

CHAPTER 419

AN ACT concerning foster care and supplementing Title 30 of the Revised Statutes.

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

C.30:4C-27.3 Short title.

1. This act shall be known and may be cited as the "Foster Parent Licensing Act."

C.30:4C-27.4 Findings, declarations relative to foster care.

2. The Legislature finds and declares that: each child requiring foster care should reside in a safe home with a nurturing substitute family who can meet the child's individual needs; the most effective way to ensure the health, safety, general well-being and physical, emotional, social and educational needs of a child residing in a foster home is to require the annual inspection and monitoring of a foster home and to obligate a person to secure and maintain a license in order to provide foster care to a child; therefore, it is in the public interest to license foster parents and regulate foster homes in order to ensure the safety, health and proper development of children placed in foster care.

C.30:4C-27.5 Definitions relative to foster care.

3. As used in this act:

"Child" means a person who: is either under the age of 18 or meets the criteria set forth in subsection f. of section 2 of P.L.1972, c.81 (C.9:17B-2); and is under the care or custody of the division or another public or private agency authorized to place children in New Jersey.

"Commissioner" means the Commissioner of Human Services.

"Department" means the Department of Human Services.

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

"Foster home" or "home" means a private residence, other than a children's group home or shelter home, in which board, lodging, care and temporary out-of-home placement services are provided by a foster parent on a 24-hour basis to a child under the auspices of the division or any public or private agency authorized to place children in New Jersey.

"Foster parent" means a person who has been licensed pursuant to this act to provide foster care to five or fewer children, except that the division may license a foster parent to provide care for more than five children, if necessary, to keep sibling groups intact or to serve the best interests of the children in the home.

"License" means a document issued by the division to a person who meets the requirements of this act to provide foster care to children in the person's home.

C.30:4C-27.6 Licensure required for foster parents.

4. a. A person shall not provide foster care to a child unless the person is licensed by the division pursuant to this act. The license shall be issued to a specific person for a specific residence and shall not be transferable to another person or residence. The foster parent shall maintain the license on file at the foster home.

- b. A person desiring to provide foster care to a child shall apply to the division for a license in a manner and form prescribed by the commissioner.

- c. A foster parent applicant or foster parent shall be of good moral character.

- d. A foster parent applicant or foster parent, as applicable, shall:

- (1) Complete the license application form provided by the division;

- (2) Provide written consent for the division to conduct a check of its child abuse records pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11);

- (3) Provide written consent from each adult member of the foster parent applicant's household for the division to conduct a child abuse record information check on that person; and

- (4) Immediately notify the division when a new adult becomes a resident of the foster parent applicant's or foster parent's household in order to ensure that the department can conduct a criminal history record background check pursuant to section 1 of P.L.1985, c.396 (C.30:4C-26.8) and the division can conduct a child abuse record information check on the new adult household member.

- e. As a condition of securing a license, the applicant shall participate in pre-service training

in accordance with standards adopted by the commissioner pursuant to this act.

f. A foster parent licensed pursuant to this act shall participate in a minimum of 14 hours of in-service training in every 24-month period in accordance with standards adopted by the commissioner pursuant to this act.

C.30:4C-27.7 Child abuse record information check required, conditions.

5. a. The division shall conduct a child abuse record information check of the division's child abuse records to determine if an incident of child abuse or neglect has been substantiated, pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11), against a foster parent applicant or any adult member of the foster parent applicant's household, upon receipt of written consent from the foster parent applicant or any adult member of the foster parent applicant's household pursuant to subsection d. of section 4 of this act.

The division shall consider, for the purposes of this act, any incidents of child abuse or neglect that were substantiated on or after June 29, 1995, to ensure that a foster parent applicant or adult member of the foster parent applicant's household has had an opportunity to appeal a substantiated finding of child abuse or neglect pursuant to N.J.A.C.10:120A-1.1 et seq., except that the division may consider substantiated incidents prior to that date if the division, in its judgment, determines that the foster parent applicant or adult household member poses a risk of harm in a foster home. In cases involving incidents substantiated prior to June 29, 1995, the division shall offer the foster parent applicant or adult member of the foster parent applicant's household an opportunity for a hearing to contest its action restricting the foster parent applicant from providing foster care to a child.

b. (1) The division shall conduct an annual on-site inspection of a foster home and evaluate the foster home to determine whether it complies with the provisions of this act.

(2) The division may, without prior notice, inspect and examine a foster home and inspect all documents, records, files or other data required to be maintained by a foster parent pursuant to this act.

c. If an applicant meets the requirements of this act, the division shall issue a license to that person.

d. (1) The license shall be valid for three years, subject to the foster parent's continued compliance with the provisions of this act.

(2) The division shall determine if the license shall be renewed based upon the results of the annual on-site inspection and evaluation of the foster home conducted pursuant to this section. If the on-site inspection and evaluation indicate the foster home's full or substantial compliance with the provisions of this act, the division shall renew the license.

C.30:4C-27.8 Criminal history record background check required for licensure.

6. a. The department shall ensure that a State and federal criminal history record background check is conducted on a foster parent applicant and any adult member of the foster parent applicant's household pursuant to the provisions of section 1 of P.L.1985, c.396 (C.30:4C-26.8).

b. The Division of State Police in the Department of Law and Public Safety shall promptly notify the division in the event a foster parent or any adult member of the foster parent's household, who was the subject of a criminal history record background check conducted pursuant to 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 shall make a determination whether to suspend or revoke the foster parent's license.

C.30:4C-27.9 Denial, suspension, revocation of license.

7. The division may deny, suspend or revoke a license for good cause, including, but not limited to:

a. Failure of a foster parent applicant or foster parent to comply with the provisions of this act;

b. Failure of a foster parent applicant or any adult member of the foster parent applicant's household to consent to, or cooperate in, the securing of a criminal history record background check pursuant to section 1 of P.L.1985, c.396 (C.30:4C-26.8) or a division child abuse record

information check pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11);

c. The conviction of a foster parent applicant or any adult member of the foster parent applicant's household of a crime enumerated under section 1 of P.L.1985, c.396 (C.30:4C-26.8);

d. A determination that an incident of child abuse or neglect by a foster parent applicant or any adult member of the foster parent applicant's household has been substantiated, except that the division may issue the license if the division determines that the foster parent applicant or adult household member poses no continuing risk of harm to the child and the issuance of the license is in the child's best interests;

e. Violation of the terms and conditions of a license;

f. Use of fraud or misrepresentation by a foster parent applicant or foster parent in obtaining a license;

g. Refusal by a foster parent applicant or foster parent to furnish the division with information, files, reports or records required for compliance with the provisions of this act;

h. Refusal by a foster parent applicant or foster parent to permit an inspection of a foster home by an authorized representative of the division; and

i. Any conduct, engaged in or permitted, which adversely affects or presents a serious hazard to the education, health, safety, general well-being or physical, emotional and social development of the child residing in the foster home, or which otherwise fails to comply with the standards required for the provision of foster care to a child and the maintenance of a foster home.

C.30:4C-27.10 Notice before denial, suspension, revocation of license, hearing.

8. Before denying, suspending or revoking a license, the division shall give notice to a foster parent applicant or foster parent personally or by mail to the last known address of the foster parent applicant or foster parent with return receipt requested. The notice shall afford the foster parent applicant or foster parent the opportunity to be heard and to contest the division's action. The hearing shall be conducted in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

C.30:4C-27.11 Judicial review.

9. A person aggrieved by a final decision of the division is entitled to seek judicial review in the Appellate Division of the Superior Court. All petitions for review shall be filed in accordance with the Rules of Court.

C.30:4C-27.12 Fraud, misrepresentation, fourth degree crime.

10. A person who uses fraud or misrepresentation in obtaining a license, or offers, advertises or provides any service not authorized by a valid license is guilty of a crime of the fourth degree.

C.30:4C-27.13 Certified foster parent may continue to provide care pending licensing.

11. a. Notwithstanding the provisions of this act to the contrary, a foster parent certified by the division on or prior to the effective date of this act may continue to provide foster care to a child until the division conducts an on-site inspection and reevaluation of the foster parent's home, no later than two years following the date of the home's last certification inspection and reevaluation, to determine whether the home complies with the provisions of this act. If the on-site inspection and reevaluation indicate the foster home's full or substantial compliance with the provisions of this act, the division shall issue a license to the foster parent.

b. A foster parent who was not certified by the division on or prior to the effective date of this act shall apply to the division for a license within 90 days of the effective date of this act and may continue to provide foster care to a child until the division conducts an on-site inspection and evaluation of the foster parent's home to determine whether the home complies with the provisions of this act. If the on-site inspection and evaluation indicate the foster home's full or substantial compliance with the provisions of this act, the division shall issue a license to the foster parent.

C.30:4C-27.14 Report to Governor, Legislature.

12. The commissioner shall report to the Governor and the Legislature no later than six months after the effective date of this act in an interim report, and no later than 12 months after the effective date of this act in a final report, on the implementation of this act. The reports shall include:

- a. the number of licenses that were approved, denied, suspended or revoked;
- b. the number of licenses that were denied, suspended or revoked as a result of the criminal history record background and division child abuse record information checks conducted pursuant to this act;
- c. data on the progress of implementing the recommendations contained in the division's Strategic Plan regarding the improvement of the State's foster care system; and
- d. recommendations for modifying the provisions of this act, which the commissioner believes to be necessary and appropriate.

C.30:4C-27.15 Rules, regulations.

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

The regulations shall include standards governing: the safety and adequacy of the physical premises of a foster home; the health, safety, general well-being and physical, emotional, social and educational needs of a child in foster care; the training of a foster parent; the responsibility of a foster parent to participate in the case plan of a child in foster care and to allow access by the division to the child; the maintenance and confidentiality of records and furnishing of required information to the division; the transportation of a child in foster care; and the provision of other needed services on behalf of a child in foster care. The commissioner shall also adopt rules and regulations for license application, issuance, denial, suspension and revocation.

b. Nothing in this act shall be construed to permit the department to adopt any code or standard that exceeds the standards established pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.).

14. This act shall take effect on the 90th day after enactment.

Approved January 8, 2002.