STATE OF NEW YORK

S. 3124 A. 4882

2011-2012 Regular Sessions

SENATE - ASSEMBLY

February 9, 2011

IN SENATE -- Introduced by Sen. KRUGER -- 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. COOK, P. RIVERA, SCHROEDER -- Multi-Sponsored by -- M. of A. AUBRY, BOYLAND, CLARK, GOTTFRIED, HOOPER, MOLINARO, PEOPLES-STOKES, 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:

Section 1. Clause (i) of subparagraph (v) of paragraph (A) of subdivision 4 of section 422 of the social services law, as added by chapter 12 of the laws of 1996, is amended and a new subparagraph (a-1) is added to read as follows:

(i) officers and employees of the state comptroller or of the city comptroller of the city of New York, or of the county officer designated by law or charter to perform the auditing function in any county not wholly contained within a city, for purposes of a duly authorized performance audit, provided that such comptroller shall have certified to the keeper of such records that he or she has instituted procedures developed in consultation with the [department] OFFICE OF CHILDREN AND FAMILY SERVICES to limit access to client-identifiable information to persons requiring such information for purposes of the audit and that appropriate controls and prohibitions are imposed on the dissemination of client-identifiable information contained in the conduct of the audit. Information pertaining to the substance or content of any psychological, psychiatric, therapeutic, clinical or medical reports, evaluations or like materials or information pertaining to such child or the child's family shall not be made available to such officers and employees 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.

LBD02515-01-1

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

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

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

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

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

13. To cooperate with the state department of [social services] FAMILY ASSISTANCE and other departments, divisions and agencies of the state AND, IN THE CASE OF CHILDREN RESIDING IN HOMES OPERATED OR SUPERVISED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES, A SOCIAL SERVICES DISTRICT, when a report is received pursuant to title six of article six of the social services law to protect the health and safety of children in residential facilities or programs[. Such] OR A HOME OPERATED OR SUPERVISED BY THE OFFICE. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, SUCH cooperation shall include: the making of reports of alleged child abuse and maltreatment, providing necessary assistance to the state department of [social services] FAMILY ASSISTANCE OR A SOCIAL SERVICES DISTRICT in the department's OR DISTRICT'S investigation thereof, MAKING AVAILABLE TO THE OFFICE OR DISTRICT RECORDS AND REPORTS INCLUDING, BUT NOT LIMITED TO, THE CASE RECORDS OF THE CHILD WHO ALLEGEDLY WAS ABUSED OR MALTREATED AND ANY OTHER CHILD WHO ALLEGEDLY WITNESSED THE ABUSE OR MALTREATMENT, CONSISTENT WITH APPROPRIATE COLLECTIVE BARGAINING AGREEMENTS AND APPLICABLE PROVISIONS OF THE CIVIL SERVICE LAW, THOSE PORTIONS OF THE EMPLOYMENT RECORDS OF THE SUBJECT OF THE REPORT CONSIDERED TO BE RELEVANT AND REASONABLY RELATED TO THE ALLEGATIONS BEING INVESTIGATED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES AND IN THE CASE OF AN ALLEGATION OF ABUSE OR MALTREATMENT OF A CHILD IN A HOME OPERATED OR SUPERVISED BY THE OFFICE, ANY CERTIFICATION OR HOME RECORD RELEVANT TO SUCH INVESTIGATION and considering the recommendations of the [state department of social services] OFFICE OF CHILDREN

AND FAMILY SERVICES OR SOCIAL SERVICES DISTRICT for appropriate preventive and remedial action, including legal actions, and provide or direct the residential facility to provide such written reports thereon to the [department of social services] OFFICE OF CHILDREN AND FAMILY SERVICES as to the implementation of plans of prevention and remediation approved by the [division] OFFICE OF CHILDREN AND FAMILY SERVICES pursuant to title six of article six of the social services law. THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL TAKE ANY ACTION THEREON THAT IT DEEMS APPROPRIATE.

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

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

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

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

S 6. This act shall take effect immediately.