

5248

2011-2012 Regular Sessions

I N S E N A T E

May 3, 2011

Introduced by Sen. McDONALD -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health and Developmental Disabilities

AN ACT to amend the mental hygiene law, in relation to mandatory reporting of allegations of physical or sexual abuse of a child or adult with developmental, mental or physical disabilities and of death occurring in a suspicious, unusual, untimely or unexplained manner

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

1 Section 1. The mental hygiene law is amended by adding two new
2 sections 16.38 and 16.39 to read as follows:
3 S 16.38 MANDATORY REPORTING OF PHYSICAL OR SEXUAL ABUSE.
4 (A) ANY AND ALL ALLEGATIONS OF PHYSICAL OR SEXUAL ABUSE OF A PERSON
5 WITH DEVELOPMENTAL, MENTAL OR PHYSICAL DISABILITIES RESIDING IN A FACIL-
6 ITY OPERATED, CERTIFIED, LICENSED, FUNDED OR OTHERWISE AUTHORIZED BY THE
7 DEPARTMENT OR ANY OTHER PRIVATE FACILITY CARING FOR SUCH INDIVIDUALS
8 REPORTED TO ANY ABUSE HOTLINE SHALL BE IMMEDIATELY FORWARDED TO LOCAL
9 LAW ENFORCEMENT AND THE LOCAL DISTRICT ATTORNEY'S OFFICE.
10 (B) ALL MANDATORY REPORTERS, SUPERVISORS AND ANY OTHER INDIVIDUAL
11 RECEIVING A COMPLAINT OR REPORTING AN ALLEGATION OF PHYSICAL OR SEXUAL
12 ABUSE OF A PERSON WITH DEVELOPMENTAL, MENTAL OR PHYSICAL DISABILITIES
13 RESIDING IN A FACILITY OPERATED, CERTIFIED, LICENSED, FUNDED OR OTHER-
14 WISE AUTHORIZED BY THE DEPARTMENT OR ANY OTHER PRIVATE FACILITY CARING
15 FOR SUCH INDIVIDUALS SHALL IMMEDIATELY REPORT THE ALLEGATION TO LOCAL
16 LAW ENFORCEMENT, LOCAL DISTRICT ATTORNEY'S OFFICE, CHILD ABUSE HOTLINE,
17 IF APPLICABLE, ADULT PROTECTIVE SERVICES, IF APPLICABLE, AND TO THE
18 STATEWIDE CENTRAL REGISTER OF CHILD ABUSE AND MALTREATMENT.
19 (C)(I) ANY ALLEGATION OF AN ABUSED CHILD IN RESIDENTIAL CARE AS
20 DEFINED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED TWELVE-A OF THE
21 SOCIAL SERVICES LAW TO ANY ABUSE HOTLINE, STATEWIDE, SHALL BE IMMEDIATE-

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

LBD03967-04-1

1 LY FORWARDED TO LOCAL LAW ENFORCEMENT AND THE LOCAL DISTRICT ATTORNEY'S
2 OFFICE.

3 (II) ANY ALLEGATION OF AN ABUSE TO A YOUTH RESIDING IN RESIDENTIAL
4 CARE AS THE TERM IS DEFINED IN PARAGRAPH (A) OR (B) OF SUBDIVISION FOUR
5 OF SECTION FOUR HUNDRED TWELVE-A OF THE SOCIAL SERVICES LAW TO ANY ABUSE
6 HOTLINE SHALL BE IMMEDIATELY FORWARDED TO LOCAL LAW ENFORCEMENT, LOCAL
7 DISTRICT ATTORNEY'S OFFICE AND THE STATEWIDE CENTRAL REGISTER OF CHILD
8 ABUSE AND MALTREATMENT.

9 (D) ALL FACILITIES, DAY PROGRAMS, GROUP HOMES AND OTHER PROVIDERS
10 OPERATED, LICENSED, FUNDED OR OTHERWISE AUTHORIZED BY THE DEPARTMENT OR
11 ANY OTHER PRIVATE FACILITY CARING FOR SUCH INDIVIDUALS SHALL COMPLY WITH
12 SUBDIVISIONS (B) AND (C) OF THIS SECTION.

13 S 16.39 MANDATORY REPORTING OF DEATH OCCURRING IN A SUSPICIOUS, UNUSUAL,
14 UNTIMELY OR UNEXPLAINED MANNER.

15 (A) ANY DEATH OCCURRING IN A SUSPICIOUS, UNUSUAL, UNTIMELY OR UNEX-
16 PLAINED MANNER OF A PERSON WITH DEVELOPMENTAL, MENTAL OR PHYSICAL DISA-
17 BILITIES RESIDING IN A FACILITY OPERATED, CERTIFIED, LICENSED, FUNDED OR
18 OTHERWISE AUTHORIZED BY THE DEPARTMENT OR ANY OTHER PRIVATE FACILITY
19 CARING FOR SUCH INDIVIDUALS SHALL BE IMMEDIATELY REPORTED TO LOCAL LAW
20 ENFORCEMENT AND THE LOCAL DISTRICT ATTORNEY'S OFFICE.

21 (B) ANY DEATH OCCURRING IN A SUSPICIOUS, UNUSUAL, UNTIMELY OR UNEX-
22 PLAINED MANNER OF A CHILD IN RESIDENTIAL CARE AS DEFINED IN SUBDIVISION
23 ONE OF SECTION FOUR HUNDRED TWELVE-A OF THE SOCIAL SERVICES LAW SHALL BE
24 REPORTED TO LOCAL LAW ENFORCEMENT, THE LOCAL DISTRICT ATTORNEY'S OFFICE
25 AND THE STATEWIDE CENTRAL REGISTER OF CHILD ABUSE AND MALTREATMENT WITH-
26 IN THREE DAYS OF THE DATE OF SUCH DEATH.

27 (C) ALL FACILITIES, DAY PROGRAMS, GROUP HOMES AND OTHER PROVIDERS
28 OPERATED, LICENSED, FUNDED OR OTHERWISE AUTHORIZED BY THE DEPARTMENT OR
29 ANY OTHER PRIVATE FACILITY CARING FOR SUCH INDIVIDUALS SHALL COMPLY WITH
30 SUBDIVISIONS (A) AND (B) OF THIS SECTION.

31 S 2. This act shall take effect on the ninetieth day after it shall
32 have become a law.