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

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2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. WRIGHT -- Multi-Sponsored by -- M. of A. ROBINSON -- read once and referred to the Committee on Social Services

AN ACT to amend the social services law and the tax law, in relation to wage reporting

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

Section 1. Paragraph (a) of subdivision 1 of section 23 of the social services law, as amended by chapter 398 of the laws of 1997, is amended to read as follows:

(a) to social services districts (I) with respect to applicants for [and], recipients of public assistance and care or other benefits pursuant to this chapter for which such districts are responsible[,]; (II) with respect to any person legally responsible for the support of such applicants and recipients [and]; (III) with respect to any person legally responsible for the support of a recipient of services under section one hundred eleven-g of this chapter or to any agent of any entity that is under contract with the child support program pursuant to title [six-a] SIX-A of article three of this chapter[,]; AND (IV) WITH RESPECT TO THE PARENTS, THE STEPPARENTS, THE CHILD AND THE SIBLINGS OF THE CHILD WHO WERE LIVING IN THE SAME HOUSEHOLD AS A CHILD WHO IS IN THE CARE AND CUSTODY OR CUSTODY AND GUARDIANSHIP OF A LOCAL COMMISSIONER OF SOCIAL SERVICES OR OF THE OFFICE OF CHILDREN AND FAMILY SERVICES DURING THE MONTH THAT THE COURT PROCEEDINGS LEADING TO THE CHILD'S REMOVAL FROM THE HOUSEHOLD WERE INITIATED, OR THE WRITTEN INSTRUMENT TRANSFERRING CARE AND CUSTODY OF THE CHILD PURSUANT TO THE PROVISIONS OF SECTION THREE HUNDRED FIFTY-EIGHT-A OF THIS CHAPTER OR SECTION THREE HUNDRED EIGHTY-FOUR-A OF THIS CHAPTER WAS SIGNED, FOR THE PURPOSE OF DETERMINING THE ELIGIBILITY OF SUCH CHILD FOR FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT;

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

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S 2. Subdivision 3 of section 23 of the social services law, as separately amended by chapters 304 and 818 of the laws of 1990, is amended to read as follows:

3. Information obtained by the [department] OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE from the wage reporting system operated by the state department of taxation and finance shall be considered confidential and shall not be disclosed to persons or agencies other than those considered entitled to such information when such disclosure is necessary for the proper administration of programs of public assistance and care or for the proper administration of the child support program pursuant to title six-A of article three of this chapter, OR OF ELIGIBILITY ASSESSMENTS OF CHILDREN FOR FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT. For the purpose of this subdivision, any disclosure made pursuant to subdivision one of this section shall be considered necessary for the proper administration of programs of public assistance and care, OR OF ELIGIBILITY ASSESSMENTS OF CHILDREN FOR FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT; and the federal parent locator service shall be considered an agency entitled to such information as is necessary for the proper administration of the child support program pursuant to title six-A of article three of this chapter.

S 3. Paragraph (a) of subdivision 3 of section 171-a of the tax law, as amended by chapter 304 of the laws of 1990 and as designated by chapter 818 of the laws of 1990, is amended to read as follows:

(a) Notwithstanding any law to the contrary, the commissioner [of taxation and finance] shall maintain a cooperative agreement with the state [department of social services] OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE, which agreement shall provide for the utilization of information obtained pursuant to subdivision one [hereof] OF THIS SECTION, for the purpose of verifying eligibility for and entitlement to amounts of benefits under the social services law, locating absent parents or other persons legally responsible for the support of applicants or recipients of public assistance and care under the social services law and persons legally responsible for the support of a recipient of services under section one hundred eleven-g of the social services law and, in appropriate cases, establishing support obligations pursuant to the social services law and the family court act, AND FOR THE PURPOSE OF DETERMINING THE ELIGIBILITY OF ANY CHILD IN THE CARE AND CUSTODY OR CUSTODY AND GUARDIANSHIP OF A LOCAL COMMISSIONER OF SOCIAL SERVICES OR OF THE OFFICE OF CHILDREN AND FAMILY SERVICES FOR FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT BY PROVIDING INFORMATION WITH RESPECT TO THE PARENTS, THE STEPPARENTS, THE CHILD AND THE SIBLINGS OF THE CHILD WHO WERE LIVING IN THE SAME HOUSEHOLD AS SUCH CHILD DURING THE MONTH THAT THE COURT PROCEEDINGS LEADING TO THE CHILD'S REMOVAL FROM THE HOUSEHOLD WERE INITIATED OR THE WRITTEN INSTRUMENT TRANSFERRING CARE AND CUSTODY OF THE CHILD PURSUANT TO THE PROVISIONS OF SECTION THREE HUNDRED FIFTY-EIGHT-A OF THE SOCIAL SERVICES LAW OR SECTION THREE HUNDRED EIGHTY-FOUR-A OF THE SOCIAL SERVICES LAW WAS SIGNED, and for the purpose of evaluating the effect on earnings of participation in employment or training programs authorized pursuant to the social services law by current recipients of public assistance and care and by former recipients of public assistance and care, such agreement shall further provide to the degree required by federal law for the commissioner [of taxation

and finance] and the [social services department] OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE to provide information obtained pursuant to subdivision one of this section to the federal social security administration or to public agencies in other states which administer programs under the food stamp act of nineteen hundred seventy-seven or title I, II, IV-A, IV-D, X, XIV, XVI, or XIX of the federal social security act and to take such other steps as may be required by section one thousand one hundred thirty-seven of the social security act or federal regulations promulgated thereunder.

S 4. Paragraph 3 of subsection (e) of section 697 of the tax law, as separately amended by section 1 of part M of chapter 57 and section 45-f of part C of chapter 58 of the laws of 2008, is amended to read as follows:

(3) Nothing herein shall be construed to prohibit the department, its officers or employees from furnishing information to the office of temporary and disability assistance relating to the payment of the credit for certain household and dependent care services necessary for gainful employment under subsection (c) of section six hundred six of this article and the earned income credit under subsection (d) of section six hundred six of this article, or pursuant to a local law enacted by a city having a population of one million or more pursuant to subsection (f) of section thirteen hundred ten of this chapter, only to the extent necessary to calculate qualified state expenditures under paragraph seven of subdivision (a) of section four hundred nine of the federal social security act or to document the proper expenditure of federal temporary assistance for needy families funds under section four hundred three of such act. The office of temporary and disability assistance may redisclose such information to the United States department of health and human services only to the extent necessary to calculate such qualified state expenditures or to document the proper expenditure of such federal temporary assistance for needy families funds. Nothing herein shall be construed to prohibit the delivery by the commissioner to a commissioner of jurors, appointed pursuant to section five hundred four of the judiciary law, or, in counties within cities having a population of one million or more, to the county clerk of such county, of a mailing list of individuals to whom income tax forms are mailed by the commissioner for the sole purpose of compiling a list of prospective jurors as provided in article sixteen of the judiciary law. Provided, however, such delivery shall only be made pursuant to an order of the chief administrator of the courts, appointed pursuant to section two hundred ten of the judiciary law. No such order may be issued unless such chief administrator is satisfied that such mailing list is needed to compile a proper list of prospective jurors for the county for which such order is sought and that, in view of the responsibilities imposed by the various laws of the state on the department, it is reasonable to require the commissioner to furnish such list. Such order shall provide that such list shall be used for the sole purpose of compiling a list of prospective jurors and that such commissioner of jurors, or such county clerk, shall take all necessary steps to insure that the list is kept confidential and that there is no unauthorized use or disclosure of such list. Furthermore, nothing herein shall be construed to prohibit the delivery to a taxpayer or his or her duly authorized representative of a certified copy of any return or report filed in connection with his or her tax or to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the attorney general or other legal

representatives of the state of the report or return of any taxpayer or of any employer filed under section one hundred seventy-one-h of this chapter, where such taxpayer or employer shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding under this chapter or under this chapter and article eighteen of the labor law has been recommended by the commissioner, the commissioner of labor with respect to unemployment insurance matters, or the attorney general or has been instituted, or the inspection of the reports or returns required under this article by the comptroller or duly designated officer or employee of the state department of audit and control, for purposes of the audit of a refund of any tax paid by a taxpayer under this article, or the furnishing to the state department of labor of unemployment insurance information obtained or derived from quarterly combined withholding, wage reporting and unemployment insurance returns required to be filed by employers pursuant to paragraph four of subsection (a) of section six hundred seventy-four of this article, for purposes of administration of such department's unemployment insurance program, employment services program, federal and state employment and training programs, employment statistics and labor market information programs, worker protection programs, federal programs for which the department has administrative responsibility or for other purposes deemed appropriate by the commissioner of labor consistent with the provisions of the labor law, and redisclosure of such information in accordance with the provisions of sections five hundred thirty-six and five hundred thirty-seven of the labor law or any other applicable law, or the furnishing to the state office of temporary and disability assistance of information obtained or derived from New York state personal income tax returns as described in paragraph (b) of subdivision two of section one hundred seventy-one-g of this chapter for the purpose of reviewing support orders enforced pursuant to title six-A of article three of the social services law to aid in the determination of whether such orders should be adjusted, or the furnishing of information obtained from the reports required to be submitted by employers regarding newly hired or re-hired employees pursuant to section one hundred seventy-one-h of this chapter to the state office of temporary and disability assistance, the state department of health, the state department of labor and the workers' compensation board for purposes of administration of the child support enforcement program, verification of individuals' eligibility for one or more of the programs specified in subsection (b) of section eleven hundred thirty-seven of the federal social security act and for other public assistance programs authorized by state law, and administration of the state's employment security and workers' compensation programs, and to the national directory of new hires established pursuant to section four hundred fifty-three-A of the federal social security act for the purposes specified in such section, or the furnishing to the state office of temporary and disability assistance of the amount of an overpayment of income tax and interest thereon certified to the comptroller to be credited against past-due support pursuant to section one hundred seventy-one-c of this chapter and of the name and social security number of the taxpayer who made such overpayment, or the disclosing to the commissioner of finance of the city of New York, pursuant to section one hundred seventy-one-l of this chapter, of the amount of an overpayment and interest thereon certified to the comptroller to be credited against a city of New York tax warrant judgment debt and of the name and social security number of the taxpayer who made such overpayment, or the furnishing to the New York state high-

er education services corporation of the amount of an overpayment of income tax and interest thereon certified to the comptroller to be credited against the amount of a default in repayment of any education loan debt, including judgments, owed to the federal or New York state government that is being collected by the New York state higher education services corporation, and of the name and social security number of the taxpayer who made such overpayment, or the furnishing to the state department of health of the information required by paragraph (f) of subdivision two and subdivision two-a of section two thousand five hundred eleven of the public health law and by subdivision eight of section three hundred sixty-six-a and paragraphs (b) and (d) of subdivision two of section three hundred sixty-nine-ee of the social services law, or the furnishing to the state university of New York or the city university of New York respectively or the attorney general on behalf of such state or city university the amount of an overpayment of income tax and interest thereon certified to the comptroller to be credited against the amount of a default in repayment of a state university loan pursuant to section one hundred seventy-one-e of this chapter and of the name and social security number of the taxpayer who made such overpayment, or the disclosing to a state agency, pursuant to section one hundred seventy-one-f of this chapter, of the amount of an overpayment and interest thereon certified to the comptroller to be credited against a past-due legally enforceable debt owed to such agency and of the name and social security number of the taxpayer who made such overpayment, or the furnishing of employee and employer information obtained through the wage reporting system, pursuant to section one hundred seventy-one-a of this chapter, as added by chapter five hundred forty-five of the laws of nineteen hundred seventy-eight, to the state office of temporary and disability assistance, the department of health or to the state office of the medicaid inspector general for the purpose of verifying eligibility for and entitlement to amounts of benefits under the social services law or similar law of another jurisdiction, locating absent parents or other persons legally responsible for the support of applicants for or recipients of public assistance and care under the social services law and persons legally responsible for the support of a recipient of services under section one hundred eleven-g of the social services law and, in appropriate cases, establishing support obligations pursuant to the social services law and the family court act or similar provision of law of another jurisdiction for the purpose of evaluating the effect on earnings of participation in employment, training or other programs designed to promote self-sufficiency authorized pursuant to the social services law by current recipients of public assistance and care and by former applicants and recipients of public assistance and care, (except that with regard to former recipients, information which relates to a particular former recipient shall be provided with client identifying data deleted), TO THE STATE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE FOR THE PURPOSE OF DETERMINING THE ELIGIBILITY OF ANY CHILD IN THE CARE AND CUSTODY OR CUSTODY AND GUARDIANSHIP OF A LOCAL COMMISSIONER OF SOCIAL SERVICES OR OF THE OFFICE OF CHILDREN AND FAMILY SERVICES FOR FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT BY PROVIDING INFORMATION WITH RESPECT TO THE PARENTS, THE STEPPARENTS, THE CHILD AND THE SIBLINGS OF THE CHILD WHO WERE LIVING IN THE SAME HOUSEHOLD AS SUCH CHILD DURING THE MONTH THAT THE COURT PROCEEDINGS LEADING TO THE CHILD'S REMOVAL FROM THE HOUSEHOLD WERE INITIATED, OR THE WRITTEN INSTRUMENT TRANSFERRING CARE AND CUSTODY OF THE CHILD PURSUANT TO THE PROVISIONS OF

SECTION THREE HUNDRED FIFTY-EIGHT-A OF THE SOCIAL SERVICES LAW OR SECTION THREE HUNDRED EIGHTY-FOUR-A OF THE SOCIAL SERVICES LAW WAS SIGNED, and to the state department of labor, or other individuals designated by the commissioner of labor, for the purpose of the administration of such department's unemployment insurance program, employment services program, federal and state employment and training programs, employment statistics and labor market information programs, worker protection programs, federal programs for which the department has administrative responsibility or for other purposes deemed appropriate by the commissioner of labor consistent with the provisions of the labor law, and redisclosure of such information in accordance with the provisions of sections five hundred thirty-six and five hundred thirty-seven of the labor law, or the furnishing of information, which is obtained from the wage reporting system operated pursuant to section one hundred seventy-one-a of this chapter, as added by chapter five hundred forty-five of the laws of nineteen hundred seventy-eight, to the state office of temporary and disability assistance so that it may furnish such information to public agencies of other jurisdictions with which the state office of temporary and disability assistance has an agreement pursuant to paragraph (h) or (i) of subdivision three of section twenty of the social services law, and to the state office of temporary and disability assistance for the purpose of fulfilling obligations and responsibilities otherwise incumbent upon the state department of labor, under section one hundred twenty-four of the federal family support act of nineteen hundred eighty-eight, by giving the federal parent locator service, maintained by the federal department of health and human services, prompt access to such information as required by such act, or to the state department of health to verify eligibility under the child health insurance plan pursuant to subdivisions two and two-a of section two thousand five hundred eleven of the public health law, to verify eligibility under the medical assistance and family health plus programs pursuant to subdivision eight of section three hundred sixty-six-a and paragraphs (b) and (d) of subdivision two of section three hundred sixty-nine-ee of the social services law, and to verify eligibility for the program for elderly pharmaceutical insurance coverage under title three of article two of the elder law, or to the office of vocational and educational services for individuals with disabilities of the education department, the commission for the blind and visually handicapped and any other state vocational rehabilitation agency, for purposes of obtaining reimbursement from the federal social security administration for expenditures made by such office, commission or agency on behalf of disabled individuals who have achieved economic self-sufficiency or to the higher education services corporation for the purpose of assisting the corporation in default prevention and default collection of education loan debt, including judgments, owed to the federal or New York state government; provided, however, that such information shall be limited to the names, social security numbers, home and/or business addresses, and employer names of defaulted or delinquent student loan borrowers.

Provided, however, that with respect to employee information the office of temporary and disability assistance shall only be furnished with the names, social security account numbers and gross wages of those employees who are (A) applicants for or recipients of benefits under the social services law, or similar provision of law of another jurisdiction (pursuant to an agreement under subdivision three of section twenty of the social services law) or, (B) absent parents or other persons legally

responsible for the support of applicants for or recipients of public assistance and care under the social services law or similar provision of law of another jurisdiction (pursuant to an agreement under subdivision three of section twenty of the social services law), or (C) persons legally responsible for the support of a recipient of services under section one hundred eleven-g of the social services law or similar provision of law of another jurisdiction (pursuant to an agreement under subdivision three of section twenty of the social services law), or (D) employees about whom wage reporting system information is being furnished to public agencies of other jurisdictions, with which the state office of temporary and disability assistance has an agreement pursuant to paragraph (h) or (i) of subdivision three of section twenty of the social services law, or (E) employees about whom wage reporting system information is being furnished to the federal parent locator service, maintained by the federal department of health and human services, for the purpose of enabling the state office of temporary and disability assistance to fulfill obligations and responsibilities otherwise incumbent upon the state department of labor, under section one hundred twenty-four of the federal family support act of nineteen hundred eighty-eight, and, only if, the office of temporary and disability assistance certifies to the commissioner that such persons are such applicants, recipients, absent parents or persons legally responsible for support or persons about whom information has been requested by a public agency of another jurisdiction or by the federal parent locator service and further certifies that in the case of information requested under agreements with other jurisdictions entered into pursuant to subdivision three of section twenty of the social services law, that such request is in compliance with any applicable federal law. Provided, further, that where the office of temporary and disability assistance requests employee information for the purpose of evaluating the effects on earnings of participation in employment, training or other programs designed to promote self-sufficiency authorized pursuant to the social services law, the office of temporary and disability assistance shall only be furnished with the quarterly gross wages (excluding any reference to the name, social security number or any other information which could be used to identify any employee or the name or identification number of any employer) paid to employees who are former applicants for or recipients of public assistance and care and who are so certified to the commissioner by the commissioner of the office of temporary and disability assistance. Provided, further, that with respect to employee information, the department of health shall only be furnished with the information required pursuant to the provisions of paragraph (f) of subdivision two and subdivision two-a of section two thousand five hundred eleven of the public health law and subdivision eight of section three hundred sixty-six-a and paragraphs (b) and (d) of subdivision two of section three hundred sixty-nine-ee of the social services law, with respect to those individuals whose eligibility under the child health insurance plan, medical assistance program, and family health plus program is to be determined pursuant to such provisions and with respect to those members of any such individual's household whose income affects such individual's eligibility and who are so certified to the commissioner or by the department of health. Provided, further, that wage reporting information shall be furnished to the office of vocational and educational services for individuals with disabilities of the education department, the commission for the blind and visually handicapped and any other state vocational rehabilitation agency only if such office,

commission or agency, as applicable, certifies to the commissioner that such information is necessary to obtain reimbursement from the federal social security administration for expenditures made on behalf of disabled individuals who have achieved self-sufficiency. Reports and returns shall be preserved for three years and thereafter until the commissioner orders them to be destroyed.

S 5. Section 697 of the tax law is amended by adding a new subsection (o) to read as follows:

(O) EXCHANGE OF INFORMATION WITH THE STATE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE DEPARTMENT SHALL FURNISH TO THE STATE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE, OR OTHER INDIVIDUALS DESIGNATED BY THE COMMISSIONER OF SUCH OFFICE WHO ARE ENGAGED IN PURPOSES DEEMED APPROPRIATE BY THE COMMISSIONER OF SUCH OFFICE CONSISTENT WITH THE PROVISIONS OF THE SOCIAL SERVICES LAW AND THE FEDERAL SOCIAL SECURITY ACT, THE NAME, SOCIAL SECURITY NUMBER AND WAGES OF INDIVIDUALS, AND THE NAME AND FEDERAL EMPLOYER IDENTIFICATION NUMBER OF EMPLOYERS CONTAINED WITHIN WITHHOLDING TAX INFORMATION REQUIRED FROM EMPLOYERS PURSUANT TO PART V OF THIS ARTICLE FOR THE PURPOSE OF DETERMINING THE ELIGIBILITY OF ANY CHILD IN THE CARE AND CUSTODY OR CUSTODY AND GUARDIANSHIP OF A LOCAL COMMISSIONER OF SOCIAL SERVICES OR OF THE OFFICE OF CHILDREN AND FAMILY SERVICES FOR FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE PURSUANT TO THE PROVISIONS OF TITLE IV-E OF THE FEDERAL SOCIAL SECURITY ACT BY PROVIDING INFORMATION WITH RESPECT TO THE PARENTS, THE STEPPARENTS, THE CHILD AND THE SIBLINGS OF THE CHILD WHO WERE LIVING IN THE SAME HOUSEHOLD AS SUCH CHILD DURING THE MONTH THAT THE COURT PROCEEDINGS LEADING TO THE CHILD'S REMOVAL FROM THE HOUSEHOLD WERE INITIATED, OR THE WRITTEN INSTRUMENT TRANSFERRING CARE AND CUSTODY OF THE CHILD PURSUANT TO THE PROVISIONS OF SECTION THREE HUNDRED FIFTY-EIGHT-A OF THE SOCIAL SERVICES LAW OR SECTION THREE HUNDRED EIGHTY-FOUR-A OF THE SOCIAL SERVICES LAW WAS SIGNED.

S 6. This act shall take effect July 1, 2009.