

5456

2011-2012 Regular Sessions

I N S E N A T E

May 24, 2011

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.

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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.