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

5008

2009-2010 Regular Sessions

I N A S S E M B L Y

February 10, 2009

Introduced by M. of A. V. LOPEZ, BARRA -- Multi-Sponsored by -- M. of A. ALFANO -- read once and referred to the Committee on Children and Families

AN ACT to amend the social services law, in relation to the conduct of child protective investigations

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

Section 1. Section 424 of the social services law is amended by adding a new subdivision 6-c to read as follows:

6-C. UPON CONDUCTING AN EVALUATION AND INVESTIGATION PURSUANT TO SUBDIVISION SIX OF THIS SECTION, ADHERE TO THE FOLLOWING SPECIAL PROCEDURES:

(A) UPON INITIAL CONTACT WITH THE PARENT OR OTHER PERSON LEGALLY RESPONSIBLE FOR THE CHILD, A CHILD PROTECTIVE SERVICE CASEWORKER SHALL IMMEDIATELY IDENTIFY HIMSELF OR HERSELF TO SUCH PARENT OR LEGALLY RESPONSIBLE PERSON AS A CHILD PROTECTIVE SERVICE CASEWORKER. SUCH CASEWORKER SHALL: (I) FULLY APPRISE SUCH PARENTS OR PERSON OF ALL ALLEGATIONS OF ABUSE OR MALTREATMENT OF WHICH THE CASEWORKER IS AWARE; (II) INFORM SUCH PARENT OR PERSON THAT HE OR SHE IS NOT OBLIGATED TO COOPERATE WITH THE INVESTIGATION AND THAT THE INVESTIGATION IS CIVIL AND NOT CRIMINAL IN NATURE; AND (III) ASK SUCH PARENT OR PERSON TO ADDRESS EACH ALLEGATION OF ABUSE OR MALTREATMENT. THE CASEWORKER SHALL ALSO REQUEST SUCH PARENT'S OR PERSON'S CONSENT TO SPEAK WITH THE CHILD. IF SUCH CONSENT IS REFUSED OR SUCH PARENT OR PERSON OTHERWISE REFUSES TO COOPERATE WITH THE INVESTIGATION, THE CASEWORKER SHALL INFORM SUCH PARENT OR PERSON THAT FAILURE TO COOPERATE MAY RESULT IN THE CHILD PROTECTIVE SERVICE SEEKING TO COMPEL COOPERATION THROUGH AN ORDER OF THE FAMILY COURT. THE CASEWORKER SHALL ALSO INFORM SUCH PARENT OR PERSON THAT THE CHILD MAY NOT BE REMOVED FROM THE HOME SOLELY ON THE BASIS OF SUCH REFUSAL TO COOPERATE WITH THE INVESTIGATION. WHENEVER POSSIBLE, THE

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

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CASEWORKER SHALL MAKE AND PRESERVE AN AUDIOTAPE RECORDING OF ANY CONVERSATION WITH THE PARENT OR PERSON.

(B) WHEN ARRANGING A MEDICAL EXAMINATION OF A CHILD, A CHILD PROTECTIVE SERVICE CASEWORKER SHALL ARRANGE FOR SUCH EXAMINATION TO BE UNDERTAKEN PREFERABLY BY THE CHILD'S OWN PHYSICIAN AND WITH THE CHILD'S PARENTS PRESENT AT THE LOCATION AND, WHERE APPROPRIATE, IN THE EXAMINING ROOM.

(C) WHEN INTERVIEWING THE CHILD, THE CASEWORKER SHALL, WHENEVER POSSIBLE, MAKE AND PRESERVE AN AUDIO TAPE RECORDING OF THE INTERVIEW, AND INTERVIEW THE CHILD IN A NON-ACCUSATORY, NON-COERCIVE MANNER. SUCH INTERVIEW BY THE CASEWORKER SHALL BE CONDUCTED IN AS NEUTRAL A MANNER AS POSSIBLE SO AS TO AVOID THE SUGGESTION OF FACTS OR CONCLUSIONS NOT OFFERED BY THE CHILD. THE CASEWORKER SHALL ADVISE THE CHILD, IF OF SUFFICIENT AGE, OF THE RIGHT TO REFUSE TO ANSWER QUESTIONS OR TO OTHERWISE COOPERATE IN THE INVESTIGATION; AND NOT INTIMIDATE OR OTHERWISE COERCE THE CHILD TO COOPERATE IN THE INVESTIGATION, AFTER THE CHILD HAS DEMONSTRATED A CLEAR DESIRE NOT TO SO COOPERATE, UNLESS THE CHILD BEING INTERVIEWED IS IN IMMEDIATE NEED OF MEDICAL ATTENTION OR IS AT IMMINENT RISK OF ABUSE OR MALTREATMENT;

S 2. This act shall take effect on the ninetieth day after it shall have become a law.