S T A T E  O F  N E W  Y O R K

4081--B

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 -- 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:

Section 1. Section 1017 of the family court act is amended by adding a new subdivision 5 to read as follows:

5. IN ANY CASE IN WHICH AN ORDER HAS BEEN ISSUED PURSUANT TO THIS ARTICLE REMANDING OR PLACING A CHILD IN THE CUSTODY OF THE LOCAL SOCIAL SERVICES DISTRICT, THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY CHARGED WITH CUSTODY OR CARE OF THE CHILD SHALL REPORT ANY ANTICIPATED CHANGE IN PLACEMENT TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD NOT LATER THAN TEN DAYS PRIOR TO SUCH CHANGE IN ANY CASE IN WHICH THE CHILD IS MOVED FROM THE FOSTER HOME OR PROGRAM INTO WHICH HE OR SHE HAS BEEN PLACED OR IN WHICH THE FOSTER PARENTS MOVE OUT OF STATE WITH THE CHILD; PROVIDED, HOWEVER, THAT WHERE AN IMMEDIATE CHANGE OF PLACEMENT ON AN EMERGENCY BASIS IS REQUIRED, THE REPORT SHALL BE TRANSMITTED NO LATER THAN THE NEXT BUSINESS DAY AFTER SUCH CHANGE IN PLACEMENT HAS BEEN MADE. THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY SHALL ALSO SUBMIT A REPORT TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR 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 CHILD IN THE SAME HOME IS THE SUBJECT WITHIN FIVE DAYS

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

LBD03045-06-3

OF THE 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 REGARDING INDICATED REPORTS OF CHILD ABUSE OR MALTREATMENT PROVIDED PURSUANT TO THIS SUBDIVISION SHALL INCLUDE A STATEMENT ADVISING RECIPIENTS THAT THE INFORMATION IN SUCH REPORT OF CHILD ABUSE OR MALTREATMENT SHALL BE KEPT CONFIDENTIAL, SHALL BE USED ONLY IN CONNECTION WITH A PROCEEDING UNDER THIS ARTICLE OR RELATED PROCEEDINGS UNDER THIS ACT AND MAY NOT BE REDISCLOSED EXCEPT AS NECESSARY FOR SUCH PROCEEDING OR PROCEEDINGS AND AS AUTHORIZED BY LAW. REPORTS UNDER THIS PARAGRAPH MAY BE TRANSMITTED, INCLUDING, BUT NOT LIMITED TO, BY ELECTRONIC MEANS OR ON THE RECORD DURING PROCEEDINGS IN FAMILY COURT.

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(i) of subdivision (b) of section 1055 of the family court act, as amended by chapter 41 of the laws of 2010, is REPEALED.

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

(J) IN ANY CASE IN WHICH AN ORDER HAS BEEN ISSUED PURSUANT TO THIS SECTION PLACING A CHILD IN THE CUSTODY OR CARE OF THE COMMISSIONER OF SOCIAL SERVICES, THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY CHARGED WITH CUSTODY OF THE CHILD SHALL REPORT ANY ANTICIPATED CHANGE IN PLACEMENT TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD NOT LATER THAN TEN DAYS PRIOR TO SUCH CHANGE IN ANY CASE IN WHICH THE CHILD IS MOVED FROM THE FOSTER HOME OR PROGRAM INTO WHICH HE OR SHE HAS BEEN PLACED OR IN WHICH THE FOSTER PARENTS MOVE OUT OF STATE WITH THE CHILD; PROVIDED, HOWEVER, THAT WHERE AN IMMEDIATE CHANGE OF PLACEMENT ON AN EMERGENCY BASIS IS REQUIRED, THE REPORT SHALL BE TRANSMITTED NO LATER THAN THE NEXT BUSINESS DAY AFTER SUCH CHANGE IN PLACEMENT HAS BEEN MADE. THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY SHALL ALSO SUBMIT A REPORT TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR 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 CHILD IN THE SAME HOME IS THE SUBJECT WITHIN FIVE DAYS OF THE 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 REGARDING INDICATED REPORTS OF CHILD ABUSE OR MALTREATMENT PROVIDED PURSUANT TO THIS SUBDIVISION SHALL INCLUDE A STATEMENT ADVISING RECIPIENTS THAT THE INFORMATION IN SUCH REPORT OF CHILD ABUSE OR MALTREATMENT SHALL BE KEPT CONFIDENTIAL, SHALL BE USED ONLY IN CONNECTION WITH A PROCEEDING UNDER THIS ARTICLE OR RELATED PROCEEDINGS UNDER THIS ACT AND MAY NOT BE REDISCLOSED EXCEPT AS NECESSARY FOR SUCH PROCEEDING OR PROCEEDINGS AND AS AUTHORIZED BY LAW. REPORTS UNDER THIS PARAGRAPH MAY BE TRANSMITTED, INCLUDING, BUT NOT LIMITED TO, BY ELECTRONIC MEANS OR ON THE RECORD DURING PROCEEDINGS IN FAMILY COURT.

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

(H) A DIRECTION THAT THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY CHARGED WITH CARE AND CUSTODY OR GUARDIANSHIP AND CUSTODY OF THE CHILD, AS APPLICABLE, REPORT ANY ANTICIPATED CHANGE IN PLACEMENT TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD NOT LATER THAN TEN DAYS PRIOR TO SUCH CHANGE IN ANY CASE IN WHICH THE CHILD IS MOVED FROM THE FOSTER HOME OR PROGRAM INTO WHICH HE OR SHE HAS BEEN PLACED OR IN WHICH THE FOSTER PARENTS MOVE OUT OF STATE WITH THE CHILD; PROVIDED, HOWEVER, THAT WHERE AN IMMEDIATE CHANGE OF PLACEMENT ON AN EMERGENCY

BASIS IS REQUIRED, THE REPORT SHALL BE TRANSMITTED NO LATER THAN THE NEXT BUSINESS DAY AFTER SUCH CHANGE IN PLACEMENT HAS BEEN MADE. THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY SHALL ALSO SUBMIT A REPORT TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR 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 CHILD IN THE SAME HOME IS THE SUBJECT WITHIN FIVE DAYS OF THE 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 SHALL NOT BE SENT TO ATTORNEYS FOR BIRTH PARENTS WHOSE PARENTAL RIGHTS HAVE BEEN TERMINATED OR WHO HAVE SURRENDERED THEIR CHILD OR CHILDREN. REPORTS REGARDING INDICATED REPORTS OF CHILD ABUSE OR MALTREATMENT PROVIDED PURSUANT TO THIS SUBDIVISION SHALL INCLUDE A STATEMENT ADVISING RECIPIENTS THAT THE INFORMATION IN SUCH REPORT OF CHILD ABUSE OR MALTREATMENT SHALL BE KEPT CONFIDENTIAL, SHALL BE USED ONLY IN CONNECTION WITH A PROCEEDING UNDER THIS ARTICLE OR RELATED PROCEEDINGS UNDER THIS ACT AND MAY NOT BE REDISCLOSED EXCEPT AS NECESSARY FOR SUCH PROCEEDING OR PROCEEDINGS AND AS AUTHORIZED BY LAW. REPORTS UNDER THIS PARAGRAPH MAY BE TRANSMITTED, INCLUDING, BUT NOT LIMITED TO, BY ELECTRONIC MEANS OR ON THE RECORD DURING PROCEEDINGS IN FAMILY COURT; AND

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

(G) IN ANY CASE IN WHICH AN ORDER HAS BEEN ISSUED PURSUANT TO THIS SECTION APPROVING A FOSTER CARE PLACEMENT INSTRUMENT, THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY CHARGED WITH CUSTODY OR CARE OF THE CHILD SHALL REPORT ANY ANTICIPATED CHANGE IN PLACEMENT TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD NOT LATER THAN TEN DAYS PRIOR TO SUCH CHANGE IN ANY CASE IN WHICH THE CHILD IS MOVED FROM THE FOSTER HOME OR PROGRAM INTO WHICH HE OR SHE HAS BEEN PLACED OR IN WHICH THE FOSTER PARENTS MOVE OUT OF STATE WITH THE CHILD; PROVIDED, HOWEVER, THAT WHERE AN IMMEDIATE CHANGE OF PLACEMENT ON AN EMERGENCY BASIS IS REQUIRED, THE REPORT SHALL BE TRANSMITTED NO LATER THAN THE NEXT BUSINESS DAY AFTER SUCH CHANGE IN PLACEMENT HAS BEEN MADE. THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY SHALL ALSO SUBMIT A REPORT TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR 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 CHILD IN THE SAME HOME IS THE SUBJECT WITHIN FIVE DAYS OF THE 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 REGARDING INDICATED REPORTS OF CHILD ABUSE OR MALTREATMENT PROVIDED PURSUANT TO THIS SUBDIVISION SHALL INCLUDE A STATEMENT ADVISING RECIPIENTS THAT THE INFORMATION IN SUCH REPORT OF CHILD ABUSE OR MALTREATMENT SHALL BE KEPT CONFIDENTIAL, SHALL BE USED ONLY IN CONNECTION WITH A PROCEEDING UNDER THIS SECTION OR RELATED PROCEEDINGS UNDER THE FAMILY COURT ACT AND MAY NOT BE REDISCLOSED EXCEPT AS NECESSARY FOR SUCH PROCEEDING OR PROCEEDINGS AND AS AUTHORIZED BY LAW. REPORTS UNDER THIS PARAGRAPH MAY BE TRANSMITTED, INCLUDING, BUT NOT LIMITED TO, BY ELECTRONIC MEANS OR ON THE RECORD DURING PROCEEDINGS IN FAMILY COURT.

S 6. This act shall take effect immediately, provided that sections one, three, four and five of this act shall take effect on the one hundred twentieth day after it shall have become a law; provided, however, that section two of this act shall be deemed to have taken effect on the same date as section 1 of chapter 342 of the laws of 2010, took

effect; and, effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized and directed to be completed on or before such effective date.