

2448

2009-2010 Regular Sessions

I N S E N A T E

February 20, 2009

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

AN ACT to amend the social services law, in relation to release of certain records associated with abuse and neglect cases to court appointed special advocates

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

1 Section 1. Paragraph (A) of subdivision 4 of section 422 of the social
2 services law is amended by adding a new subparagraph (aa) to read as
3 follows:
4 (AA) COURT APPOINTED SPECIAL ADVOCATES, APPOINTED BY THE FAMILY COURT
5 TO GATHER INFORMATION AND REPORT TO SUCH COURT CONCERNING A CHILD OR
6 CHILDREN WHO ARE THE SUBJECT OF A PETITION FOR ABUSE AND NEGLECT PURSU-
7 ANT TO ARTICLE TEN OF THE FAMILY COURT ACT, UPON A WRITTEN REQUEST BY
8 SUCH COURT APPOINTED SPECIAL ADVOCATES AND ON NOTICE TO, AND AN OPPORTU-
9 NITY TO BE HEARD, BY ALL PARTIES, PROVIDED HOWEVER:
10 (I) THAT SUCH WRITTEN REQUEST SHALL STATE THE SPECIFIC RECORDS THAT
11 THE COURT APPOINTED SPECIAL ADVOCATE IS SEEKING ACCESS TO, AND HOW
12 ACCESS TO SUCH RECORDS IS NECESSARY FOR THE COURT APPOINTED SPECIAL
13 ADVOCATE TO FULFILL THE FUNCTIONS FOR WHICH IT WAS APPOINTED BY THE
14 COURT; AND
15 (II) THAT RECORDS PROVIDED TO COURT APPOINTED SPECIAL ADVOCATES SHALL
16 NOT INCLUDE THE NAME OR ANY INFORMATION THAT COULD REASONABLY IDENTIFY
17 THE PERSON WHO MADE THE CALL TO THE STATEWIDE CENTRAL REGISTER OF CHILD
18 ABUSE OR MALTREATMENT AS DESCRIBED IN THIS SECTION; AND
19 (III) THAT RECORDS PROVIDED TO COURT APPOINTED SPECIAL ADVOCATES
20 PURSUANT TO THIS SUBPARAGRAPH SHALL BE DEEMED CONFIDENTIAL, SHALL NOT BE
21 REDISCLOSED, AND SHALL BE SAFEGUARDED FROM COMING TO THE KNOWLEDGE OF,
22 AND FROM INSPECTION OR EXAMINATION BY, ANY PERSON OTHER THAN ONE AUTHOR-
23 IZED BY THE APPLICABLE SOCIAL SERVICES DISTRICT OR BY A JUDGE OF THE
24 FAMILY COURT WHEN SUCH RECORDS ARE REQUIRED FOR THE TRIAL OF A PROCEED-

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

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1 ING IN SUCH COURT, AFTER A NOTICE TO ALL INTERESTED PERSONS AND A HEAR-
2 ING, TO RECEIVE SUCH KNOWLEDGE OR TO MAKE SUCH INSPECTION OR EXAMINA-
3 TION.

4 S 2. Subdivision 4 of section 372 of the social services law is
5 amended by adding a new paragraph (c) to read as follows:

6 (C) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY,
7 RECORDS RELATING TO CHILDREN KEPT PURSUANT TO THIS SECTION SHALL BE MADE
8 AVAILABLE TO COURT APPOINTED SPECIAL ADVOCATES UPON A WRITTEN REQUEST
9 FOR SPECIFIC RECORDS, INCLUDING, BUT NOT LIMITED TO THE FAMILY SERVICE
10 REVIEW PLAN, PERMANENCY REPORT, MEDICAL EVALUATIONS, AND HISTORY OF
11 CURRENT AND PREVIOUS FOSTER CARE PLACEMENTS, BY SUCH COURT APPOINTED
12 SPECIAL ADVOCATES, ON NOTICE TO, AND AN OPPORTUNITY TO BE HEARD BY, ALL
13 PARTIES, PROVIDED HOWEVER:

14 (I) THAT SUCH WRITTEN REQUEST SHALL STATE THE SPECIFIC RECORDS FOR
15 WHICH THE COURT APPOINTED SPECIAL ADVOCATE IS SEEKING ACCESS TO, AND HOW
16 ACCESS TO SUCH RECORDS IS NECESSARY FOR THE COURT APPOINTED SPECIAL
17 ADVOCATE TO FULFILL THE FUNCTION FOR WHICH IT WAS APPOINTED BY THE
18 COURT; AND

19 (II) THAT RECORDS PROVIDED TO COURT APPOINTED SPECIAL ADVOCATES PURSU-
20 ANT TO THIS PARAGRAPH SHALL BE DEEMED CONFIDENTIAL, SHALL NOT BE REDIS-
21 CLOSED, AND SHALL BE SAFEGUARDED FROM COMING TO THE KNOWLEDGE OF, AND
22 FROM INSPECTION OR EXAMINATION BY, ANY PERSON OTHER THAN ONE AUTHORIZED
23 BY THE APPLICABLE SOCIAL SERVICES DISTRICT OR BY A JUDGE OF THE FAMILY
24 COURT WHEN SUCH RECORDS ARE REQUIRED FOR THE TRIAL OF A PROCEEDING IN
25 SUCH COURT, AFTER A NOTICE TO ALL INTERESTED PERSONS AND A HEARING, TO
26 RECEIVE SUCH KNOWLEDGE OR TO MAKE SUCH INSPECTION OR EXAMINATION.

27 S 3. This act shall take effect immediately.