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

S. 4865 A. 7846

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

April 27, 2009

IN SENATE -- Introduced by Sen. MONTGOMERY -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

IN ASSEMBLY -- Introduced by M. of A. MILLMAN, BRADLEY -- 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 removing special powers granted to the society for the prevention of cruelty to children; and repealing certain provisions of the criminal procedure law, the public officers law and the social services law relating thereto

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

Section 1. Subdivision (i) of section 1012 of the family court act, as amended by chapter 309 of the laws of 1996, is amended to read as follows:

(i) "Child protective agency" means [any duly authorized society for the prevention of cruelty to children or] the child protective service of the appropriate local department of social services or such other agencies with whom the local department has arranged for the provision of child protective services under the local plan for child protective services or an Indian tribe that has entered into an agreement with the state department of social services pursuant to section thirty-nine of the social services law to provide child protective services.

S 2. Subdivision (a) of section 1024 of the family court act, as amended by chapter 677 of the laws of 1985, is amended to read as follows:

(a) A peace officer, acting pursuant to his OR HER special duties, police officer, or a law enforcement official, [or an agent of a duly incorporated society for the prevention of cruelty to children] or a designated employee of a city or county department of social services

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

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shall take all necessary measures to protect a child's life or health including, when appropriate, taking or keeping a child in protective custody, and any physician shall notify the local department of social services or appropriate police authorities to take custody of any child such physician is treating, without an order under section one thousand twenty-two OF THIS PART and without the consent of the parent or other person legally responsible for the child's care, regardless of whether the parent or other person legally responsible for the child's care is absent, if (i) such person has reasonable cause to believe that the child is in such circumstance or condition that his OR HER continuing in said place of residence or in the care and custody of the parent or person legally responsible for the child's care presents an imminent danger to the child's life or health; and

(ii) there is not time enough to apply for an order under section one thousand twenty-two OF THIS PART.

S 3. The opening paragraph of subdivision 1 of section 1034 of the family court act, as amended by chapter 627 of the laws of 1978, is amended to read as follows:

A family court judge may order the child protective service of the appropriate [department of] social services [or request any other appropriate child protective agency] DISTRICT to conduct a child protective investigation as described by the social services law and report its findings to the court:

S 4. Paragraph (a) of subdivision 1 of section 417 of the social services law, as amended by chapter 309 of the laws of 1996, is amended to read as follows:

(a) Pursuant to the requirements and provisions of the family court act, a peace officer, acting pursuant to his or her special duties, a police officer, a law enforcement official[, or an agent of a duly incorporated society for the prevention of cruelty to children], or a designated employee of a city or county department of social services, or an agent or employee of an Indian tribe that has entered into an agreement with the department pursuant to section thirty-nine of this chapter to provide child protective services shall take all appropriate measures to protect a child's life and health including, when appropriate, taking or keeping a child in protective custody without the consent of a parent or guardian if such person has reasonable cause to believe that the circumstances or condition of the child are such that continuing in his or her place of residence or in the care and custody of the parent, guardian, custodian or other person responsible for the child's care presents an imminent danger to the child's life or health.

S 5. Subdivision 2 of section 386 of the social services law, as amended by chapter 555 of the laws of 1978, is amended to read as follows:

2. The board or the department is authorized to visit, in its discretion, any home or place where a child or children are received, boarded or kept under a license or certificate whether or not such children are maintained as public charges. Every licensed home shall, if practicable, be visited by the department at least four times in each year. [Such homes and places may be visited by the employees of any incorporated society for the prevention of cruelty to children.]

S 6. Subdivision 5 of section 372 of the social services law, as amended by chapter 312 of the laws of 2002, is amended to read as follows:

5. The requirements of this section to keep records and make reports shall not apply to the birth parent or parents, or relatives within the

second degree of such parents. [The reception of a child, or the power to receive the same, shall not make this section applicable to a humane society, or to a society for the prevention of cruelty to children.]

S 7. Subdivision 7-a of section 2.10 of the criminal procedure law is REPEALED.

S 8. Subdivision 35 of section 3 of the public officers law is REPEALED.

S 9. Subdivision (a) of section 119 of the family court act, as amended by chapter 691 of the laws of 1963 and paragraph (iii) as amended by chapter 555 of the laws of 1978, is amended to read as follows:

(a) "Duly authorized association, agency, society or institution" means [a society for the prevention of cruelty to children duly incorporated under the laws of this state;] any institution supported or controlled by the state or by a subdivision thereof; any [public welfare] SOCIAL SERVICES official of this state; or an association, agency, society, or institution, duly empowered to care for children, which

(i) is incorporated under the laws of this state;

(ii) actually has its place of business or home within the state; and

(iii) is approved, visited, inspected and supervised by the [state] department of [social services] FAMILY ASSISTANCE, or which shall submit and consent to the approval, visitation, inspection and supervision of the department.

S 10. Paragraph (e) of subdivision 1 of section 423 of the social services law is REPEALED and paragraph (f) of subdivision 1 is relettered paragraph (e).

S 11. This act shall take effect immediately.