

7942

2011-2012 Regular Sessions

I N A S S E M B L Y

May 25, 2011

Introduced by M. of A. CERETTO -- read once and referred to the Committee on Children and Families

AN ACT to amend the social services law, in relation to investigations of the homes of adults about whom reports have been filed and requiring officials to obtain a supervisor's approval or otherwise requiring application for a court order allowing access to the home; and to amend the penal law, in relation to criminalizing the act of denying access to an individual who is the subject of a report to child or adult protective services

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

1 Section 1. Short title. This act shall be known and may be cited as
2 "Laura Cummings Law".

3 S 2. The section heading and opening paragraph of section 421 of the
4 social services law, as amended by chapter 718 of the laws of 1986, are
5 amended to read as follows:

6 Responsibility of the [department] OFFICE OF CHILDREN AND FAMILY
7 SERVICES. The [department] OFFICE OF CHILDREN AND FAMILY SERVICES
8 shall:

9 S 3. Paragraph (a) of subdivision 1 of section 473 of the social
10 services law, as amended by chapter 395 of the laws of 1995, is amended
11 to read as follows:

12 (a) receiving and investigating reports of seriously impaired individ-
13 uals who may be in need of protection; SUCH INVESTIGATIONS SHALL INCLUDE
14 INVESTIGATION OF THE HOME OF AN IMPAIRED INDIVIDUAL NAMED IN THE REPORT,
15 INCLUDING BY THE AUTHORITY OF IMMEDIATE COURT ORDERS WHENEVER ACCESS
16 THERETO IS DENIED AS SET FORTH IN SECTION FOUR HUNDRED SEVENTY-THREE-A
17 OF THIS ARTICLE;

18 S 4. Section 473-c of the social services law is amended by adding a
19 new subdivision 1-a to read as follows:

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

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1 1-A. EXCEPT IN A CITY WITH A POPULATION OF ONE MILLION OR MORE, IN
2 EVERY SITUATION WHERE A SOCIAL SERVICES OFFICIAL OR CASEWORKER, WHO IS
3 INVESTIGATING WHETHER AN ADULT IS IN NEED OF PROTECTIVE SERVICES, IS
4 DENIED ACCESS TO THAT ADULT TO SUFFICIENTLY ASSESS IF THAT ADULT IS IN
5 NEED OF SUCH SERVICES, THE OFFICIAL OR CASEWORKER SHALL IMMEDIATELY
6 DISCUSS THE MATTER WITH THE SUPERVISOR OF THE ADULT SERVICES DIVISION OF
7 THE SOCIAL SERVICES DISTRICT AS WELL AS WITH THE APPROPRIATE COUNTY
8 LEGAL COUNSEL ASSIGNED TO SUCH MATTERS, AND A DECISION SHALL BE MADE AS
9 TO THE APPROPRIATENESS OF SEEKING A COURT ORDER OF ACCESS PURSUANT TO
10 THIS SECTION. IF THE DECISION IS MADE TO SEEK AN ORDER, THAT SHALL OCCUR
11 FORTHWITH, AND IF THE DECISION IS NOT TO SEEK SUCH AN ORDER, IT SHALL BE
12 RECORDED WITH THE RATIONALE FOR SUCH DECISION IN THE RECORDS.

13 S 5. Subdivision 4 of section 473-c of the social services law, as
14 added by chapter 413 of the laws of 1986, is amended to read as follows:

15 4. If the court is satisfied that there is reasonable cause to believe
16 that a person in need of protective services for adults may be found at
17 the premises described in the application, that such person may be in
18 need of protective services for adults, and that access to such person
19 has been refused, it shall grant the application and issue an order
20 authorizing the social services official and such other individuals as
21 may be designated by the said official, accompanied by a police officer,
22 to enter the premises to conduct an assessment to determine whether the
23 person named in the application is in need of protective services for
24 adults. The [standard for proof and] procedure for such an authorization
25 shall be the same as for a search warrant under the criminal procedure
26 law.

27 S 6. Subparagraphs (y) and (z) of paragraph (A) of subdivision 4 of
28 section 422 of the social services law, subparagraph (y) as amended and
29 subparagraph (z) as added by section 1 of part A of chapter 327 of the
30 laws of 2007, are amended and a new subparagraph (aa) is added to read
31 as follows:

32 (y) members of a citizen review panel as established pursuant to
33 section three hundred seventy-one-b of this article; provided, however,
34 members of a citizen review panel shall not disclose to any person or
35 government official any identifying information which the panel has been
36 provided and shall not make public other information unless otherwise
37 authorized by statute; [and]

38 (z) an entity with appropriate legal authority in another state to
39 license, certify or otherwise approve prospective foster and adoptive
40 parents where disclosure of information regarding the prospective foster
41 or adoptive parents and other persons over the age of eighteen residing
42 in the home of such prospective parents is required by paragraph twenty
43 of subdivision (a) of section six hundred seventy-one of title forty-two
44 of the United States code[.]; AND

45 (AA) A SOCIAL SERVICES OFFICIAL WHO IS INVESTIGATING WHETHER AN ADULT
46 IS IN NEED OF PROTECTIVE SERVICES IN ACCORDANCE WITH THE PROVISIONS OF
47 SECTION FOUR HUNDRED SEVENTY-THREE OF THIS CHAPTER, AND WHEN SUCH OFFI-
48 CIAL STATES THAT HE OR SHE HAS REASONABLE CAUSE TO BELIEVE THAT SUCH
49 PERSON MAY BE IN NEED OF PROTECTIVE SERVICES AND THAT SUCH PERSON MAY
50 HAVE BEEN THE SUBJECT OF A CHILD PROTECTIVE REPORT WITHIN THE LAST FIVE
51 YEARS. SUCH INFORMATION MAY BE REQUESTED AND RELEASED ACROSS ALL SOCIAL
52 SERVICES DISTRICTS IN THE STATE.

53 S 7. Paragraphs (B), (C) and (D) of subdivision 4 of section 422 of
54 the social services law, as amended by chapter 677 of the laws of 1985,
55 are amended to read as follows:

1 (B) Notwithstanding any inconsistent provision of law to the contrary,
2 a city or county social services commissioner may withhold, in whole or
3 in part, the release of any information which he or she is authorized to
4 make available to persons or agencies identified in subparagraphs (a),
5 (k), [(l),] (m), (n)[,] AND (o)[, (p) and (q)] of paragraph (A) of this
6 subdivision if such commissioner determines that such information is not
7 related to the purposes for which such information is requested or when
8 such disclosure will be detrimental to the child named in the report.

9 (C) A city or county social services commissioner who denies access by
10 persons or agencies identified in subparagraphs (a), (k), [(l),] (m),
11 (n)[,] AND (o)[, (p) and (q)] of paragraph (A) of this subdivision to
12 records, reports or other information or parts thereof maintained by
13 such commissioner in accordance with this title shall, within ten days
14 from the date of receipt of the request fully explain in writing to the
15 person requesting the records, reports or other information the reasons
16 for the denial.

17 (D) A person or agency identified in subparagraphs (a), (k), [(l),]
18 (m), (n)[,] AND (o)[, (p) and (q)] of paragraph (A) of this subdivision
19 who is denied access to records, reports or other information or parts
20 thereof maintained by a local department pursuant to this title may
21 bring a proceeding for review of such denial pursuant to article seven-
22 ty-eight of the civil practice law and rules.

23 S 8. Section 195.05 of the penal law, as amended by chapter 269 of the
24 laws of 1998, is amended to read as follows:

25 S 195.05 Obstructing governmental administration in the second degree.

26 A person is guilty of obstructing governmental administration IN THE
27 SECOND DEGREE when he OR SHE intentionally obstructs, impairs or
28 perverts the administration of law or other governmental function or
29 prevents or attempts to prevent a public servant from performing an
30 official function[,]:

31 1. by means of intimidation, physical force or interference, or by
32 means of any independently unlawful act[, or];

33 2. by means of interfering, whether or not physical force is involved,
34 with radio, telephone, television or other telecommunications systems
35 owned or operated by the state, or a county, city, town, village, fire
36 district or emergency medical service [or];

37 3. by means of releasing a dangerous animal under circumstances evinc-
38 ing the actor's intent that the animal obstruct governmental adminis-
39 tration; OR

40 4. BY, WITH INTENT TO CONCEAL ABUSE AND/OR NEGLECT, DENYING OR
41 ATTEMPTING TO DENY AN INVESTIGATION OF CHILD PROTECTIVE SERVICES OR OF
42 ADULT PROTECTIVE SERVICES, ACCESS TO INTERVIEW AN ALLEGED VICTIM.

43 Obstructing governmental administration IN THE SECOND DEGREE is a
44 class A misdemeanor.

45 S 9. This act shall take effect immediately.