

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

April 27, 2009

IN SENATE -- Introduced by Sen. MONTGOMERY -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

IN ASSEMBLY -- Introduced by M. of A. MILLMAN, BRADLEY -- read once and referred to the Committee on Children and Families

AN ACT to amend the family court act and the social services law, in relation to removing special powers granted to the society for the prevention of cruelty to children; and repealing certain provisions of the criminal procedure law, the public officers law and the social services law relating thereto

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

1 Section 1. Subdivision (i) of section 1012 of the family court act, as
2 amended by chapter 309 of the laws of 1996, is amended to read as
3 follows:

4 (i) "Child protective agency" means [any duly authorized society for
5 the prevention of cruelty to children or] the child protective service
6 of the appropriate local department of social services or such other
7 agencies with whom the local department has arranged for the provision
8 of child protective services under the local plan for child protective
9 services or an Indian tribe that has entered into an agreement with the
10 state department of social services pursuant to section thirty-nine of
11 the social services law to provide child protective services.

12 S 2. Subdivision (a) of section 1024 of the family court act, as
13 amended by chapter 677 of the laws of 1985, is amended to read as
14 follows:

15 (a) A peace officer, acting pursuant to his OR HER special duties,
16 police officer, or a law enforcement official, [or an agent of a duly
17 incorporated society for the prevention of cruelty to children] or a
18 designated employee of a city or county department of social services

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

1 shall take all necessary measures to protect a child's life or health
2 including, when appropriate, taking or keeping a child in protective
3 custody, and any physician shall notify the local department of social
4 services or appropriate police authorities to take custody of any child
5 such physician is treating, without an order under section one thousand
6 twenty-two OF THIS PART and without the consent of the parent or other
7 person legally responsible for the child's care, regardless of whether
8 the parent or other person legally responsible for the child's care is
9 absent, if (i) such person has reasonable cause to believe that the
10 child is in such circumstance or condition that his OR HER continuing in
11 said place of residence or in the care and custody of the parent or
12 person legally responsible for the child's care presents an imminent
13 danger to the child's life or health; and

14 (ii) there is not time enough to apply for an order under section one
15 thousand twenty-two OF THIS PART.

16 S 3. The opening paragraph of subdivision 1 of section 1034 of the
17 family court act, as amended by chapter 627 of the laws of 1978, is
18 amended to read as follows:

19 A family court judge may order the child protective service of the
20 appropriate [department of] social services [or request any other appro-
21 priate child protective agency] DISTRICT to conduct a child protective
22 investigation as described by the social services law and report its
23 findings to the court:

24 S 4. Paragraph (a) of subdivision 1 of section 417 of the social
25 services law, as amended by chapter 309 of the laws of 1996, is amended
26 to read as follows:

27 (a) Pursuant to the requirements and provisions of the family court
28 act, a peace officer, acting pursuant to his or her special duties, a
29 police officer, a law enforcement official[, or an agent of a duly
30 incorporated society for the prevention of cruelty to children], or a
31 designated employee of a city or county department of social services,
32 or an agent or employee of an Indian tribe that has entered into an
33 agreement with the department pursuant to section thirty-nine of this
34 chapter to provide child protective services shall take all appropriate
35 measures to protect a child's life and health including, when appropri-
36 ate, taking or keeping a child in protective custody without the consent
37 of a parent or guardian if such person has reasonable cause to believe
38 that the circumstances or condition of the child are such that continu-
39 ing in his or her place of residence or in the care and custody of the
40 parent, guardian, custodian or other person responsible for the child's
41 care presents an imminent danger to the child's life or health.

42 S 5. Subdivision 2 of section 386 of the social services law, as
43 amended by chapter 555 of the laws of 1978, is amended to read as
44 follows:

45 2. The board or the department is authorized to visit, in its
46 discretion, any home or place where a child or children are received,
47 boarded or kept under a license or certificate whether or not such chil-
48 dren are maintained as public charges. Every licensed home shall, if
49 practicable, be visited by the department at least four times in each
50 year. [Such homes and places may be visited by the employees of any
51 incorporated society for the prevention of cruelty to children.]

52 S 6. Subdivision 5 of section 372 of the social services law, as
53 amended by chapter 312 of the laws of 2002, is amended to read as
54 follows:

55 5. The requirements of this section to keep records and make reports
56 shall not apply to the birth parent or parents, or relatives within the

1 second degree of such parents. [The reception of a child, or the power
2 to receive the same, shall not make this section applicable to a humane
3 society, or to a society for the prevention of cruelty to children.]

4 S 7. Subdivision 7-a of section 2.10 of the criminal procedure law is
5 REPEALED.

6 S 8. Subdivision 35 of section 3 of the public officers law is
7 REPEALED.

8 S 9. Subdivision (a) of section 119 of the family court act, as
9 amended by chapter 691 of the laws of 1963 and paragraph (iii) as
10 amended by chapter 555 of the laws of 1978, is amended to read as
11 follows:

12 (a) "Duly authorized association, agency, society or institution"
13 means [a society for the prevention of cruelty to children duly incorpo-
14 rated under the laws of this state;] any institution supported or
15 controlled by the state or by a subdivision thereof; any [public
16 welfare] SOCIAL SERVICES official of this state; or an association,
17 agency, society, or institution, duly empowered to care for children,
18 which

19 (i) is incorporated under the laws of this state;

20 (ii) actually has its place of business or home within the state; and

21 (iii) is approved, visited, inspected and supervised by the [state]
22 department of [social services] FAMILY ASSISTANCE, or which shall submit
23 and consent to the approval, visitation, inspection and supervision of
24 the department.

25 S 10. Paragraph (e) of subdivision 1 of section 423 of the social
26 services law is REPEALED and paragraph (f) of subdivision 1 is relet-
27 tered paragraph (e).

28 S 11. This act shall take effect immediately.