STATE OF NEW YORK

8743

2025-2026 Regular Sessions

IN ASSEMBLY

June 2, 2025

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

AN ACT to amend the social services law, in relation to providing for certain procedures to be followed when there is a determination of suspected child abuse or neglect

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

Section 1. This act shall be known and may be cited as "Clava's Law".

§ 2. Section 423 of the social services law is amended by adding three new subdivisions 7, 8 and 9 to read as follows:

7. No allegation of child abuse or neglect shall be made to the local law enforcement agency until the completion of an investigation conducted pursuant to this title which shall include, but not be limited to:

(a) inquiry into a thorough review of the medical history of the child and of the child's family, including whether the child has a reported preexisting diagnosis of any medical condition known to appear to be caused by or known to be misdiagnosed as abuse, including but not limited to, rickets, Ehlers-Danlos syndrome, osteogenesis imperfecta or vitamin D deficiency;

(b) communication with all medical providers regularly involved with the child and the child's family;

(c) the collection of medical records from the child's birth, including NICU, prenatal clinic, developmental care, and any other relevant medical history;

(d) a review of the child's history with early intervention and CPSE services, including individual education plans and special services, if applicable;

(e) communication with all caregivers involved in the child's life, particularly if the child's parents lived separately or are undergoing legal proceedings;

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

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(f) observation of the child's behavior with each parent separately and together to document the child's reactions in the event of suspected abuse;

(g) an evaluation of when the suspected incidents of abuse or neglect occurred and where and with whom the child was residing at the time; and

(h) an examination of the child's school records, including grades and incident reports.

8. Any physician, medical provider or mental health professional involved in an investigation conducted by a multidisciplinary team as provided in subdivision six of this section shall transparently communicate their role as part of the investigatory team to the parents or guardians of a child who is the subject of such investigation. It shall be made clear to the parents or guardians of the child that the physician, medical provider or mental health professional is evaluating the child for purposes of the investigation as well as for purposes of treatment of the child.

9. (a) If an examination has been performed on the child by or on behalf of the multidisciplinary investigative team, the child's parent or guardian shall have the right to obtain an independent medical evaluation or pediatric specialty consultation of such child performed by a physician licensed under article one hundred thirty-one of the education law at their own expense or as otherwise covered by insurance or Medicaid unless prohibited by court order. The multidisciplinary team shall cooperate as may reasonably be necessary to facilitate an independent medical evaluation or pediatric specialty consultation for such child.

(b) If an initial examination was not performed by or on behalf of the multidisciplinary investigative team, the child's parent or guardian may request that the child be examined by or on behalf of the multidisciplinary investigative team as soon as practicable.

(c) As used in this paragraph, the term "pediatric specialty consultation" means a consultation with a physician licensed to practice medicine in this state and board certified in the relevant pediatric field or specialty, including radiology, genetics, orthopedics, endocrinology, neurosurgery, child abuse pediatrics, gastroenterology, surgery, or forensic pathology, and to diagnose and treat certain health conditions, including rickets, Ehlers-Danlos syndrome, osteogenesis imperfecta, vitamin D deficiency, or other medical conditions related to the differential diagnosis of child abuse or neglect.

(d) At any hearing concerning a child before the court in a proceeding pursuant to this article, the court shall consider the results from an independent medical evaluation or pediatric specialty consultation of such child; provided that no hearing scheduled in accordance with this article shall be continued solely because the results from an independent medical evaluation or pediatric specialty consultation of the child before the court are unavailable.

§ 3. Subdivisions 13 and 14 of section 424 of the social services law, subdivision 13 as amended by chapter 220 of the laws of 1975 and renumbered by chapter 477 of the laws of 1989 and subdivision 14 as added by chapter 317 of the laws of 1990, are amended to read as follows:

13. coordinate, provide or arrange for and monitor, as authorized by the social services law, the family court act and by this title, rehabilitative services for children and their families on a voluntary basis or under a final or intermediate order of the family court[~~.~~];

14. comply with provisions of sections ten hundred thirty-nine-a and ten hundred fifty-two-a of the family court act; and

15. upon commencing an investigation under this title, inform any subject of the investigation of the following:

(a) the names of the investigators and identifying credentials from the department;

(b) the purpose of the investigation;

(c) the right to obtain their own attorney and ways that the information provided by the subject may be used;

(d) the possible outcomes and services of the department's response;

(e) the right of the parent or legal custodian to be engaged to the fullest extent possible in determining the nature of the allegation and the nature of any identified problem and the remedy;

(f) the duty of the parent or legal custodian to report any change in the residence or location of the child to the investigator and that the duty to report continues until the investigation is closed; and

(g) the duty of the parent or legal custodian to report any preexisting diagnosis for the child which is specified in paragraph three of subdivision nine of section four hundred twenty-three of this title and provide any medical records that support that diagnosis in a timely manner.

§ 4. Subdivision 1 of section 413 of the social services law is amended by adding a new paragraph (e) to read as follows:

(e)(i) A physician or registered physician assistant shall not be deemed to have reasonable cause to suspect that a child coming before them in their professional or official capacity is an abused or maltreated child unless the physician or registered physician assistant has made a good faith attempt to:

(1) review the medical history of the child, including whether the child has a reported preexisting diagnosis of any medical condition known to appear to be caused by or known to be misdiagnosed as abuse, including rickets, Ehlers-Danlos syndrome, osteogenesis imperfecta or vitamin D deficiency.

(2) communicate with all medical providers regularly involved with the child;

(3) review available medical records from the child's birth, including NICU, prenatal clinic, developmental care, and any other relevant medical history;

(4) review any known history of the child with early intervention and CPSE services, including individual education plans and special services, if applicable; and

(5) communicate, to the extent permissible under HIPPA guidelines, with all caregivers involved in the child's life, particularly if the child's parents lived separately or are undergoing legal proceedings.

(ii) Any person who violates the requirements of this paragraph may be subject to the penalties set forth in subdivision fourteen of section four hundred twenty-two of this title.

§ 5. This act shall take effect on January 1, 2026 and shall apply to any report or referral of suspected abuse or neglect of a child made on or after such effective date.