

STATE OF NEW YORK

8710

IN ASSEMBLY

January 11, 2022

Introduced by M. of A. GUNTHER -- read once and referred to the Committee on Mental Health

AN ACT to amend a chapter of the laws of 2021 relating to the provision of records upon the receipt of a complaint of an incident of abuse or neglect of an individual with a disability, as proposed in legislative bills numbers A. 7731 and S. 7024, in relation to the provision of such records

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

1 Section 1. Section 1 of a chapter of the laws of 2021 relating to the
2 provision of records upon the receipt of a complaint of an incident of
3 abuse or neglect of an individual with a disability, as proposed in
4 legislative bills numbers A. 7731 and S. 7024, is amended to read as
5 follows:

6 Section 1. Upon receipt of a complaint of an incident of abuse or
7 neglect of an individual with a disability, or if the independent agency
8 established under section 558 of the executive law determines there is
9 probable cause to believe that such an incident occurred, or in other
10 instances related to an investigation of a violation of such individual's
11 rights, the independent agency shall have prompt access: to any
12 facility or part thereof serving such individual that is operated,
13 certified or licensed by any office or agency of the state, at any time;
14 to all books, records and data pertaining to such [a] facility serving
15 individuals with disabilities; to such individual with a disability in a
16 location in which services, supports and other assistance are provided
17 to such individual; to records of a facility or provider agency concerning
18 such individual; and to any other records or data that the independent
19 agency determines are relevant to conducting an investigation. The
20 independent agency also shall have access to records of the justice
21 center as set forth in paragraph (f) of subdivision one and paragraph
22 (y) of subdivision two of section four hundred ninety-six of the social
23 services law. Copies of records shall be provided to the independent
24 agency free of charge within three business days of receipt of a written
25 request, or if there is a complaint of health or safety placing individ-

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

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1 uals in serious and immediate jeopardy, or in the case of the death of
2 an individual with a disability, within twenty-four hours of receipt of
3 a written request. [~~Records shall be provided in electronic form at the~~
4 ~~request of the independent agency~~] If the independent agency's access is
5 denied or delayed beyond the deadlines specified herein, the independent
6 agency shall be provided, within one business day after the expiration
7 of such deadline, with a written statement of reasons for the denials or
8 delay. Where records are kept or maintained electronically they shall
9 be provided to the independent agency electronically.

10 § 2. Section 2 of a chapter of the laws of 2021 relating to the
11 provision of records upon the receipt of a complaint of an incident of
12 abuse or neglect of an individual with a disability, as proposed in
13 legislative bills numbers A. 7731 and S. 7024, is amended to read as
14 follows:

15 § 2. This act shall take effect [~~immediately~~] on the thirtieth day
16 after it shall have become a law.

17 § 3. This act shall take effect immediately; provided, however, that
18 section one of this act shall take effect on the same date and in the
19 same manner as a chapter of the laws of 2021 relating to the provision
20 of records upon the receipt of a complaint of an incident of abuse or
21 neglect of an individual with a disability, as proposed in legislative
22 bills numbers A. 7731 and S. 7024, takes effect.