

2448

2009-2010 Regular Sessions

I N   S E N A T E

February 20, 2009

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Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed 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:

1     Section 1. Paragraph (A) of subdivision 4 of section 422 of the social  
2     services law is amended by adding a new subparagraph (aa) to read as  
3     follows:  
4     (AA) COURT APPOINTED SPECIAL ADVOCATES, APPOINTED BY THE FAMILY COURT  
5     TO GATHER INFORMATION AND REPORT TO SUCH COURT CONCERNING A CHILD OR  
6     CHILDREN WHO ARE THE SUBJECT OF A PETITION FOR ABUSE AND NEGLECT PURSU-  
7     ANT TO ARTICLE TEN OF THE FAMILY COURT ACT, UPON A WRITTEN REQUEST BY  
8     SUCH COURT APPOINTED SPECIAL ADVOCATES AND ON NOTICE TO, AND AN OPPORTU-  
9     NITY TO BE HEARD, BY ALL PARTIES, PROVIDED HOWEVER:  
10    (I) THAT SUCH WRITTEN REQUEST SHALL STATE THE SPECIFIC RECORDS THAT  
11    THE COURT APPOINTED SPECIAL ADVOCATE IS SEEKING ACCESS TO, AND HOW  
12    ACCESS TO SUCH RECORDS IS NECESSARY FOR THE COURT APPOINTED SPECIAL  
13    ADVOCATE TO FULFILL THE FUNCTIONS FOR WHICH IT WAS APPOINTED BY THE  
14    COURT; AND  
15    (II) THAT RECORDS PROVIDED TO COURT APPOINTED SPECIAL ADVOCATES SHALL  
16    NOT INCLUDE THE NAME OR ANY INFORMATION THAT COULD REASONABLY IDENTIFY  
17    THE PERSON WHO MADE THE CALL TO THE STATEWIDE CENTRAL REGISTER OF CHILD  
18    ABUSE OR MALTREATMENT AS DESCRIBED IN THIS SECTION; AND  
19    (III) THAT RECORDS PROVIDED TO COURT APPOINTED SPECIAL ADVOCATES  
20    PURSUANT TO THIS SUBPARAGRAPH SHALL BE DEEMED CONFIDENTIAL, SHALL NOT BE  
21    REDISCLOSED, AND SHALL BE SAFEGUARDED FROM COMING TO THE KNOWLEDGE OF,  
22    AND FROM INSPECTION OR EXAMINATION BY, ANY PERSON OTHER THAN ONE AUTHOR-  
23    IZED BY THE APPLICABLE SOCIAL SERVICES DISTRICT OR BY A JUDGE OF THE  
24    FAMILY COURT WHEN SUCH RECORDS ARE REQUIRED FOR THE TRIAL OF A PROCEED-

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

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1   ING IN SUCH COURT, AFTER A NOTICE TO ALL INTERESTED PERSONS AND A HEAR-  
2   ING, TO RECEIVE SUCH KNOWLEDGE OR TO MAKE SUCH INSPECTION OR EXAMINA-  
3   TION.

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

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

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

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

27  S 3. This act shall take effect immediately.