

STATE OF NEW YORK

3489

2017-2018 Regular Sessions

IN ASSEMBLY

January 27, 2017

Introduced by M. of A. RYAN -- read once and referred to the Committee on Children and Families

AN ACT to amend the social services law, in relation to the reporting of child abuse

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 1 of section 413 of the social services law, as
2 amended by chapter 366 of the laws of 2008, paragraph (a) as separately
3 amended by chapters 126 and 205 of the laws of 2014 and paragraph (c) as
4 amended by section 3 of part D of chapter 501 of the laws of 2012, is
5 amended to read as follows:
6 1. (a) The following persons and officials are required to report or
7 cause a report to be made in accordance with this title when they have
8 reasonable cause to suspect that a child coming before them in their
9 professional or official capacity is an abused or maltreated child, or
10 when they have reasonable cause to suspect that a child is an abused or
11 maltreated child where the parent, guardian, custodian or other person
12 legally responsible for such child comes before them in their profes-
13 sional or official capacity and states from personal knowledge facts,
14 conditions or circumstances which, if correct, would render the child an
15 abused or maltreated child: any physician; registered physician assist-
16 ant; surgeon; medical examiner; coroner; dentist; dental hygienist;
17 osteopath; optometrist; chiropractor; podiatrist; resident; intern;
18 psychologist; registered nurse; social worker; emergency medical techni-
19 cian; licensed creative arts therapist; licensed marriage and family
20 therapist; licensed mental health counselor; licensed psychoanalyst;
21 licensed behavior analyst; certified behavior analyst assistant; hospi-
22 tal personnel engaged in the admission, examination, care or treatment
23 of persons; member of the clergy; a Christian Science practitioner;
24 school official, which includes but is not limited to school teacher,
25 school guidance counselor, school psychologist, school social worker,

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

LBD07939-01-7

1 school nurse, school administrator or other school personnel required to
2 hold a teaching or administrative license or certificate; full or part-
3 time compensated school employee required to hold a temporary coaching
4 license or professional coaching certificate; social services worker;
5 director of a children's overnight camp, summer day camp or traveling
6 summer day camp, as such camps are defined in section thirteen hundred
7 ninety-two of the public health law; day care center worker; school-age
8 child care worker; provider of family or group family day care; employee
9 or volunteer in a residential care facility for children that is
10 licensed, certified or operated by the office of children and family
11 services; or any other child care or foster care worker; mental health
12 professional; substance abuse counselor; alcoholism counselor; all
13 persons credentialed by the office of alcoholism and substance abuse
14 services; peace officer; police officer; district attorney or assistant
15 district attorney; investigator employed in the office of a district
16 attorney; or other law enforcement official.

17 (b) Whenever such person is required to report under this title in his
18 or her capacity as a member of the staff of a medical or other public or
19 private institution, school, facility or agency, he or she shall make
20 the report as required by this title and immediately notify the person
21 in charge of such institution, school, facility or agency, or his or her
22 designated agent. Such person in charge, or the designated agent of such
23 person, shall be responsible for all subsequent administration necessi-
24 tated by the report. Any report shall include the name, title and
25 contact information for every staff person of the institution who is
26 believed to have direct knowledge of the allegations in the report.
27 Nothing in this section or title is intended to require more than one
28 report from any such institution, school or agency.

29 (c) A medical or other public or private institution, school, facility
30 or agency shall not take any retaliatory personnel action, as such term
31 is defined in paragraph (e) of subdivision one of section seven hundred
32 forty of the labor law, against an employee because such employee
33 believes that he or she has reasonable cause to suspect that a child is
34 an abused or maltreated child and that employee therefore makes a report
35 in accordance with this title. No school, school official, child care
36 provider, foster care provider, residential care facility provider,
37 hospital, medical institution provider or mental health facility provid-
38 er shall impose any conditions, including prior approval or prior
39 notification, upon a member of their staff specifically required to
40 report under this title. At the time of the making of a report, or at
41 any time thereafter, such person or official may exercise the right to
42 request, pursuant to paragraph (A) of subdivision four of section four
43 hundred twenty-two of this title, the findings of an investigation made
44 pursuant to this title.

45 (d) Social services workers are required to report or cause a report
46 to be made in accordance with this title when they have reasonable cause
47 to suspect that a child is an abused or maltreated child where a person
48 comes before them in their professional or official capacity and states
49 from personal knowledge facts, conditions or circumstances which, if
50 correct, would render the child an abused or maltreated child.

51 (e) Unless the person confessing or confiding waives the privilege, a
52 member of the clergy, or other minister of any religion or duly accred-
53 ited Christian Science practitioner, shall not be required to make a
54 report as required by paragraph (a) of this subdivision if the
55 confession or confidence was made to him or her in his or her profes-
56 sional character as spiritual advisor.

1 (f) When a member of the clergy has reasonable cause to suspect that a
2 child is an abused or maltreated child based upon any information
3 received other than through a confession or confidence made pursuant to
4 paragraph (e) of this subdivision, then such member of the clergy shall
5 promptly make a report as required by paragraph (a) of this subdivision
6 notwithstanding the fact that he or she may have also received a report
7 of abuse or maltreatment through a confession or confidence made pursu-
8 ant to paragraph (e) of this subdivision.

9 (g) The provisions of paragraph (e) of this subdivision shall not be
10 deemed to exempt a member of the clergy from any other requirements of
11 law to prevent the perpetrator from committing additional acts of abuse.

12 (h) For the purposes of this subdivision the term "member of the cler-
13 gy" shall have the same definition as the term "clergyman" as set forth
14 in section two of the religious corporations law and shall also include
15 any person responsible for supervising a member of the clergy of a reli-
16 gious institution or responsible for the administration of a religious
17 institution.

18 (i) For the purposes of this subdivision the term "religious institu-
19 tion" shall mean a religious corporation created to enable its members
20 to meet for divine worship or other religious observances or a congre-
21 gation, society, or other assemblage of persons who are accustomed to
22 statedly meet for divine worship or other religious observances, without
23 having been incorporated for that purpose, as provided in section two of
24 the religious corporations law.

25 § 2. This act shall take effect on the sixtieth day after it shall
26 have become a law.