

8004

2009-2010 Regular Sessions

I N A S S E M B L Y

May 1, 2009

Introduced by M. of A. COOK, CHRISTENSEN, JOHN, P. RIVERA, ALFANO, SCHROEDER -- Multi-Sponsored by -- M. of A. AUBRY, BOYLAND, CLARK, GOTTFRIED, HOOPER, MOLINARO, PEOPLES, PHEFFER, REILLY, N. RIVERA, TITUS, WRIGHT -- read once and referred to the Committee on Children and Families

AN ACT to amend the social services law and the executive law, in relation to the investigation of child abuse and maltreatment in foster family homes

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

1 Section 1. Clause (i) of subparagraph (v) of paragraph (A) of subdivi-  
2 sion 4 of section 422 of the social services law, as added by chapter 12  
3 of the laws of 1996, is amended and a new subparagraph (a-1) is added to  
4 read as follows:  
5 (i) officers and employees of the state comptroller or of the city  
6 comptroller of the city of New York, or of the county officer designated  
7 by law or charter to perform the auditing function in any county not  
8 wholly contained within a city, for purposes of a duly authorized  
9 performance audit, provided that such comptroller shall have certified  
10 to the keeper of such records that he or she has instituted procedures  
11 developed in consultation with the [department] OFFICE OF CHILDREN AND  
12 FAMILY SERVICES to limit access to client-identifiable information to  
13 persons requiring such information for purposes of the audit and that  
14 appropriate controls and prohibitions are imposed on the dissemination  
15 of client-identifiable information contained in the conduct of the  
16 audit. Information pertaining to the substance or content of any psycho-  
17 logical, psychiatric, therapeutic, clinical or medical reports, evalu-  
18 ations or like materials or information pertaining to such child or the  
19 child's family shall not be made available to such officers and employ-  
20 ees unless disclosure of such information is absolutely essential to the

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

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1 specific audit activity and the [department] OFFICE OF CHILDREN AND  
2 FAMILY SERVICES gives prior written approval.

3 (A-1) THE OFFICE OF CHILDREN AND FAMILY SERVICES IN RELATION TO A  
4 REPORT INVOLVING A CHILD IN A HOME OPERATED OR SUPERVISED BY THE OFFICE.

5 S 2. Section 424-b of the social services law, as amended by chapter  
6 323 of the laws of 2008, is amended to read as follows:

7 S 424-b. Children in the care of certain public and private agencies.  
8 Notwithstanding any inconsistent provisions of law, when a report of  
9 child abuse or maltreatment involves a child being cared for in a home  
10 operated or supervised by an authorized agency, the office of children  
11 and family services, or an office of the department of mental hygiene,  
12 such report shall be accepted and maintained by the office of children  
13 and family services and shall be referred for the purposes of conducting  
14 an investigation to the appropriate staff within the office of children  
15 and family services or the appropriate office of the department of  
16 mental hygiene, where the child is in the care of such agency; and where  
17 the child is in a home operated or supervised by an authorized agency,  
18 to the social services district wherein such home is located. The agency  
19 or social services district receiving such referral shall undertake an  
20 appropriate investigation of the report, in accordance with the terms  
21 and conditions set forth in subdivisions one through eight of section  
22 four hundred twenty-four-c of this title. Any person who is alleged to  
23 have abused or maltreated a child in a report accepted and referred  
24 pursuant to this section shall be accorded the procedural rights set  
25 forth in section four hundred twenty-two and in subdivision six of  
26 section four hundred twenty-four of this title. [Nothing in this section  
27 shall impose any duty or responsibility on any child protective service  
28 pursuant to section four hundred twenty-two, four hundred twenty-four or  
29 any other provision of this article.]

30 S 3. Subdivision 13 of section 501 of the executive law, as amended by  
31 chapter 32 of the laws of 1992 and as renumbered by chapter 465 of the  
32 laws of 1992, is amended to read as follows:

33 13. To cooperate with the state department of [social services] FAMILY  
34 ASSISTANCE and other departments, divisions and agencies of the state  
35 AND, IN THE CASE OF CHILDREN RESIDING IN HOMES OPERATED OR SUPERVISED BY  
36 THE OFFICE OF CHILDREN AND FAMILY SERVICES, A SOCIAL SERVICES DISTRICT,  
37 when a report is received pursuant to title six of article six of the  
38 social services law to protect the health and safety of children in  
39 residential facilities or programs[. Such] OR A HOME OPERATED OR SUPER-  
40 VISED BY THE OFFICE. NOTWITHSTANDING ANY PROVISION OF LAW TO THE  
41 CONTRARY, SUCH cooperation shall include: the making of reports of  
42 alleged child abuse and maltreatment, providing necessary assistance to  
43 the state department of [social services] FAMILY ASSISTANCE OR A SOCIAL  
44 SERVICES DISTRICT in the department's OR DISTRICT'S investigation there-  
45 of, MAKING AVAILABLE TO THE OFFICE OR DISTRICT RECORDS AND REPORTS  
46 INCLUDING, BUT NOT LIMITED TO, THE CASE RECORDS OF THE CHILD WHO  
47 ALLEGEDLY WAS ABUSED OR MALTREATED AND ANY OTHER CHILD WHO ALLEGEDLY  
48 WITNESSED THE ABUSE OR MALTREATMENT, CONSISTENT WITH APPROPRIATE COLLEC-  
49 TIVE BARGAINING AGREEMENTS AND APPLICABLE PROVISIONS OF THE CIVIL  
50 SERVICE LAW, THOSE PORTIONS OF THE EMPLOYMENT RECORDS OF THE SUBJECT OF  
51 THE REPORT CONSIDERED TO BE RELEVANT AND REASONABLY RELATED TO THE ALLE-  
52 GATIONS BEING INVESTIGATED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES  
53 AND IN THE CASE OF AN ALLEGATION OF ABUSE OR MALTREATMENT OF A CHILD IN  
54 A HOME OPERATED OR SUPERVISED BY THE OFFICE, ANY CERTIFICATION OR HOME  
55 RECORD RELEVANT TO SUCH INVESTIGATION and considering the recommenda-  
56 tions of the [state department of social services] OFFICE OF CHILDREN

1 AND FAMILY SERVICES OR SOCIAL SERVICES DISTRICT for appropriate preven-  
2 tive and remedial action, including legal actions, and provide or direct  
3 the residential facility to provide such written reports thereon to the  
4 [department of social services] OFFICE OF CHILDREN AND FAMILY SERVICES  
5 as to the implementation of plans of prevention and remediation approved  
6 by the [division] OFFICE OF CHILDREN AND FAMILY SERVICES pursuant to  
7 title six of article six of the social services law. THE OFFICE OF CHIL-  
8 DREN AND FAMILY SERVICES SHALL TAKE ANY ACTION THEREON THAT IT DEEMS  
9 APPROPRIATE.

10 S 4. Paragraph (A) of subdivision 4 of section 422 of the social  
11 services law is amended by adding a new subparagraph (g-1) to read as  
12 follows:

13 (G-1) ANY APPROPRIATE COMMITTEE OF THE COUNCIL OF THE CITY OF NEW YORK  
14 RESPONSIBLE FOR CHILD PROTECTIVE LEGISLATION, PROVIDED HOWEVER, SUCH  
15 REPORTS SHALL BE MADE AVAILABLE ONLY PURSUANT TO AN OFFICIAL WRITTEN  
16 REQUEST BY THE CHAIR OF SUCH COMMITTEE OR COMMITTEES, AND SUCH REQUESTS  
17 SHALL BE LIMITED TO CASES OCCURRING WITHIN INSTITUTIONS OPERATED BY  
18 AGENCIES UNDER THE JURISDICTION OF THE CITY OF NEW YORK;

19 S 5. Paragraph (a) of subdivision 4 of section 372 of the social  
20 services law, as amended by chapter 451 of the laws of 1992, and as  
21 designated by chapter 12 of the laws of 1996, is amended to read as  
22 follows:

23 (a) All such records relating to such children shall be open to the  
24 inspection of the board and the [department] OFFICE OF CHILDREN AND  
25 FAMILY SERVICES at any reasonable time, and the information called for  
26 under this section and such other data as may be required by the  
27 [department] OFFICE shall be reported to the [department] OFFICE, in  
28 accordance with the regulations of the [department] OFFICE. Such  
29 records kept by the [department] OFFICE shall be deemed confidential and  
30 shall be safeguarded from coming to the knowledge of and from inspection  
31 or examination by any person other than AN APPROPRIATE COMMITTEE OF THE  
32 COUNCIL OF THE CITY OF NEW YORK RESPONSIBLE FOR CHILD PROTECTIVE LEGIS-  
33 LATION, PROVIDED HOWEVER, SUCH REPORTS SHALL BE MADE AVAILABLE ONLY  
34 PURSUANT TO AN OFFICIAL WRITTEN REQUEST BY THE CHAIR OF SUCH COMMITTEE  
35 OR COMMITTEES, AND SUCH REQUESTS SHALL BE LIMITED TO CASES OCCURRING  
36 WITHIN INSTITUTIONS OPERATED BY AGENCIES UNDER THE JURISDICTION OF THE  
37 CITY OF NEW YORK; OR one authorized, by the [department] OFFICE, by a  
38 judge of the court of claims when such records are required for the  
39 trial of a claim or other proceeding in such court or by a justice of  
40 the supreme court, or by a judge of the family court when such records  
41 are required for the trial of a proceeding in such court, after a notice  
42 to all interested persons and a hearing, to receive such knowledge or to  
43 make such inspection or examination. No person shall divulge the infor-  
44 mation thus obtained without authorization so to do by the [department]  
45 OFFICE, or by such judge or justice.

46 S 6. This act shall take effect immediately.