

ASSEMBLY, No. 115

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman JONES

1 AN ACT concerning family day care providers and amending P.L.1977,
2 c.102 and P.L.1987, c.27.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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

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

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

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

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

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

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

31 (5) An agency authorized to care for, treat, or supervise a child
32 who is the subject of a child abuse report, or a parent, guardian or

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.

1 other person who is responsible for the child's welfare, or both, when
2 the information is needed in connection with the provision of care,
3 treatment, or supervision to such child or such parent, guardian or
4 other person;

5 (6) A court, upon its finding that access to such records may be
6 necessary for determination of an issue before the court, and such
7 records may be disclosed by the court in whole or in part to the law
8 guardian, attorney or other appropriate person upon a finding that
9 such further disclosure is necessary for determination of an issue
10 before the court;

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

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

18 (9) Any person engaged in a bona fide research purpose, provided,
19 however, that no names or other information identifying persons
20 named in the report shall be made available to the researcher unless it
21 is absolutely essential to the research purpose and provided further
22 that the approval of the director of the Division of Youth and Family
23 Services shall first have been obtained; and

24 (10) A person who is applying for a certificate of registration as a
25 family day care provider pursuant to P.L.1987, c.27 (C.30:5B-16 et
26 seq.), who is the subject of the records or reports.

27 Any individual, agency, court, grand jury or legislative committee
28 which receives from the division the records and reports referred to in
29 subsection a., shall keep such records and reports, or parts thereof,
30 confidential.

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

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

35 6. a. The family day care sponsoring organization shall evaluate a
36 family day care provider prior to the issuance of a certificate of
37 registration. The evaluation shall include at least one visit to the
38 family day care home in addition to personal and health references, and
39 shall be made part of the family day care
40 sponsoring organization's permanent records for that provider. The
41 certificate of registration shall be renewed every three years. The
42 family day care provider is required to pay a registration fee of \$25.00
43 to the sponsoring organization each time a certificate is granted or
44 renewed.

45 b. The family day care sponsoring organization shall provide a
46 minimum of one preservice training or orientation session for each

1 applicant for a certificate of registration prior to the issuance of the
2 certificate of registration and shall provide appropriate training,
3 consultation and technical assistance to the family day care provider
4 after the certificate of registration has been issued.

5 c. The family day care sponsoring organization is authorized to
6 monitor and evaluate each registered family day care provider at least
7 once every two years. In addition, the sponsoring organization shall
8 annually monitor no less than 20% of the family day care providers in
9 its designated geographic area on a random basis to insure compliance
10 with the standards established under this act, provide assistance and
11 insure that corrective action is taken as needed.

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

16 e. The family day care sponsoring organization shall maintain in a
17 secure and confidential manner a copy of a record, information or
18 report issued by the division pursuant to subsection e. of section 8 of
19 this act which the sponsoring organization receives from a person who
20 is applying for a certificate of registration as a family day care
21 provider. The sponsoring organization shall, if requested by the
22 division, return the copy to the division.

23 (cf: P.L.1987, c.27, s.6)

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

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

33 b. A person operating as a registered family day care provider who
34 violates the provisions of this act by failing to adhere to the standards
35 established by the division pursuant to this act shall be notified in
36 writing of the violation of the provisions of this act and provided with
37 an opportunity to comply with those provisions. For a subsequent
38 violation, the person's certificate of registration may be revoked, or the
39 person may be fined in an amount determined by the Commissioner of
40 Human Services, or both.

41 c. The division, before denying, suspending, revoking or refusing
42 to renew a certificate of registration, shall give notice thereof to the
43 provider personally, or by certified or registered mail to the last known
44 address of the family day care home with return receipt requested.
45 The notice shall afford the provider the opportunity to be heard. The
46 hearing shall take place within 60 days from the receipt of the notice

1 and shall be conducted in accordance with the "Administrative
2 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

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

6 e. The division shall not issue a certificate of registration to a
7 person unless the division has first determined that no information
8 exists on file with the division which would disqualify that person from
9 being issued a certificate of registration.

10 (1) The division shall conduct a check of its records, upon
11 receiving a written request for the check from a family day care
12 sponsoring organization on behalf of a person who is applying for a
13 certificate of registration as a family day care provider, for the purpose
14 of ascertaining whether the applicant, or any member of the applicant's
15 household who is 14 years of age or older, has been the subject of a
16 child abuse report made pursuant to section 3 of P.L.1971, c.437
17 (C.9:6-8.10), a report received pursuant to section 20 of P.L.1974,
18 c.119 (C.9:6-8.40), or a report of findings forwarded to the central
19 registry in the division pursuant to section 4 of P.L.1971, c.437
20 (C.9:6-8.11), or whether the division has obtained any other
21 information in investigating a child abuse report which relates to the
22 applicant or other member of the applicant's household.

23 The division shall not conduct the check without the written
24 consent of the person who is applying for a certificate of registration.
25 If the applicant refuses to consent to the check, the family day care
26 sponsoring organization shall immediately terminate the application
27 process.

28 (2) The division shall in a confidential manner provide the applicant
29 with a copy of any record, information or report of child abuse in its
30 files which relates to the applicant, or to any member of the applicant's
31 household who is 14 years of age or older, either personally or by
32 certified or registered mail to the last known address of the applicant
33 with return receipt requested, and shall at the same time notify the
34 family day care sponsoring organization in writing that it has
35 forwarded a copy of the record, information or report to the applicant.
36 If no record, information or report exists in its files, the division shall
37 notify the applicant and the family day care sponsoring organization in
38 writing to that effect.

39 (3) An applicant who receives from the division a copy of a record,
40 information or report of child abuse pursuant to this subsection shall
41 contact the family day care sponsoring organization no later than 10
42 days after the date that the copy is issued to the applicant and shall
43 make a copy of the record, information or report available to the
44 sponsoring organization. If the applicant fails to do so, the sponsoring
45 organization shall immediately terminate the application process.

46 (4) A family day care sponsoring organization shall review the

1 copy provided by the applicant and shall, after allowing the applicant
2 to present evidence of mitigating circumstances surrounding an act of
3 child abuse or evidence of affirmative rehabilitation by the applicant or
4 other member of the applicant's household, recommend to the division
5 that a certificate of registration be issued or denied to the applicant.
6 In determining whether mitigating circumstances exist or whether an
7 applicant or other member of the applicant's household has
8 demonstrated affirmative rehabilitation, the sponsoring organization
9 shall consider: the nature and seriousness of the act; the circumstances
10 under which it occurred; the date of the act; the age of the applicant
11 or other member of the applicant's household when the act was
12 committed; whether the act was an isolated or repeated incident; any
13 social conditions which may have contributed to the act; and any
14 evidence of rehabilitation, including good conduct, counseling or
15 psychiatric treatment received, educational and vocational records, and
16 the recommendation of other persons.

17 (5) The division shall issue or deny a certificate of registration to
18 the applicant in accordance with the standards established pursuant to
19 subsection a. of this section, taking into consideration the
20 recommendation of the family day care sponsoring organization made
21 pursuant to this subsection.

22 (cf: P.L.1987, c.27, s.8)

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24 4. This act shall take effect immediately.

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STATEMENT

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29 This bill amends the current State law concerning the confidentiality
30 of records and reports about child abuse and neglect maintained by the
31 Division of Youth and Family Services (DYFS) in the Department of
32 Human Services. The bill would permit the sharing of those records
33 and reports with a person who is applying for a certificate of
34 registration as a family day provider from DYFS pursuant to the
35 "Family Day Care Provider Registration Act," P.L.1987, c.27
36 (C.30:5B-16 et seq.), who is the subject of the records or reports.

37 The bill provides that for the purpose of determining the
38 qualifications of a person who is applying to become a registered
39 family day care provider, DYFS shall conduct a check of its files, upon
40 the written request of a family day care sponsoring organization, to
41 ascertain whether it has any record of a child abuse report made
42 pursuant to section 3 of P.L.1971, c.437 (C.9:6-8.10), any information
43 obtained by DYFS in investigating a child abuse report including a
44 report received pursuant to section 20 of P.L.1974, c.119
45 (C.9:6-8.40), and any report of findings forwarded to the central
46 registry in DYFS pursuant to section 4 of P.L.1971, c.437

1 (C.9:6-8.11), which relates to the applicant or any member of the
2 applicant's household who is 14 years age or older. The applicant
3 must consent in writing to the DYFS records check; however, a refusal
4 to do so will result in immediate termination of the application
5 process.

6 In addition, the bill provides that DYFS shall in a confidential
7 manner provide the applicant with a copy of any such record,
8 information or report in its files and shall notify the family day care
9 sponsoring organization in writing that it has forwarded a copy of the
10 record, information or report to the applicant. If no record,
11 information or report exists in its files, DYFS shall notify the applicant
12 and the sponsoring organization in writing to that effect.

13 An applicant who receives from DYFS a copy of such record,
14 information or report of child abuse shall contact the family day care
15 sponsoring organization no later than 10 days after the date that the
16 copy is issued and shall make a copy available to the sponsoring
17 organization. Failure to do so shall result in immediate
18 termination of the application process.

19 A family day care sponsoring organization shall review the copy
20 provided by the applicant and shall, after allowing the applicant to
21 present evidence of mitigating circumstances or evidence of affirmative
22 rehabilitation, recommend to DYFS that a certificate of registration be
23 issued or denied to the applicant. DYFS shall take into consideration
24 this recommendation in its decision to issue or deny a certificate.

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30 Requires DYFS to investigate persons applying to be registered family
day care providers.