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

5565

2009-2010 Regular Sessions

I N A S S E M B L Y

February 13, 2009

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

AN ACT to amend the family court act and the social services law, in relation to the admissibility of reports of suspected abuse in child protective proceedings

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph (v) of subdivision (a) of section 1046 of the family court act, as amended by chapter 64 of the laws of 1981, is amended to read as follows:

(v) any report filed with the statewide central register of child abuse and maltreatment WHICH WAS WRITTEN by a person or official required to do so pursuant to section four hundred thirteen of the social services law shall be admissible in evidence AS PROOF THAT SUCH A REPORT WAS MADE; and

S 2. Section 415 of the social services law, as amended by chapter 323 of the laws of 2008, is amended to read as follows:

S 415. Reporting procedure. Reports of suspected child abuse or maltreatment made pursuant to this title shall be made immediately by telephone or by telephone facsimile machine on a form supplied by the commissioner of the office of children and family services. Oral reports shall be followed by a report in writing within forty-eight hours after such oral report. Oral reports shall be made to the statewide central register of child abuse and maltreatment unless the appropriate local plan for the provision of child protective services provides that oral reports should be made to the local child protective service. In those localities in which oral reports are made initially to the local child protective service, the child protective service shall immediately make an oral or electronic report to the statewide central register. Written reports shall be made to the appropriate local child protective service except that written reports involving children in residential care, as

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

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defined in subdivision four of section four hundred twelve-a of this title, or being cared for in a home operated or supervised by an authorized agency, office of children and family services, or an office of the department of mental hygiene, shall be made to the statewide central register of child abuse and maltreatment which shall transmit the reports to the agency responsible for investigating the report, in accordance with paragraph (a) or (c) of subdivision eleven of section four hundred twenty-two or section four hundred twenty-four-b of this title, as applicable. Written reports shall be made in a manner prescribed and on forms supplied by the commissioner of the office of children and family services and shall include the following information: the names and addresses of the child and his or her parents or other person responsible for his or her care, if known, and, as the case may be, the name and address of the residential care facility or program in which the child resides or is receiving care; the child's age, sex and race; the nature and extent of the child's injuries, abuse or maltreatment, including any evidence of prior injuries, abuse or maltreatment to the child or, as the case may be, his or her siblings; the name of the person or persons alleged to be responsible for causing the injury, abuse or maltreatment, if known; family composition, where appropriate; the source of the report; the person making the report and where he or she can be reached; the actions taken by the reporting source, including the taking of photographs and x-rays, removal or keeping of the child or notifying the medical examiner or coroner; and any other information which the commissioner of the office of children and family services may, by regulation, require, or the person making the report believes might be helpful, in the furtherance of the purposes of this title. Notwithstanding the privileges set forth in article forty-five of the civil practice law and rules, and any other provision of law to the contrary, mandated reporters who make a report which initiates an investigation of an allegation of child abuse or maltreatment are required to comply with all requests for records made by a child protective service relating to such report, including records relating to diagnosis, prognosis or treatment, and clinical records, of any patient or client that are essential for a full investigation of allegations of child abuse or maltreatment pursuant to this title; provided, however, that disclosure of substance abuse treatment records shall be made pursuant to the standards and procedures for disclosure of such records delineated in federal law. [Written reports from persons or officials required by this title to report shall be admissible in evidence in any proceedings relating to child abuse or maltreatment.]

S 3. This act shall take effect immediately.