SENATE DOCKET, NO. 1815 FILED ON: 4/25/2013

SENATE . . . . . No.

The Commonwealth of Massachusetts

PRESENTED BY:

Kathleen O'Connor Ives

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to child safety.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Kathleen O'Connor Ives	*First Essex*
John D. Keenan	*7th Essex*
Brian A. Joyce	*Norfolk, Bristol and Plymouth*
Barry R. Finegold	*Second Essex and Middlesex*
James J. Dwyer	*30th Middlesex*
James R. Miceli	*19th Middlesex*
Diana DiZoglio	*14th Essex*
Elizabeth A. Poirier	*14th Bristol*

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SENATE . . . . . No.

By Ms. O'Connor Ives, a petition (subject to Joint Rule 12) of Kathleen O'Connor Ives, John D. Keenan, Brian A. Joyce, Barry R. Finegold and other members of the General Court for legislation relative to child safety. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to child safety.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The second paragraph of section 2 of chapter 15D of the General Laws, as amended by chapter 189 of the acts of 2012, is hereby amended by adding the following clauses:-

(v) perform a sex offender registry information check on all new applicants and renewals, using the database maintained by the sex offender registry board under section 178D of chapter 6. This check shall include, but not be limited to: an address check of the licensed premises to ensure that no sex offender lists the licensed premises as a residence, secondary address or work site; and a search of the sex offender registry, as defined in section 178C of chapter 6, using the personal identifying information of all child care facility operators, household members over the age of 15, persons regularly on the licensed premises and any workers or other individuals living in an at-home day care to ensure that such persons are not registered sex offenders; and

(w) ensure that: children's record checklists are properly completed, include all necessary information, which shall include emergency contact information, and are maintained on file for review; any missing or incomplete checklists are deemed noncompliant and subject to corrective action; and all premises that are licensed under this chapter and use private well water provide inspection reports, which shall demonstrate that the private well has been properly inspected and is safe from contaminates.

SECTION 2. Subsection (a) of section 7 of said chapter 15D, as appearing in chapter 459 of the acts of 2012, is hereby amended by striking out the first 3 sentences and inserting in place thereof the following 3 sentences:-

As part of the department's licensure and background record check process, the department shall conduct fingerprint-based checks of the state and national criminal history databases, under 42 U.S.C. section 16962, before issuing or renewing any license. The fingerprint-based checks shall be conducted on any applicant for a family child care, small group and school age, large group and school age, residential and placement license or family child care assistant certificate or for renewal of such license or certificate. The fingerprint-based checks shall be conducted for all employees and applicants for employment, who have the potential for unsupervised contact with children, in any department licensed or funded program and for all household members or persons regularly on the premises, age 15 or older, of applicants for family child care licensure or renewal.

SECTION 3. Said section 7 of said chapter 15D, as so appearing, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) As part of the department's approval process, the department shall conduct fingerprint-based checks of the national crime information databases, under 42 U.S.C. section 16962, before issuing any approval for a new license or a renewal. The fingerprint-based checks shall be conducted for all applicants for employment who have the potential for unsupervised contact with children in any department approved program. In the case of a renewal application, the fingerprint-based checks shall be conducted for all current and prospective employees who have the potential for unsupervised contact with children in any department approved program. Authorized department staff may receive and appropriately disseminate all criminal offender record information and the results of checks of state and national criminal information databases, under 42 U.S.C. section 16962, in accordance with the law. When the department obtains the results of checks of state and national criminal information databases, it shall treat the information according to sections 167 through 178, inclusive, of chapter 6 and the regulations thereto regarding criminal offender record information.

SECTION 4. Section 9 of said chapter 15D, as appearing in the 2010 Official Edition, is hereby amended by adding the following subsection:-

(d) Any facility inspected under this section that is not in compliance with the rules and regulations established by the board shall be subject to a 30-day corrective action plan. The department shall establish and document a 30-day corrective action plan that addresses all deficiencies included on the statement of noncompliance. Any facility that has an inspection violation shall post all violations and the 30-day corrective action plan on the premises in a prominent place and in a conspicuous manner. Upon receipt of the 30-day corrective action plan, the facility and licensee shall have 30 days to address any deficiencies and to comply with the department's directives. If the facility or licensee does not cure the identified deficiencies within 30 days, then the department shall hold a hearing and may suspend the license, subject to the requirements of chapter 30A.

SECTION 5. Section 10 of said chapter 15D, as so appearing, is hereby amended by striking out, in line 1, the word “Subject” and inserting in place thereof the following word:- (a) Subject

SECTION 6. Said section 10 of said chapter 15D, as so appearing, is hereby further amended by adding the following 2 subsections:-

(b) No licensee shall knowingly permit a registered sex offender to enter the licensed premises where the licensee cares for children. A violation of this subsection shall constitute an emergency situation, under subsection (a), and the department shall suspend the licensee’s license. A licensee who violates this subsection may be assessed a civil fine, under said subsection (a). A person convicted of a violation of this section shall be punished by a fine of not less than $1,000 or by imprisonment for not more than 30 days, or both.

SECTION 7. Said chapter 15D is hereby amended by adding the following section:-

Section 18. Any child care provider, licensed under this chapter, shall report to the department any changes in: employment at the licensed facility; household members who are over the age of 15; persons regularly on the licensed premises; and the workers or people living in an at-home day care. Any failure to report such a change shall be grounds for the immediate suspension of the license, subject to chapter 30A.