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

5921

2009-2010 Regular Sessions

I N A S S E M B L Y

February 23, 2009

Introduced by M. of A. CAHILL, GABRYSZAK, GUNTHER, HOYT, JAFFEE, KOON, LUPARDO, O'DONNELL, ORTIZ, PEOPLES, REILLY, ROSENTHAL, ZEBROWSKI, SPANO, CLARK, ESPAILLAT, MOLINARO, ALFANO -- Multi-Sponsored by -- M. of A. AMEDORE, BRENNAN, BROOK-KRASNY, BUTLER, CALHOUN, DESTITO, EDDINGTON, ERRIGO, FINCH, GIGLIO, GORDON, HYER-SPENCER, JACOBS, JEFFRIES, JOHN, LATIMER, MAISEL, McENENY, SAYWARD, SCHIMEL, THIELE, WALKER, WEISENBERG -- read once and referred to the Committee on Children and Families

AN ACT to amend the social services law, in relation to release of certain records associated with abuse and neglect cases to court appointed special advocates

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

Section 1. Paragraph (A) of subdivision 4 of section 422 of the social services law is amended by adding a new subparagraph (aa) to read as follows:

(AA) COURT APPOINTED SPECIAL ADVOCATES, APPOINTED BY THE FAMILY COURT TO GATHER INFORMATION AND REPORT TO SUCH COURT CONCERNING A CHILD OR CHILDREN WHO ARE THE SUBJECT OF A PETITION FOR ABUSE AND NEGLECT PURSUANT TO ARTICLE TEN OF THE FAMILY COURT ACT, UPON A WRITTEN REQUEST BY SUCH COURT APPOINTED SPECIAL ADVOCATES AND ON NOTICE TO, AND AN OPPORTUNITY TO BE HEARD, BY ALL PARTIES, PROVIDED HOWEVER:

(I) THAT SUCH WRITTEN REQUEST SHALL STATE THE SPECIFIC RECORDS THAT THE COURT APPOINTED SPECIAL ADVOCATE IS SEEKING ACCESS TO, AND HOW ACCESS TO SUCH RECORDS IS NECESSARY FOR THE COURT APPOINTED SPECIAL ADVOCATE TO FULFILL THE FUNCTIONS FOR WHICH IT WAS APPOINTED BY THE COURT; AND

(II) THAT RECORDS PROVIDED TO COURT APPOINTED SPECIAL ADVOCATES SHALL NOT INCLUDE THE NAME OR ANY INFORMATION THAT COULD REASONABLY IDENTIFY THE PERSON WHO MADE THE CALL TO THE STATEWIDE CENTRAL REGISTER OF CHILD ABUSE OR MALTREATMENT AS DESCRIBED IN THIS SECTION; AND

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

LBD09574-01-9

(III) THAT RECORDS PROVIDED TO COURT APPOINTED SPECIAL ADVOCATES PURSUANT TO THIS SUBPARAGRAPH SHALL BE DEEMED CONFIDENTIAL, SHALL NOT BE REDISCLOSED, AND SHALL BE SAFEGUARDED FROM COMING TO THE KNOWLEDGE OF, AND FROM INSPECTION OR EXAMINATION BY, ANY PERSON OTHER THAN ONE AUTHORIZED BY THE APPLICABLE SOCIAL SERVICES DISTRICT OR BY A JUDGE OF THE FAMILY COURT WHEN SUCH RECORDS ARE REQUIRED FOR THE TRIAL OF A PROCEEDING IN SUCH COURT, AFTER A NOTICE TO ALL INTERESTED PERSONS AND A HEARING, TO RECEIVE SUCH KNOWLEDGE OR TO MAKE SUCH INSPECTION OR EXAMINATION.

S 2. Subdivision 4 of section 372 of the social services law is amended by adding a new paragraph (c) to read as follows:

(C) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY, RECORDS RELATING TO CHILDREN KEPT PURSUANT TO THIS SECTION SHALL BE MADE AVAILABLE TO COURT APPOINTED SPECIAL ADVOCATES UPON A WRITTEN REQUEST FOR SPECIFIC RECORDS, INCLUDING, BUT NOT LIMITED TO THE FAMILY SERVICE REVIEW PLAN, PERMANENCY REPORT, MEDICAL EVALUATIONS, AND HISTORY OF CURRENT AND PREVIOUS FOSTER CARE PLACEMENTS, BY SUCH COURT APPOINTED SPECIAL ADVOCATES, ON NOTICE TO, AND AN OPPORTUNITY TO BE HEARD BY, ALL PARTIES, PROVIDED HOWEVER:

(I) THAT SUCH WRITTEN REQUEST SHALL STATE THE SPECIFIC RECORDS FOR WHICH THE COURT APPOINTED SPECIAL ADVOCATE IS SEEKING ACCESS TO, AND HOW ACCESS TO SUCH RECORDS IS NECESSARY FOR THE COURT APPOINTED SPECIAL ADVOCATE TO FULFILL THE FUNCTION FOR WHICH IT WAS APPOINTED BY THE COURT; AND

(II) THAT RECORDS PROVIDED TO COURT APPOINTED SPECIAL ADVOCATES PURSUANT TO THIS PARAGRAPH SHALL BE DEEMED CONFIDENTIAL, SHALL NOT BE REDISCLOSED, AND SHALL BE SAFEGUARDED FROM COMING TO THE KNOWLEDGE OF, AND FROM INSPECTION OR EXAMINATION BY, ANY PERSON OTHER THAN ONE AUTHORIZED BY THE APPLICABLE SOCIAL SERVICES DISTRICT OR BY A JUDGE OF THE FAMILY COURT WHEN SUCH RECORDS ARE REQUIRED FOR THE TRIAL OF A PROCEEDING IN SUCH COURT, AFTER A NOTICE TO ALL INTERESTED PERSONS AND A HEARING, TO RECEIVE SUCH KNOWLEDGE OR TO MAKE SUCH INSPECTION OR EXAMINATION.

S 3. This act shall take effect immediately.