the written notice of disqualification to challenge the
45 accuracy of the criminal history record information. If no challenge is
46 filed or if the determination of the accuracy of the criminal history

1 record information upholds the disqualification, the Division of Youth
2 and Family Services shall notify the center that the applicant or staff
3 member has been disqualified from employment.

4 b. The Division of State Police shall promptly notify the Division
5 of Youth and Family Services in the event an applicant or staff member
6 who was the subject of a criminal history record background check
7 conducted pursuant to subsection a. of this section, is convicted of a
8 crime or offense in this State after the date the background check was
9 performed. Upon receipt of such notification, the Division of Youth
10 and Family Services shall make a determination regarding the
11 employment of the applicant or staff member.

12

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

18 (1) received notice from the division that the applicant or staff
19 member, as applicable, has been determined by the division to be
20 disqualified from employment in a child care center pursuant to
21 sections 5 or 6 of P.L. , c. (C.)(pending before the Legislature as
22 this bill); or

23 (2) terminated the employment of a staff member because the
24 person was disqualified from employment at the center on the basis of
25 a conviction of a crime pursuant to sections 5 or 6 of
26 P.L. , c. (C.)(pending before the Legislature as this bill) after
27 commencing employment at the center.

28 b. A child care center which acts upon or discloses information
29 pursuant to subsection a. of this section shall be presumed to be
30 acting in good faith unless it is shown by clear and convincing
31 evidence that the center acted with actual malice toward the person
32 who is the subject of the information.

33

34 10. Notwithstanding the provisions of any other law to the
35 contrary, the provisions of P.L.1986, c.116 (C.18A:6-7.1 et seq.) shall
36 not apply to employees of a child care center licensed or life-safety
37 approved by the Department of Human Services pursuant to P.L.1983,
38 c.492 (C.30:5B-1 et seq.) if the center contracts with a school district,
39 including, but not limited to, an Abbott district as defined in P.L.1996,
40 c.138 (C.18A:7F-3), to implement an early childhood education
41 program.

42

43 11. The commissioner shall report to the Governor and Legislature
44 no later than three years after the effective date of
45 P.L. , c. (C.)(pending before the Legislature as this bill) on the
46 effectiveness of the criminal history record background checks in

1 screening applicants and staff members of child care centers. The
2 commissioner shall include in the report recommendations for
3 modifying the provisions of P.L. , c. (C.)(pending before the
4 Legislature as this bill) that the commissioner deems to be necessary
5 and appropriate.

6
7 12. The department shall be responsible for the cost of processing
8 and funding all criminal history record background checks required
9 pursuant to P.L. , c. (C.)(pending before the Legislature as this
10 bill). ²The department shall also be responsible for paying the cost of
11 obtaining the fingerprints or other identifier authorized by the Division
12 of State Police, unless that service is available at no cost to the
13 employee or individual seeking employment.²

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

19
20 14. This act shall take effect on the 180th day after enactment.

21

22

23

24

25 Requires criminal history record background checks for child care
26 center employees.

CHAPTER 77

AN ACT requiring criminal history record background checks for child care center staff, and supplementing Titles 30 and 53 of the Revised Statutes.

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

C.30:5B-6.10 Definitions relative to criminal history record background checks for child care center staff.

1. 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 Human Services.

"Division" means the Division of Youth and Family Services in the Department of Human Services.

"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.

C.30:5B-6.11 Criminal history record background check required for licensure.

2. 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.

C.30:5B-6.12 Noncompliance; penalties.

3. 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 division 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 employment at the center.

C.30:5B-6.13 Request for criminal history record background check, time limits, restrictions upon employees.

4. 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 division 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 division 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 the Abbott districts as defined in P.L.1996, c.138 (C.18A:7F-3) and in other school districts, the division 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.).

C.30:5B-6.14 Record of conviction for certain offenses, disqualification from employment; challenge.

5. 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 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.

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).

C.30:5B-6.15 Termination of current staff member; exceptions.

6. 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 division determines that the person has affirmatively demonstrated to the division 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;
- (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 division shall make the final determination regarding the employment of an applicant or staff member with a criminal conviction.

C.30:5B-6.16 Pending criminal charges, notification.

7. 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 division to determine whether any action concerning the staff member is necessary in order to ensure the safety of the children who attend the center.

C.53:1-20.9b Exchange of fingerprint data, information; determination; challenge.

8. a. The Commissioner of Human Services is authorized to exchange fingerprint data with, and to receive information from, the Division of State Police in the Department of Law and Public Safety and the Federal Bureau of Investigation.

Upon receipt of the criminal history record information for an applicant or staff member of a child care center from the Federal Bureau of Investigation and the Division of State Police, the Division of Youth and Family Services shall notify the applicant or staff member, as applicable, and the child care center, in writing, of the applicant's or staff member's qualification or disqualification for employment or service under P.L.2000, c.77 (C.30:5B-6.10 et al.). If the applicant or staff member is disqualified, the convictions that constitute the basis for the disqualification shall be identified in the written notice to the applicant or staff member. The applicant or staff member shall have 14 days from the date of the written notice of disqualification to challenge the accuracy of the criminal history record information. If no challenge is filed or if the determination of the accuracy of the criminal history record information upholds the disqualification, the Division of Youth and Family Services shall notify the center that the applicant or staff member has been disqualified from employment.

b. The Division of State Police shall promptly notify the Division of Youth and Family Services in the event an applicant or staff member who was the subject of a criminal history record background check conducted pursuant to subsection a. of this section, is convicted of a crime or offense in this State after the date the background check was performed. Upon receipt of such notification, the Division of Youth and Family Services shall make a determination regarding the employment of the applicant or staff member.

C.30:5B-6.17 Immunity from liability for child care center.

9. 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 division that the applicant or staff member, as applicable, has been determined by the division 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 actual malice toward the person who is the subject of the information.

C.30:5B-6.18 Inapplicability for C.18A:6-7.1 et seq.

10. 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, including, but not limited to, an Abbott district as defined in P.L.1996, c.138 (C.18A:7F-3), to implement an early childhood education program.

C.30:5B-6.19 Report to Governor, Legislature.

11. 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.

C.30:5B-6.20 Responsibilities of department.

12. 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.

C.30:5B-6.21 Rules, regulations.

13. 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.).

14. This act shall take effect on the 180th day after enactment.

Approved July 26, 2000.

PO BOX 004
TRENTON, NJ 08625

Office of the Governor
NEWS RELEASE

CONTACT: Jayne O'Connor
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609-777-2600

RELEASE: July 26, 2000

**Governor Signs Bill Requiring Criminal Background Checks for Child Care
Center Employees**

Governor Christie Whitman today signed legislation at the Little Friends Child Care Center in Trenton to require criminal history background checks for all child care center employees.

"Today I am pleased to sign a bill that again puts the safety of our children first," said Gov. Whitman referring to the recent passage of the largest school construction plan in the state's history, another initiative that will have a positive impact on young people throughout the state.

"This bill responds to the fact that more and more families are turning to child care," said Gov. Whitman. "We owe it to them to make that a safe choice. We need to make sure that our children are in good hands."

"What's more, we are putting State dollars behind this moral commitment to our youngsters," added the Governor before mentioning that her current budget provides funding to cover the cost during the current fiscal year of providing background checks for every worker in every child care center in the state.

"New Jersey invests the most of any state in educating our children. We also lead the way when it comes to providing preschool and child care for our little ones. Today we take one more step to show our love for them - making sure they are safe and secure when they are under the care of others," said Gov. Whitman.

The bill, S-1170, was sponsored by Senators Donald T. DiFrancesco (R-Middlesex/Morris/Somerset/ Union) and Diane B. Allen (R-Burlington/Camden) and Assembly Members Charlotte Vandervalk (R-Bergen), Jack Collins (R-Salem/Cumberland/Gloucester), Barbara Buono (D-Middlesex) and Albio Sires (D-Hudson), and takes effect in 180 days from today's enactment.

Under the legislation, all child care workers in licensed child care centers will undergo thorough state and federal background checks. The legislation establishes a uniform standard for all child care workers in New Jersey.

Specifically, the bill requires that all child care center owners, sponsors, staff members and employment applicants undergo criminal history record background checks through the State Division of Police and the Federal Bureau of Investigation as a condition of continued or new employment at child care centers statewide. No employee will be permitted to be alone with a child until the background check is completed. Staff members and employment applicants with a record of conviction for certain specified crimes will not be permitted to continue working or be hired at a licensed

child care center.

The Department of Human Services (DHS) will be responsible for the cost of processing and funding all criminal history record background checks required under the bill. For existing child care centers, checks shall be completed during their license renewal process. Checks for new employees at any child care center must be requested within two weeks after they begin employment.

The checks will cost the state around \$60 per employee - totaling about \$2.5 million for the first year and \$2.6 million in the second and third years, but dropping to \$1.5 million by the fourth year because only new employees will need to be checked at this point.

In New Jersey, there are more than 3,700 child care centers serving more than 250,000 children like the Little Friends Child Care Center where today's event was held. Little Friends Child Care Center is owned and operated by Sandcar, Inc. and parents must be employed by the State to enroll their children in this facility. This Center currently serves 68 children from six weeks to five-years old and employs about 16 child care workers. Other Little Friends' locations include Mercerville, West Windsor and the Hughes Justice Complex.

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