

5456

2011-2012 Regular Sessions

I N   S E N A T E

May 24, 2011

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Introduced by Sen. SAVINO -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the family court act and the social services law, in relation to notice of indicated reports of child maltreatment and changes of placement in child protective and voluntary foster care placement and review proceedings; and to repeal certain provisions of the family court act, in relation to technical changes thereto

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

1     Section 1. Section 1017 of the family court act is amended by adding a  
2     new subdivision 5 to read as follows:  
3     5. IN ANY CASE IN WHICH AN ORDER HAS BEEN ISSUED PURSUANT TO THIS  
4     ARTICLE REMANDING OR PLACING A CHILD IN THE CUSTODY OF THE LOCAL SOCIAL  
5     SERVICES DISTRICT, THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY  
6     CHARGED WITH CUSTODY OF THE CHILD SHALL REPORT ANY ANTICIPATED CHANGE IN  
7     PLACEMENT TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR THE  
8     CHILD NOT LATER THAN TEN DAYS PRIOR TO SUCH CHANGE IN ANY CASE IN WHICH  
9     THE CHILD IS MOVED FROM THE FOSTER HOME OR PROGRAM INTO WHICH HE OR SHE  
10    HAS BEEN PLACED OR IN WHICH THE FOSTER PARENTS MOVE OUT OF STATE WITH  
11    THE CHILD; PROVIDED, HOWEVER, THAT WHERE AN IMMEDIATE CHANGE OF PLACE-  
12    MENT ON AN EMERGENCY BASIS IS REQUIRED, THE REPORT SHALL BE TRANSMITTED  
13    NO LATER THAN THE NEXT BUSINESS DAY AFTER SUCH CHANGE IN PLACEMENT HAS  
14    BEEN MADE. EACH REPORT SHALL STATE THE ANTICIPATED DATE OF THE CHANGE,  
15    THE GROUNDS FOR THE OFFICIAL'S OR AGENCY 'S CONCLUSION THAT SUCH CHANGE  
16    IS IN THE BEST INTERESTS OF THE CHILD AND CONTACT INFORMATION FOR A  
17    SOCIAL SERVICES OR AGENCY OFFICIAL WHO MAY BE CONTACTED FOR ADDITIONAL  
18    INFORMATION. THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY SHALL  
19    ALSO SUBMIT A REPORT TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY  
20    FOR THE CHILD OF ANY INDICATED REPORT OF CHILD ABUSE OR MALTREATMENT  
21    WHERE THE CHILD OR ANOTHER CHILD IN THE SAME HOME IS THE SUBJECT WITHIN

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

LBD11075-01-1

1 FIVE DAYS OF THE INDICATION OF THE REPORT. THE OFFICIAL OR AGENCY MAY  
2 PROTECT THE CONFIDENTIALITY OF IDENTIFYING OR ADDRESS INFORMATION  
3 REGARDING THE FOSTER OR PROSPECTIVE ADOPTIVE PARENTS. REPORTS UNDER THIS  
4 PARAGRAPH MAY BE TRANSMITTED IN WRITING, BY ELECTRONIC MEANS OR ON THE  
5 RECORD DURING PROCEEDINGS IN FAMILY COURT.

6 S 2. Subparagraph (E) of paragraph (i) of subdivision (b) of section  
7 1055 of the family court act, as amended by chapter 41 of the laws of  
8 2010, is REPEALED.

9 S 3. Section 1055 of the family court act is amended by adding a new  
10 subdivision (j) to read as follows:

11 (J) IN ANY CASE IN WHICH AN ORDER HAS BEEN ISSUED PURSUANT TO THIS  
12 SECTION PLACING A CHILD IN THE CUSTODY OF THE COMMISSIONER OF SOCIAL  
13 SERVICES, THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY CHARGED WITH  
14 CUSTODY OF THE CHILD SHALL REPORT ANY ANTICIPATED CHANGE IN PLACEMENT TO  
15 THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD NOT LATER  
16 THAN TEN DAYS PRIOR TO SUCH CHANGE IN ANY CASE IN WHICH THE CHILD IS  
17 MOVED FROM THE FOSTER HOME OR PROGRAM INTO WHICH HE OR SHE HAS BEEN  
18 PLACED OR IN WHICH THE FOSTER PARENTS MOVE OUT OF STATE WITH THE CHILD;  
19 PROVIDED, HOWEVER, THAT WHERE AN IMMEDIATE CHANGE OF PLACEMENT ON AN  
20 EMERGENCY BASIS IS REQUIRED, THE REPORT SHALL BE TRANSMITTED NO LATER  
21 THAN THE NEXT BUSINESS DAY AFTER SUCH CHANGE IN PLACEMENT HAS BEEN MADE.  
22 EACH REPORT SHALL STATE THE ANTICIPATED DATE OF THE CHANGE, THE GROUNDS  
23 FOR THE OFFICIAL'S OR AGENCY'S CONCLUSION THAT SUCH CHANGE IS IN THE  
24 BEST INTERESTS OF THE CHILD AND CONTACT INFORMATION FOR A SOCIAL  
25 SERVICES OR AGENCY OFFICIAL WHO MAY BE CONTACTED FOR ADDITIONAL INFORMA-  
26 TION. THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY SHALL ALSO  
27 SUBMIT A REPORT TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR  
28 THE CHILD OF ANY INDICATED REPORT OF CHILD ABUSE OR MALTREATMENT WHERE  
29 THE CHILD OR ANOTHER CHILD IN THE SAME HOME IS THE SUBJECT WITHIN FIVE  
30 DAYS OF THE INDICATION OF THE REPORT. THE OFFICIAL OR AGENCY MAY PROTECT  
31 THE CONFIDENTIALITY OF IDENTIFYING OR ADDRESS INFORMATION REGARDING THE  
32 FOSTER OR PROSPECTIVE ADOPTIVE PARENTS. REPORTS UNDER THIS PARAGRAPH MAY  
33 BE TRANSMITTED IN WRITING, BY ELECTRONIC MEANS OR ON THE RECORD DURING  
34 PROCEEDINGS IN FAMILY COURT.

35 S 4. Subparagraph (vii) of paragraph 2 of subdivision (d) of section  
36 1089 of the family court act is amended by adding a new clause (H) to  
37 read as follows:

38 (H) A DIRECTION THAT THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY  
39 CHARGED WITH CARE AND CUSTODY OR GUARDIANSHIP AND CUSTODY OF THE CHILD,  
40 AS APPLICABLE, REPORT ANY ANTICIPATED CHANGE IN PLACEMENT TO THE ATTOR-  
41 NEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD NOT LATER THAN TEN  
42 DAYS PRIOR TO SUCH CHANGE IN ANY CASE IN WHICH THE CHILD IS MOVED FROM  
43 THE FOSTER HOME OR PROGRAM INTO WHICH HE OR SHE HAS BEEN PLACED OR IN  
44 WHICH THE FOSTER PARENTS MOVE OUT OF STATE WITH THE CHILD; PROVIDED,  
45 HOWEVER, THAT WHERE AN IMMEDIATE CHANGE OF PLACEMENT ON AN EMERGENCY  
46 BASIS IS REQUIRED, THE REPORT SHALL BE TRANSMITTED NO LATER THAN THE  
47 NEXT BUSINESS DAY AFTER SUCH CHANGE IN PLACEMENT HAS BEEN MADE. EACH  
48 REPORT SHALL STATE THE ANTICIPATED DATE OF THE CHANGE, THE GROUNDS FOR  
49 THE OFFICIAL'S OR AGENCY'S CONCLUSION THAT SUCH CHANGE IS IN THE BEST  
50 INTERESTS OF THE CHILD AND CONTACT INFORMATION FOR A SOCIAL SERVICES OR  
51 AGENCY OFFICIAL WHO MAY BE CONTACTED FOR ADDITIONAL INFORMATION. THE  
52 SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY SHALL ALSO SUBMIT A REPORT  
53 TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD OF ANY  
54 INDICATED REPORT OF CHILD ABUSE OR MALTREATMENT WHERE THE CHILD OR  
55 ANOTHER CHILD IN THE SAME HOME IS THE SUBJECT WITHIN FIVE DAYS OF THE  
56 INDICATION OF THE REPORT. THE OFFICIAL OR AGENCY MAY PROTECT THE CONFIDENTIALITY OF IDENTIFYING OR ADDRESS INFORMATION REGARDING THE FOSTER OR PROSPECTIVE ADOPTIVE PARENTS. REPORTS UNDER THIS PARAGRAPH MAY BE TRANSMITTED IN WRITING, BY ELECTRONIC MEANS OR ON THE RECORD DURING PROCEEDINGS IN FAMILY COURT.

1 DENTIALITY OF IDENTIFYING OR ADDRESS INFORMATION REGARDING THE FOSTER OR  
2 PROSPECTIVE ADOPTIVE PARENTS. REPORTS UNDER THIS PARAGRAPH SHALL NOT BE  
3 SENT TO ATTORNEYS FOR BIRTH PARENTS WHOSE PARENTAL RIGHTS HAVE BEEN  
4 TERMINATED OR WHO HAVE SURRENDERED THEIR CHILD OR CHILDREN. REPORTS  
5 UNDER THIS PARAGRAPH MAY BE TRANSMITTED IN WRITING, BY ELECTRONIC MEANS  
6 OR ON THE RECORD DURING PROCEEDINGS IN FAMILY COURT; AND

7 S 5. Subdivision 3 of section 358-a of the social services law is  
8 amended by adding a new paragraph (g) to read as follows:

9 (G) IN ANY CASE IN WHICH AN ORDER HAS BEEN ISSUED PURSUANT TO THIS  
10 SECTION APPROVING A FOSTER CARE PLACEMENT INSTRUMENT, THE SOCIAL  
11 SERVICES OFFICIAL OR AUTHORIZED AGENCY CHARGED WITH CUSTODY OF THE CHILD  
12 SHALL REPORT ANY ANTICIPATED CHANGE IN PLACEMENT TO THE ATTORNEYS FOR  
13 THE PARTIES AND THE ATTORNEY FOR THE CHILD NOT LATER THAN TEN DAYS PRIOR  
14 TO SUCH CHANGE IN ANY CASE IN WHICH THE CHILD IS MOVED FROM THE FOSTER  
15 HOME OR PROGRAM INTO WHICH HE OR SHE HAS BEEN PLACED OR IN WHICH THE  
16 FOSTER PARENTS MOVE OUT OF STATE WITH THE CHILD; PROVIDED, HOWEVER, THAT  
17 WHERE AN IMMEDIATE CHANGE OF PLACEMENT ON AN EMERGENCY BASIS IS  
18 REQUIRED, THE REPORT SHALL BE TRANSMITTED NO LATER THAN THE NEXT BUSI-  
19 NESS DAY AFTER SUCH CHANGE IN PLACEMENT HAS BEEN MADE. EACH REPORT SHALL  
20 STATE THE ANTICIPATED DATE OF THE CHANGE, THE GROUNDS FOR THE OFFICIAL'S  
21 OR AGENCY'S CONCLUSION THAT SUCH CHANGE IS IN THE BEST INTERESTS OF THE  
22 CHILD AND CONTACT INFORMATION FOR A SOCIAL SERVICES OR AGENCY OFFICIAL  
23 WHO MAY BE CONTACTED FOR ADDITIONAL INFORMATION. THE SOCIAL SERVICES  
24 OFFICIAL OR AUTHORIZED AGENCY SHALL ALSO SUBMIT A REPORT TO THE ATTOR-  
25 NEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD OF ANY INDICATED  
26 REPORT OF CHILD ABUSE OR MALTREATMENT WHERE THE CHILD OR ANOTHER CHILD  
27 IN THE SAME HOME IS THE SUBJECT WITHIN FIVE DAYS OF THE INDICATION OF  
28 THE REPORT. THE OFFICIAL OR AGENCY MAY PROTECT THE CONFIDENTIALITY OF  
29 IDENTIFYING OR ADDRESS INFORMATION REGARDING THE FOSTER OR PROSPECTIVE  
30 ADOPTIVE PARENTS. REPORTS UNDER THIS PARAGRAPH MAY BE TRANSMITTED IN  
31 WRITING, BY ELECTRONIC MEANS OR ON THE RECORD DURING PROCEEDINGS IN  
32 FAMILY COURT.

33 S 6. This act shall take effect immediately, provided that sections  
34 one, three, four and five of this act shall take effect on the sixtieth  
35 day after it shall have become a law; provided, however, that section  
36 two of this act shall be deemed to have taken effect on the same date as  
37 section 1 of chapter 342 of the laws of 2010, took effect; and, effec-  
38 tive immediately, the addition, amendment and/or repeal of any rule or  
39 regulation necessary for the implementation of this act on its effective  
40 date is authorized and directed to be completed on or before such effec-  
41 tive date.