

4865--B

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

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 -- reported favorably from said committee and committed to the Committee on Codes -- 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:
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

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

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

16 (ii) there is not time enough to apply for an order under section one
17 thousand twenty-two OF THIS ARTICLE.

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

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

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

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

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

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

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

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

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

8 S 8. Section 2.10 of the criminal procedure law is amended by adding a
9 new subdivision 7-a to read as follows:

10 7-A. OFFICERS OR AGENTS OF A DULY INCORPORATED SOCIETY FOR THE
11 PREVENTION OF CRUELTY TO CHILDREN IN ROCKLAND COUNTY; PROVIDED, HOWEVER,
12 THAT NOTHING IN THIS SUBDIVISION SHALL BE DEEMED TO AUTHORIZE SUCH OFFI-
13 CER OR AGENT TO CARRY, POSSESS, REPAIR, OR DISPOSE OF A FIREARM UNLESS
14 THE APPROPRIATE LICENSE THEREFOR HAS BEEN ISSUED PURSUANT TO SECTION
15 400.00 OF THE PENAL LAW; AND PROVIDED FURTHER THAT SUCH OFFICER OR AGENT
16 SHALL EXERCISE THE POWERS OF A PEACE OFFICER ONLY WHEN HE IS ACTING
17 PURSUANT TO HIS SPECIAL DUTIES.

18 S 9. Subdivision 35 of section 3 of the public officers law is
19 REPEALED.

20 S 10. Section 3 of the public officers law is amended by adding a new
21 subdivision 35 to read as follows:

22 35. NOTHING HEREIN CONTAINED SHALL OPERATE TO PREVENT AN OTHERWISE
23 QUALIFIED OFFICER OR AGENT OF ANY SOCIETY FOR THE PREVENTION OF CRUELTY
24 TO CHILDREN IN ROCKLAND COUNTY FROM ACCEPTING OR RETAINING APPOINTMENT
25 AS A PEACE OFFICER WITH SUCH SOCIETY WHEN SUCH OFFICER OR AGENT SATIS-
26 FIES THE PROVISIONS AS TO RESIDENCE SET FORTH IN SUBDIVISION TWO OF THIS
27 SECTION.

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

32 (a) "Duly authorized association, agency, society or institution"
33 means [a society for the prevention of cruelty to children duly incorpo-
34 rated under the laws of this state;] any institution supported or
35 controlled by the state or by a subdivision thereof; any [public
36 welfare] SOCIAL SERVICES official of this state; or an association,
37 agency, society, or institution, duly empowered to care for children,
38 which

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

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

41 (iii) is approved, visited, inspected and supervised by the [state]
42 department of [social services] FAMILY ASSISTANCE, or which shall submit
43 and consent to the approval, visitation, inspection and supervision of
44 the department OF FAMILY ASSISTANCE.

45 S 12. Paragraph (e) of subdivision 1 of section 423 of the social
46 services law is REPEALED and paragraph (f) of subdivision 1 is relet-
47 tered paragraph (e).

48 S 13. Notwithstanding any provision of law to the contrary, the
49 provisions of sections one, two, three, four, five, six, eleven and
50 twelve of this act shall not apply to Erie county for five years after
51 the effective date of this act. Prior to the end of the five year peri-
52 od, the legislature shall review the fiscal circumstances which necessi-
53 tated the exemption of Erie county from the provisions of sections one,
54 two, three, four, five, six, eleven and twelve of this act for further
55 action.

1 S 14. This act shall take effect immediately; provided that the
2 provisions of sections eight, ten and thirteen of this act shall expire
3 five years after the effective date of this act when upon such date the
4 provisions of such sections shall be deemed repealed.