

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. SAMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Social Services, Children and Families

AN ACT to amend the social services law, in relation to individuals who refuse to participate in an investigation being conducted by child protective services

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 422-a of the social services law,
2 as added by chapter 12 of the laws of 1996 and paragraph (d) as amended
3 by chapter 136 of the laws of 1999, is amended to read as follows:
4 1. Notwithstanding any inconsistent provision of law to the contrary,
5 the commissioner or a city or county social services commissioner may
6 disclose information regarding the abuse or maltreatment of a child as
7 set forth in this section, and the investigation thereof and any
8 services related thereto if he or she determines that such disclosure
9 shall not be contrary to the best interests of the child, the child's
10 siblings or other children in the household and any one of the following
11 factors are present:
12 (a) the subject of the report has been charged in an accusatory
13 instrument with committing a crime related to a report maintained in the
14 statewide central register; or
15 (b) the investigation of the abuse or maltreatment of the child by the
16 local child protective service or the provision of services by such
17 service has been publicly disclosed in a report required to be disclosed
18 in the course of their official duties, by a law enforcement agency or
19 official, a district attorney, any other state or local investigative
20 agency or official or by judge of the unified court system; or
21 (c) there has been a prior knowing, voluntary, public disclosure by an
22 individual concerning a report of child abuse or maltreatment in which

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 such individual is named as the subject of the report as defined by
2 subdivision four of section four hundred twelve of this title; [or]

3 (d) the child named in the report has died or the report involves the
4 near fatality of a child. For the purposes of this section, "near fatal-
5 ity" means an act that results in the child being placed, as certified
6 by a physician, in serious or critical condition; OR

7 (E) (I) WHERE THE CHILD PROTECTIVE SERVICE REPRESENTATIVE DECLARES
8 HIMSELF OR HERSELF AS AN EMPLOYEE OF SUCH CHILD PROTECTIVE SERVICE AND
9 PRESENTS AN IDENTIFICATION CARD PROVING SUCH EMPLOYMENT AND AN INDIVID-
10 UAL BLATANTLY REFUSES TO ALLOW SUCH CHILD PROTECTIVE SERVICE REPRESENTATIVE
11 ENTRANCE INTO SUCH INDIVIDUAL'S HOME OR REFUSES TO MEET WITH SUCH
12 REPRESENTATIVE. SUCH INDIVIDUAL WHO IS THE SUBJECT OF AN INVESTIGATION
13 AND WHO IS BLATANTLY REFUSING SHALL HAVE TWENTY-FOUR HOURS TO COMPLY
14 WITH SUCH MEETING OR HOME VISIT WITH SUCH REPRESENTATIVE.

15 (II) THE CHILD WELFARE AGENCY SHALL BE RESPONSIBLE FOR NOTIFYING SUCH
16 INDIVIDUAL THAT THE TWENTY-FOUR HOURS HAVE LAPSED. IF AT SUCH TIME, SUCH
17 INDIVIDUAL BLATANTLY REFUSES TO A MEETING OR HOME VISIT WITH SUCH REPRESENTATIVE
18 OF THE CHILD WELFARE AGENCY, SUCH REFUSAL SHALL INDICATE A
19 NEED FOR A MORE THOROUGH INVESTIGATION AND SHALL BE GROUNDS FOR ISSUING
20 AN IMMEDIATE WARRANT TO ENTER SUCH INDIVIDUAL'S HOME TO INVESTIGATE THE
21 SAFETY AND WELL-BEING OF THE CHILD OR CHILDREN. THIS ACTION SHALL OCCUR
22 UPON THE FIRST INSTANCE THAT SUCH INDIVIDUAL BLATANTLY REFUSES TO COOPERATE
23 WITH SUCH REPRESENTATIVE. FOR THE PURPOSES OF THIS SECTION,
24 "BLATANT REFUSAL" MEANS VERBALLY REFUSING OR REFUSING BY USING PHYSICAL
25 FORCE.

26 S 2. This act shall take effect immediately.