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

5340

2009-2010 Regular Sessions

I N A S S E M B L Y

February 13, 2009

Introduced by M. of A. ERRIGO, BARCLAY, CROUCH, McDONOUGH, McKEVITT, TOBACCO, WALKER, FINCH -- read once and referred to the Committee on Children and Families

AN ACT to amend the social services law, in relation to the procedures for determining whether a report of child abuse or maltreatment is indicated or unfounded

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

Section 1. Subdivision 7 of section 424 of the social services law, as amended by chapter 164 of the laws of 1991, is amended to read as follows:

7. determine, within sixty days, whether the report is "indicated" or "unfounded":

(A) IF SOME CREDIBLE EVIDENCE OF THE ALLEGED ABUSE OR MALTREATMENT EXISTS AND THE SUBJECT OF THE REPORT IS A PARENT, SUCH SUBJECT MAY REQUEST THAT THE OFFICE OF CHILDREN AND FAMILY SERVICES SCHEDULE A FAIR HEARING PRIOR TO THE ISSUING OF A DETERMINATION THAT THE REPORT IS "INDICATED" BY THE CHILD PROTECTIVE SERVICE;

(B) NOTICE OF THE SCHEDULED HEARING DATE SHALL BE PROVIDED TO THE SUBJECT, THE STATEWIDE REGISTER, AND THE CHILD PROTECTIVE SERVICE;

(C) THE BURDEN OF PROOF SHALL BE ON THE CHILD PROTECTIVE SERVICE;

(D) IF IT IS DETERMINED AT THE FAIR HEARING THAT THERE IS NO CREDIBLE EVIDENCE IN THE RECORD TO FIND THAT THE SUBJECT COMMITTED AN ACT OR ACTS OF CHILD ABUSE OR MALTREATMENT, THE CHILD PROTECTIVE SERVICE SHALL DEEM THE REPORT "UNFOUNDED";

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

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

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