

4081--A

2013-2014 Regular Sessions

I N S E N A T E

March 7, 2013

Introduced by Sen. FELDER -- (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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

LBD03045-03-3

1 FOR THE CHILD OR INCLUDE IN THE REPORT OF A CHANGE IN PLACEMENT ANY
2 INDICATED REPORT OF CHILD ABUSE OR MALTREATMENT WHERE THE CHILD OR
3 ANOTHER CHILD IN THE SAME HOME IS THE SUBJECT WITHIN FIVE DAYS OF THE
4 INDICATION OF THE REPORT. THE OFFICIAL OR AGENCY MAY PROTECT THE CONFIDENTIALITY OF IDENTIFYING OR ADDRESS INFORMATION REGARDING THE FOSTER OR
5 PROSPECTIVE ADOPTIVE PARENTS. REPORTS REGARDING INDICATED REPORTS OF
6 CHILD ABUSE OR MALTREATMENT PROVIDED PURSUANT TO THIS SUBDIVISION SHALL
7 INCLUDE A STATEMENT ADVISING RECIPIENTS THAT THE INFORMATION IN SUCH
8 REPORT OF CHILD ABUSE OR MALTREATMENT SHALL BE KEPT CONFIDENTIAL, SHALL
9 BE USED ONLY IN CONNECTION WITH A PROCEEDING UNDER THIS ARTICLE OR
10 RELATED PROCEEDINGS UNDER THIS ACT AND MAY NOT BE REDISCLOSED EXCEPT AS
11 NECESSARY FOR SUCH PROCEEDING OR PROCEEDINGS AND AS AUTHORIZED BY LAW.
12 REPORTS UNDER THIS PARAGRAPH MAY BE TRANSMITTED IN WRITING, BY ELECTRONIC MEANS OR ON THE RECORD DURING PROCEEDINGS IN FAMILY COURT.

15 S 2. Subparagraph (E) of paragraph (i) of subdivision (b) of section
16 1055 of the family court act, as amended by chapter 41 of the laws of
17 2010, is REPEALED.

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

20 (J) IN ANY CASE IN WHICH AN ORDER HAS BEEN ISSUED PURSUANT TO THIS
21 SECTION PLACING A CHILD IN THE CUSTODY OF THE COMMISSIONER OF SOCIAL
22 SERVICES, THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY CHARGED WITH
23 CUSTODY OF THE CHILD SHALL REPORT ANY ANTICIPATED CHANGE IN PLACEMENT TO
24 THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD NOT LATER
25 THAN TEN DAYS PRIOR TO SUCH CHANGE IN ANY CASE IN WHICH THE CHILD IS
26 MOVED FROM THE FOSTER HOME OR PROGRAM INTO WHICH HE OR SHE HAS BEEN
27 PLACED OR IN WHICH THE FOSTER PARENTS MOVE OUT OF STATE WITH THE CHILD;
28 PROVIDED, HOWEVER, THAT WHERE AN IMMEDIATE CHANGE OF PLACEMENT ON AN
29 EMERGENCY BASIS IS REQUIRED, THE REPORT SHALL BE TRANSMITTED NO LATER
30 THAN THE NEXT BUSINESS DAY AFTER SUCH CHANGE IN PLACEMENT HAS BEEN MADE.
31 EACH REPORT SHALL STATE THE ANTICIPATED DATE OF THE CHANGE, THE GROUNDS
32 FOR THE OFFICIAL'S OR AGENCY'S CONCLUSION THAT SUCH CHANGE IS IN THE
33 BEST INTERESTS OF THE CHILD AND CONTACT INFORMATION FOR A SOCIAL
34 SERVICES OR AGENCY OFFICIAL WHO MAY BE CONTACTED FOR ADDITIONAL INFORMATION. THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY SHALL ALSO
35 SUBMIT A REPORT TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR
36 THE CHILD OR INCLUDE IN THE REPORT OF A CHANGE IN PLACEMENT ANY INDICATED REPORT OF CHILD ABUSE OR MALTREATMENT WHERE THE CHILD OR ANOTHER
37 CHILD IN THE SAME HOME IS THE SUBJECT WITHIN FIVE DAYS OF THE INDICATION
38 OF THE REPORT. THE OFFICIAL OR AGENCY MAY PROTECT THE CONFIDENTIALITY OF
39 IDENTIFYING OR ADDRESS INFORMATION REGARDING THE FOSTER OR PROSPECTIVE
40 ADOPTIVE PARENTS. REPORTS REGARDING INDICATED REPORTS OF CHILD ABUSE OR
41 MALTREATMENT PROVIDED PURSUANT TO THIS SUBDIVISION SHALL INCLUDE A
42 STATEMENT ADVISING RECIPIENTS THAT THE INFORMATION IN SUCH REPORT OF
43 CHILD ABUSE OR MALTREATMENT SHALL BE KEPT CONFIDENTIAL, SHALL BE USED
44 ONLY IN CONNECTION WITH A PROCEEDING UNDER THIS ARTICLE OR RELATED
45 PROCEEDINGS UNDER THIS ACT AND MAY NOT BE REDISCLOSED EXCEPT AS NECESSARY FOR SUCH PROCEEDING OR PROCEEDINGS AND AS AUTHORIZED BY LAW.
46 REPORTS UNDER THIS PARAGRAPH MAY BE TRANSMITTED IN WRITING, BY ELECTRONIC MEANS OR ON THE RECORD DURING PROCEEDINGS IN FAMILY COURT.

51 S 4. Subparagraph (vii) of paragraph 2 of subdivision (d) of section
52 1089 of the family court act is amended by adding a new clause (H) to
53 read as follows:

54 (H) A DIRECTION THAT THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY
55 CHARGED WITH CARE AND CUSTODY OR GUARDIANSHIP AND CUSTODY OF THE CHILD,
56 AS APPLICABLE, REPORT ANY ANTICIPATED CHANGE IN PLACEMENT TO THE ATTOR-

1 NEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD NOT LATER THAN TEN
2 DAYS PRIOR TO SUCH CHANGE IN ANY CASE IN WHICH THE CHILD IS MOVED FROM
3 THE FOSTER HOME OR PROGRAM INTO WHICH HE OR SHE HAS BEEN PLACED OR IN
4 WHICH THE FOSTER PARENTS MOVE OUT OF STATE WITH THE CHILD; PROVIDED,
5 HOWEVER, THAT WHERE AN IMMEDIATE CHANGE OF PLACEMENT ON AN EMERGENCY
6 BASIS IS REQUIRED, THE REPORT SHALL BE TRANSMITTED NO LATER THAN THE
7 NEXT BUSINESS DAY AFTER SUCH CHANGE IN PLACEMENT HAS BEEN MADE. EACH
8 REPORT SHALL STATE THE ANTICIPATED DATE OF THE CHANGE, THE GROUNDS FOR
9 THE OFFICIAL'S OR AGENCY'S CONCLUSION THAT SUCH CHANGE IS IN THE BEST
10 INTERESTS OF THE CHILD AND CONTACT INFORMATION FOR A SOCIAL SERVICES OR
11 AGENCY OFFICIAL WHO MAY BE CONTACTED FOR ADDITIONAL INFORMATION. THE
12 SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY SHALL ALSO SUBMIT A REPORT
13 TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD OR
14 INCLUDE IN THE REPORT OF A CHANGE IN PLACEMENT ANY INDICATED REPORT OF
15 CHILD ABUSE OR MALTREATMENT WHERE THE CHILD OR ANOTHER CHILD IN THE SAME
16 HOME IS THE SUBJECT WITHIN FIVE DAYS OF THE INDICATION OF THE REPORT.
17 THE OFFICIAL OR AGENCY MAY PROTECT THE CONFIDENTIALITY OF IDENTIFYING OR
18 ADDRESS INFORMATION REGARDING THE FOSTER OR PROSPECTIVE ADOPTIVE
19 PARENTS. REPORTS UNDER THIS PARAGRAPH SHALL NOT BE SENT TO ATTORNEYS FOR
20 BIRTH PARENTS WHOSE PARENTAL RIGHTS HAVE BEEN TERMINATED OR WHO HAVE
21 SURRENDERED THEIR CHILD OR CHILDREN. REPORTS REGARDING INDICATED
22 REPORTS OF CHILD ABUSE OR MALTREATMENT PROVIDED PURSUANT TO THIS SUBDI-
23 VISION SHALL INCLUDE A STATEMENT ADVISING RECIPIENTS THAT THE INFORMA-
24 TION IN SUCH REPORT OF CHILD ABUSE OR MALTREATMENT SHALL BE KEPT CONFID-
25 DENTIAL, SHALL BE USED ONLY IN CONNECTION WITH A PROCEEDING UNDER THIS
26 ARTICLE OR RELATED PROCEEDINGS UNDER THIS ACT AND MAY NOT BE REDISCLOSED
27 EXCEPT AS NECESSARY FOR SUCH PROCEEDING OR PROCEEDINGS AND AS AUTHORIZED
28 BY LAW. REPORTS UNDER THIS PARAGRAPH MAY BE TRANSMITTED IN WRITING, BY
29 ELECTRONIC MEANS OR ON THE RECORD DURING PROCEEDINGS IN FAMILY COURT;
30 AND

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

33 (G) IN ANY CASE IN WHICH AN ORDER HAS BEEN ISSUED PURSUANT TO THIS
34 SECTION APPROVING A FOSTER CARE PLACEMENT INSTRUMENT, THE SOCIAL
35 SERVICES OFFICIAL OR AUTHORIZED AGENCY CHARGED WITH CUSTODY OF THE CHILD
36 SHALL REPORT ANY ANTICIPATED CHANGE IN PLACEMENT TO THE ATTORNEYS FOR
37 THE PARTIES AND THE ATTORNEY FOR THE CHILD NOT LATER THAN TEN DAYS PRIOR
38 TO SUCH CHANGE IN ANY CASE IN WHICH THE CHILD IS MOVED FROM THE FOSTER
39 HOME OR PROGRAM INTO WHICH HE OR SHE HAS BEEN PLACED OR IN WHICH THE
40 FOSTER PARENTS MOVE OUT OF STATE WITH THE CHILD; PROVIDED, HOWEVER, THAT
41 WHERE AN IMMEDIATE CHANGE OF PLACEMENT ON AN EMERGENCY BASIS IS
42 REQUIRED, THE REPORT SHALL BE TRANSMITTED NO LATER THAN THE NEXT BUSI-
43 NESS DAY AFTER SUCH CHANGE IN PLACEMENT HAS BEEN MADE. EACH REPORT SHALL
44 STATE THE ANTICIPATED DATE OF THE CHANGE, THE GROUNDS FOR THE OFFICIAL'S
45 OR AGENCY'S CONCLUSION THAT SUCH CHANGE IS IN THE BEST INTERESTS OF THE
46 CHILD AND CONTACT INFORMATION FOR A SOCIAL SERVICES OR AGENCY OFFICIAL
47 WHO MAY BE CONTACTED FOR ADDITIONAL INFORMATION. THE SOCIAL SERVICES
48 OFFICIAL OR AUTHORIZED AGENCY SHALL ALSO SUBMIT A REPORT TO THE ATTOR-
49 NEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD OR INCLUDE IN THE
50 REPORT OF A CHANGE IN PLACEMENT ANY INDICATED REPORT OF CHILD ABUSE OR
51 MALTREATMENT WHERE THE CHILD OR ANOTHER CHILD IN THE SAME HOME IS THE
52 SUBJECT WITHIN FIVE DAYS OF THE INDICATION OF THE REPORT. THE OFFICIAL
53 OR AGENCY MAY PROTECT THE CONFIDENTIALITY OF IDENTIFYING OR ADDRESS
54 INFORMATION REGARDING THE FOSTER OR PROSPECTIVE ADOPTIVE PARENTS.
55 REPORTS REGARDING INDICATED REPORTS OF CHILD ABUSE OR MALTREATMENT
56 PROVIDED PURSUANT TO THIS SUBDIVISION SHALL INCLUDE A STATEMENT ADVISING

1 RECIPIENTS THAT THE INFORMATION IN SUCH REPORT OF CHILD ABUSE OR
2 MALTREATMENT SHALL BE KEPT CONFIDENTIAL, SHALL BE USED ONLY IN
3 CONNECTION WITH A PROCEEDING UNDER THIS SECTION OR RELATED PROCEEDINGS
4 UNDER THE FAMILY COURT ACT AND MAY NOT BE REDISCLOSED EXCEPT AS NECES-
5 SARY FOR SUCH PROCEEDING OR PROCEEDINGS AND AS AUTHORIZED BY LAW.
6 REPORTS UNDER THIS PARAGRAPH MAY BE TRANSMITTED IN WRITING, BY ELECTRON-
7 IC MEANS OR ON THE RECORD DURING PROCEEDINGS IN FAMILY COURT.
8 S 6. This act shall take effect immediately, provided that sections
9 one, three, four and five of this act shall take effect on the sixtieth
10 day after it shall have become a law; provided, however, that section
11 two of this act shall be deemed to have taken effect on the same date as
12 section 1 of chapter 342 of the laws of 2010, took effect; and, effec-
13 tive immediately, the addition, amendment and/or repeal of any rule or
14 regulation necessary for the implementation of this act on its effective
15 date is authorized and directed to be completed on or before such effec-
16 tive date.