

30:5B-25.1

LEGISLATIVE HISTORY CHECKLIST
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(Family daycare--DYFS review)

NJSA: 30:5B-25.1

LAWS OF: 1993 **CHAPTER:** 350

BILL NO: S2204

SPONSOR(S) Cardinale

DATE INTRODUCED: November 22, 1993

COMMITTEE: **ASSEMBLY:** ---
SENATE: Commerce

AMENDED DURING PASSAGE: Yes Amendments during passage
denoted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** December 16, 1993
SENATE: December 2, 1993

DATE OF APPROVAL: December 29, 1993

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[FIRST REPRINT]
SENATE, No. 2204

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 22, 1993

By Senator CARDINALE

1 AN ACT concerning family day care providers, amending
2 P.L.1977, c.102 and P.L.1987, c.27, supplementing Title 30 of
3 the Revised Statutes, repealing sections 6 through 13 of
4 P.L.1991, c.278 and making an appropriation therefor.

5

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

8 1. (New section) The Legislature finds and declares that:

9 a. The need for a variety of child care options for families
10 with children between birth and 13 years of age has grown
11 significantly in the past 20 years. As a result, family day care
12 has become one of the most used forms of child care in the State.

13 b. In 1987, New Jersey implemented a voluntary registration
14 system through the "Family Day Care Provider Registration Act"
15 P.L.1987, c.27 (C.30:5B-16 et seq.). The purpose of the act was
16 to provide Statewide health and safety standards to protect
17 children in family day care homes. Through this voluntary
18 system, providers ¹[were] are¹ able to qualify for the purchase of
19 insurance, enroll in the Child Care Food Program, list their
20 homes with Statewide child care resource and referral agencies,
21 and provide care for children through State-funded programs.
22 Parents were assured that minimum safety standards were met
23 and the training of providers and the monitoring of homes was
24 taking place.

25 c. When the 1987 law was amended in 1991 to require criminal
26 history record background checks for all adults in the home of a
27 family day care provider, both registrations and renewals dropped
28 significantly. This was due to the cost of criminal history record
29 background checks. Since the family day care registration
30 system is voluntary, providers chose to continue to operate
31 without State supervision. In 1992, the State established an 18
32 month moratorium on background checks during which time, an
33 alternative procedure for checking the background of prospective
34 family day care providers could be developed.

35 d. It is therefore in the best interests of the State to find a
36 system of background checks which balances the rights of family
37 day care providers with the State's duty to protect the safety of
38 its youngest citizens.

39 2. (New section) As used in sections 1 through 4 of P.L. ,
40 c. (C.) (now pending before the Legislature as this bill):

41 "Central registry" means the central registry of the Division of
42 Youth and Family Services in the Department of Human Services
43 established pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11).

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
1 Senate S.M. committee amendments adopted November 22, 1993.

- 1 "Provider" means a family day care provider as defined by
2 section 3 of to P.L.1987, c.27 (C.30:5B-18) and includes, but is
3 not limited to, a family day care provider's assistant and a
4 substitute family day care provider.
- 5 "Family day care sponsoring organization" means an agency or
6 organization which contracts with the Division of Youth and
7 Family Services to assist in the registration of family day care
8 providers in a specific geographic area pursuant to P.L.1987, c.27
9 (C.30:5B-16 et seq.).
- 10 "Household member" means an individual over 14 years of age
11 who resides in a family day care provider's home.
- 12 3. (New section) a. The Division of Youth and Family
13 Services in the Department of Human Services ¹[shall establish a
14 pilot project whereby the division]¹ shall conduct a search of its
15 central registry to determine if a report of child abuse or neglect
16 has been filed, pursuant to section 3 of P.L.1971, c.437
17 (C.9:6-8.10), involving a person registering as a prospective
18 provider or a household member of the prospective provider ¹or
19 as a current provider or household member of the current
20 provider¹.
- 21 b. The division shall conduct the search only upon receipt of
22 the prospective ¹or current¹ provider or household member's
23 written consent to the search. If the person refuses to provide
24 his consent, the family day care sponsoring organization shall
25 ¹[disregard] deny¹ the prospective ¹or current¹ provider's
26 application ¹for a certificate or renewal¹ of registration.
- 27 c. The division shall advise the sponsoring organization of the
28 results of the central registry search within a time period to be
29 determined by the Department of Human Services.
- 30 d. ¹[The prospective provider shall not be allowed to register
31 with a family day care sponsoring organization if any
32 substantiated charge of child abuse or neglect against the
33 prospective provider or household member is found during the
34 central registry search] The division shall not issue a certificate
35 or renewal of registration to a prospective or current provider
36 unless the division has first determined that no substantiated
37 charge of child abuse or neglect against the prospective or
38 current provider or household member is found during the central
39 registry search¹.
- 40 4. (New section) In accordance with the "Administrative
41 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the
42 Department of Human Services shall adopt rules and regulations
43 necessary to implement the provisions of sections 1 through 4 of
44 P.L. , c. (C.)(now pending before the Legislature as this
45 ¹[act] bill¹) including, but not limited to:
- 46 a. Implementation of an appeals process to be used ¹[when a
47 central registry search reveals a prospective provider or
48 household member is the subject of a substantiated charge of
49 child abuse or neglect] in the case of the denial of an application
50 for a certificate or for renewal of registration based upon
51 information obtained during a central registry search¹; and
- 52 b. Establishment of time limits for conducting a central
53 registry search and providing a family day care sponsoring
54 organization with the results of the search.

1 5. Section 1 of P.L.1977, c.102 (C.9:6-8.10a) is amended to
2 read as follows:

3 1. a. All records of child abuse reports made pursuant to
4 section 3 of P.L.1971, c.437 (C.9:6-8.10), all information obtained
5 by the Division of Youth and Family Services in investigating
6 such reports including reports received pursuant to section 20 of
7 P.L.1974, c.119 (C.9:6-8.40), and all reports of findings forwarded
8 to the central registry pursuant to section 4 of P.L.1971, c.437
9 (C.9:6-8.11) shall be kept confidential and may be disclosed only
10 under the circumstances expressly authorized under subsection b.
11 herein.

12 b. The division may release the records and reports referred to
13 in subsection a., or parts thereof, to:

14 (1) A public or private child protective agency authorized to
15 investigate a report of child abuse or neglect;

16 (2) A police or other law enforcement agency investigating a
17 report of child abuse or neglect;

18 (3) A physician who has before him a child whom he reasonably
19 suspects may be abused or neglected;

20 (4) A physician, a hospital director or his designate, a police
21 officer or other person authorized to place a child in protective
22 custody when such person has before him a child whom he
23 reasonably suspects may be abused or neglected and requires the
24 information in order to determine whether to place the child in
25 protective custody;

26 (5) An agency authorized to care for, treat, or supervise a child
27 who is the subject of a child abuse report, or a parent, guardian
28 or other person who is responsible for the child's welfare, or
29 both, when the information is needed in connection with the
30 provision of care, treatment, or supervision to such child or such
31 parent, guardian or other person;

32 (6) A court, upon its finding that access to such records may be
33 necessary for determination of an issue before the court, and
34 such records may be disclosed by the court in whole or in part to
35 the law guardian, attorney or other appropriate person upon a
36 finding that such further disclosure is necessary for
37 determination of an issue before the court;

38 (7) A grand jury upon its determination that access to such
39 records is necessary in the conduct of its official business;

40 (8) Any appropriate State legislative committee acting in the
41 course of its official functions, provided, however, that no names
42 or other information identifying persons named in the report shall
43 be made available to the legislative committee unless it is
44 absolutely essential to the legislative purpose;

45 (9) Any person engaged in a bona fide research purpose,
46 provided, however, that no names or other information
47 identifying persons named in the report shall be made available to
48 the researcher unless it is absolutely essential to the research
49 purpose and provided further that the approval of the director of
50 the Division of Youth and Family Services shall first have been
51 obtained;

52 (10) ¹[Any agency or] A family day care sponsoring¹
53 organization ¹[which contracts with the division to assist in the
54 registration of family day care providers]¹ for the purpose of

1 providing information on child abuse¹ or neglect¹ allegations
2 involving prospective¹ or current¹ providers or household
3 members pursuant to P.L. , c. (C.)(now pending before the
4 Legislature as this bill)¹ and as necessary, for use in
5 administrative appeals related to information obtained through a
6 central registry search¹.

7 Any individual, agency, court, grand jury or legislative
8 committee which receives from the division the records and
9 reports referred to in subsection a., shall keep such records and
10 reports, or parts thereof, confidential.

11 (cf: P.L.1977, c.102, s.1)

12 6. Section 8 of P.L.1987, c.27 (C.30:5B-23) is amended to read
13 as follows:

14 8. a. The division shall also establish standards for the
15 issuance, renewal, denial, suspension and revocation of a
16 certificate of registration which the family day care sponsoring
17 organization shall apply. In developing the standards, the division
18 shall consult with the Advisory Council on Child Care established
19 pursuant to the "Child Care Center Licensing Act," P.L.1983,
20 c.492 (C.30:5B-1 et seq.).

21 b. A person operating as a registered family day care provider
22 who violates the provisions of this act by failing to adhere to the
23 standards established by the division pursuant to this act shall be
24 notified in writing of the violation of the provisions of this act
25 and provided with an opportunity to comply with those
26 provisions. For a subsequent violation, the person's certificate
27 of registration may be revoked, or the person may be fined in an
28 amount determined by the Commissioner of Human Services, or
29 both. The receipt of excessive complaints by the municipal
30 police or other local or State authorities concerning neglect of
31 children, excessive noise, or property damage resulting from the
32 operation of a family day care home may be considered by the
33 division when renewing, suspending or revoking a certificate of
34 registration.

35 c. The division, before denying, suspending, revoking or
36 refusing to renew a certificate of registration, shall give notice
37 thereof to the provider personally, or by certified or registered
38 mail to the last known address of the family day care home with
39 return receipt requested. The notice shall afford the provider the
40 opportunity to be heard. The hearing shall take place within 60
41 days from the receipt of the notice and shall be conducted in
42 accordance with the "Administrative Procedure Act," P.L.1968,
43 c.410 (C.52:14B-1 et seq.).

44 d. If the certificate of registration is suspended or revoked or
45 not renewed, the provider shall so notify the parent of each child
46 attending the family day care home in writing within 10 days of
47 the action.

48 e. [The division shall not issue a certificate of registration or
49 renewal to a person unless the division has first determined that
50 no criminal history record information exists on file in the
51 Federal Bureau of Investigation, Identification Division, or in the
52 State Bureau of Identification in the Division of State Police,
53 which would disqualify the applicant, assistant provider,
54 substitute provider or any member of the applicant's household
55 who is 18 years of age or older, from operating a registered

1 family day care home.](Deleted by amendment, P.L. , c.)
2 (cf: P.L.1991, c.278, s.5)

3 7. There is appropriated \$95,000 from the General Fund to the
4 Department of Human Services to administer the provisions of
5 this act.

6 8. Sections 6 through 13, inclusive, of P.L.1991, c.278
7 (C.30:5B-23.1 through 30:5B-23.7 and C.53:1-20.9), are repealed.

8 9. This act shall take effect 18 months following enactment,
9 except that section 8 shall take effect immediately.

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14 Requires DYFS to conduct central registry searches of family day
15 care providers; appropriates \$95,000.

1 SPONSOR'S STATEMENT

2

3 The commercial life of New Jersey is dependent upon
4 affordable and accessible family day care. This amendment to
5 the Family Day Care Provider Act, P.L.1987, c.27 (C.30:5B-16 et
6 seq.) is necessary in order to promote the availability of a quality
7 workforce and entice new industry into this State.

8 This bill requires the Division of Youth and Family Services
9 (DYFS) to establish a pilot project whereby DYFS is required to
10 conduct a search of the central registry to determine if a report
11 of child abuse or neglect has been filed involving a prospective
12 family day care provider or a household member in the provider's
13 home. If the search uncovers a substantiated charge of child
14 abuse or neglect, the prospective employee would not be allowed
15 to register with a family day care sponsoring organization.

16 The bill requires that if a prospective provider or household
17 member refuses to provide the division with written consent to
18 conduct the search, the sponsoring organization would be required
19 to disregard the prospective provider's application for
20 registration.

21 The bill amends section 1 P.L.1977, c.102 (C.9:6-8.10a) to
22 allow DYFS to disclose information concerning child abuse
23 reports, found in the central registry, to family day care
24 sponsoring organizations for the purpose of providing information
25 on child abuse allegations involving prospective family day care
26 providers or members of the provider's household.

27 The bill also amends section 8 of P.L.1987, c.27 (C.30:5B-23) to
28 eliminate the provision which would require the state to deny or
29 refuse to renew the certificate of registration of a prospective
30 family day care provider if the person has not undergone a
31 criminal history record background check.

32 Under another provision of the bill, sections 6 through 12 of
33 P.L.1991, c.278 (C.30:5B-23.1 through 30:5B-23.7) and section 13
34 of P.L.1991, c.278 (C.53.1-20.9), which requires all family day
35 care providers to undergo a criminal history background check in
36 order to register with a family day care sponsoring organization,
37 are repealed.

38 Finally, this bill appropriates \$95,000 to the Department of
39 Human Services to administer the provisions of this act.

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44 Requires DYFS to conduct central registry searches of family day
45 care providers; appropriates \$95,000.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2204

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 8, 1993

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

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

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

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

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