

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

S. 4865--A

A. 7846--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. MILLMAN, BRADLEY -- read once and referred to the Committee on Children and Families -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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; and providing for the repeal of certain provisions upon expiration thereof

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:

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

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1 (a) A peace officer, acting pursuant to his OR HER special duties,
2 police officer, or a law enforcement official, [or an agent of a duly
3 incorporated society for the prevention of cruelty to children] or a
4 designated employee of a city or county department of social services
5 shall take all necessary measures to protect a child's life or health
6 including, when appropriate, taking or keeping a child in protective
7 custody, and any physician shall notify the local department of social
8 services or appropriate police authorities to take custody of any child
9 such physician is treating, without an order under section one thousand
10 twenty-two OF THIS PART and without the consent of the parent or other
11 person legally responsible for the child's care, regardless of whether
12 the parent or other person legally responsible for the child's care is
13 absent, if (i) such person has reasonable cause to believe that the
14 child is in such circumstance or condition that his OR HER continuing in
15 said place of residence or in the care and custody of the parent or
16 person legally responsible for the child's care presents an imminent
17 danger to the child's life or health; and

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

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

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

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

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

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

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

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

4 5. The requirements of this section to keep records and make reports
5 shall not apply to the birth parent or parents, or relatives within the
6 second degree of such parents. [The reception of a child, or the power
7 to receive the same, shall not make this section applicable to a humane
8 society, or to a society for the prevention of cruelty to children.]

9 S 7. Subdivision 7-a of section 2.10 of the criminal procedure law is
10 REPEALED.

11 S 8. Subdivision 35 of section 3 of the public officers law is
12 REPEALED.

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

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

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

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

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

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

33 S 11. Notwithstanding any provision of law to the contrary, the
34 provisions of sections one through ten of this act shall not apply to
35 Erie county for five years after the effective date of this act. Prior
36 to the end of the five year period, the legislature shall review the
37 fiscal circumstances which necessitated the exemption of Erie county
38 from the provisions of sections one through ten of this act for further
39 action.

40 S 12. This act shall take effect immediately; provided that the
41 provisions of section eleven of this act shall expire five years after
42 the effective date of this act when upon such date the provisions of
43 such section shall be deemed repealed.