

# STATE OF NEW YORK

6830

2017-2018 Regular Sessions

## IN ASSEMBLY

March 21, 2017

Introduced by M. of A. WEPRIN -- read once and referred to the Committee on Social Services

AN ACT to amend the social services law, in relation to duty to report incidents to 9-1-1 and the county district attorney's office

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

1 Section 1. Section 491 of the social services law, as added by section  
2 1 of part B of chapter 501 of the laws of 2012 and subdivision 4 as  
3 amended by chapter 126 of the laws of 2014, is amended to read as  
4 follows:

5 § 491. Duty to report incidents. 1. (a) Mandated reporters shall  
6 report allegations of reportable incidents, all suspicious and unex-  
7 plained injuries to include broken bones, hematomas, open wounds beyond  
8 minor first aid, black eyes, swollen noses, extreme and questionable  
9 bruising, choke marks, burns, all individuals served found unresponsive  
10 and all deaths to a 9-1-1 operator, the county district attorney's  
11 office and the vulnerable persons' central register except for taunts,  
12 derogatory comments or ridicule which is required to be reported solely  
13 to the vulnerable persons' central register as established by section  
14 four hundred ninety-two of this article and in accordance with the  
15 requirements set forth therein. All medical emergencies that threaten  
16 the health, safety or life of individuals served shall be reported imme-  
17 diately to a 9-1-1 operator.

18 (b) Allegations of reportable incidents, all suspicious and unex-  
19 plained injuries to include broken bones, hematomas, open wounds beyond  
20 minor first aid, black eyes, swollen noses, extreme and questionable  
21 bruising, choke marks, burns, all individuals served found unresponsive  
22 and all deaths shall be reported immediately to a 9-1-1 operator, the  
23 county district attorney's office and the vulnerable persons' central  
24 register upon discovery. For purposes of this article, "discovery"  
25 occurs when the mandated reporter witnesses a suspected reportable inci-

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

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1 dent or when another person, including the vulnerable person, comes  
2 before the mandated reporter in the mandated reporter's professional or  
3 official capacity and provides the mandated reporter with reasonable  
4 cause to suspect that the vulnerable person has been subjected to a  
5 reportable incident, all suspicious and unexplained injuries to include  
6 broken bones, hematomas, open wounds beyond minor first aid, black eyes,  
7 swollen noses, extreme and questionable bruising, choke marks, burns,  
8 all individuals served found unresponsive and all deaths. A report to  
9 the register shall include the name, title and contact information of  
10 every person known to the mandated reporter to have the same information  
11 as the mandated reporter concerning the reportable incident. [~~Nothing in~~  
12 ~~this subdivision shall be construed to prohibit a mandated reporter from~~  
13 ~~contacting or reporting to law enforcement or emergency services before~~  
14 ~~or after reporting to the vulnerable persons' central register.~~]

15 (c) The substance or content of any psychological, psychiatric, thera-  
16 peutic, clinical or medical reports, evaluations or like materials or  
17 information pertaining to the treatment of a patient or client of a  
18 mandatory reporter who reports a reportable incident of such patient or  
19 client pursuant to this article, must be provided by such mandatory  
20 reporter upon request of the justice center for the protection of people  
21 with special needs, local police and county district attorney if such  
22 records are essential for a full investigation of such allegation,  
23 notwithstanding any applicable privilege which would otherwise bar the  
24 disclosure of such materials and records pursuant to article forty-five  
25 of the civil practice law and rules or other provision of law except  
26 applicable federal law governing the disclosure of patient and related  
27 medical records.

28 2. Any person or official required to report allegations of reportable  
29 incidents pursuant to this section may take or cause to be taken color  
30 photographs of visible trauma and the face of the vulnerable person  
31 named in the report and upon the consent of a person authorized to  
32 consent to medical care for the vulnerable person, shall, if medically  
33 indicated, cause to be performed a radiological examination of the  
34 vulnerable person. Any photographs or radiological examinations taken  
35 shall be provided to the justice center, local police and county  
36 district attorney for use only for the purposes of an investigation of a  
37 reportable incident.

38 3. (a) Any human services professional required by this article to  
39 report a case of suspected abuse or neglect, all suspicious and unex-  
40 plained injuries to include broken bones, hematomas, open wounds beyond  
41 minor first aid, black eyes, swollen noses, extreme and questionable  
42 bruising, choke marks, burns, all individuals served found unresponsive  
43 and all deaths to a 9-1-1 operator, the county district attorney's  
44 office and the vulnerable persons' central register who knowingly and  
45 willfully fails to do so shall be guilty of a class [~~A misdemeanor~~] E  
46 felony. Mandated reporters shall report non-criminal medical emergen-  
47 cies that threaten the health, safety or life of individuals served to a  
48 9-1-1 operator only. Mandated reporters who knowingly and willfully fail  
49 to report such medical emergencies to a 9-1-1 operator shall be guilty  
50 of a class E felony.

51 (b) A mandated reporter who knowingly and willfully fails to report a  
52 case of suspected abuse or neglect, all suspicious and unexplained inju-  
53 ries to include broken bones, hematomas, open wounds beyond minor first  
54 aid, black eyes, swollen noses, extreme and questionable bruising, choke  
55 marks, burns, all individuals served found unresponsive and all deaths  
56 to a 9-1-1 operator, the county district attorney's office and the

1 vulnerable persons' central register may be subject to termination,  
2 subject to any applicable collective bargaining agreement. Any person or  
3 official required by this article to report a case of suspected abuse or  
4 neglect, all suspicious and unexplained injuries to include broken  
5 bones, hematomas, open wounds beyond minor first aid, black eyes, swol-  
6 len noses, extreme and questionable bruising, choke marks, burns, all  
7 individuals served found unresponsive and all deaths to a 9-1-1 opera-  
8 tor, the county district attorney's office and the vulnerable persons'  
9 central register and any medical emergencies that threaten the health,  
10 safety or life of individuals served not reported immediately to a 9-1-1  
11 operator who knowingly and willfully fails to do so shall be civilly  
12 liable for the damages proximately caused by such failure.

13 4. A medical or other public or private institution, state agency,  
14 school, facility or provider agency or its vendors or contractors shall  
15 not take any retaliatory personnel action, as such term is defined in  
16 paragraph (e) of subdivision one of section seven hundred forty of the  
17 labor law, against an employee or agent or vendor or contractor because  
18 such employee or agent or vendor or contractor believes that he or she  
19 has reasonable cause to suspect that a vulnerable person has been  
20 subjected to a reportable incident and that employee or agent or vendor  
21 or contractor therefore makes a report in accordance with this section  
22 and/or cooperated with the investigation of a reportable incident. A  
23 court of competent jurisdiction may grant injunctive relief to any  
24 person determined to have been subjected to such retaliation.

25 5. All state and private agencies with mandatory reporters shall  
26 retrain all staff on reporting to a 9-1-1 operator and the county  
27 district attorney's office and all state and private websites, training  
28 manuals, informational brochures or pamphlets directing reporting shall  
29 state that such instances be reported to a 9-1-1 operator and the county  
30 district attorney's office and the vulnerable persons' central register.  
31 All former poster and wallet cards and any other information directing  
32 reportable incidents to only the vulnerable persons' central register  
33 will be replaced and updated in a conspicuously located and timely  
34 manner to direct reporting of reportable incidents, crimes, medical  
35 emergencies, suspicious and unexplained injuries to include broken  
36 bones, hematomas, open wounds beyond minor first aid, black eyes, swol-  
37 len noses, extreme and questionable bruising, choke marks, burns, all  
38 individuals served found unresponsive and all deaths to the vulnerable  
39 persons' central register, a 9-1-1 operator, and the county district  
40 attorney's office with the exception of non-criminal medical emergen-  
41 cies, which shall only be reported to a 9-1-1 operator.

42 § 2. This act shall take effect immediately.