

8108

2011-2012 Regular Sessions

I N A S S E M B L Y

June 1, 2011

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

AN ACT to amend the social services law, in relation to access to records of the differential response program for child protection assessments or investigations

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

1 Section 1. Paragraph (c) of subdivision four of section 427-a of the
2 social services law, as added by chapter 452 of the laws of 2007, is
3 amended to read as follows:

4 (c) For those reports which are included in the family assessment and
5 services track, the social services district shall not be subject to the
6 requirements of this title concerning initial investigation of reports
7 of suspected abuse and maltreatment of children, including notification
8 requirements. For reports assigned to the family assessment and services
9 track, the social services district shall be responsible for ensuring
10 that the children are safe in their homes. Such safety [check] ASSESS-
11 MENT shall be commenced within twenty-four hours of receipt of the
12 report and completed within seven days. Based on the initial safety
13 [check] ASSESSMENT, the district shall determine if the report shall
14 continue under the family assessment and services track. This safety
15 [check] ASSESSMENT must be documented in the manner specified by the
16 office of children and family services. Should the children be found to
17 be safe in the home, the social services district shall then identify
18 service needs and family issues, if any, that should be addressed.

19 (i) Where the social services district determines, based on the
20 initial safety [check] ASSESSMENT, that the report is appropriate to be
21 included in the family assessment and services track, the social
22 services district shall document the reason for that determination in
23 the initial safety [check] ASSESSMENT and inform the statewide central
24 register of child abuse and maltreatment that the report is part of the

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

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1 family assessment and services track and request that the records of the
2 statewide central register of child abuse and maltreatment of such
3 report be classified as an assessment track case and be legally sealed
4 [in accordance with the provisions of paragraph (a) of subdivision five
5 of section four hundred twenty-two of this title]. Such sealed reports
6 shall be maintained at the statewide central register of child abuse and
7 maltreatment for ten years after the report was made. ACCESS TO RECORDS
8 ASSIGNED TO THE FAMILY ASSESSMENT AND SERVICES TRACK AND INFORMATION
9 CONCERNING SUCH RECORDS IS GOVERNED BY PARAGRAPH (D) OF SUBDIVISION FIVE
10 OF THIS SECTION.

11 (ii) Where the social services district determines, based on the
12 initial safety [check] ASSESSMENT, to investigate the report as a report
13 of suspected child abuse or maltreatment, the social services district
14 shall document the reason for that decision in the initial safety
15 [check] ASSESSMENT. Where the social services district makes the deter-
16 mination to investigate the report, all of the requirements of this
17 title concerning investigations of reports of suspected child abuse and
18 maltreatment shall apply, including the notification requirements. The
19 report shall no longer be eligible to be included in the family assess-
20 ment and services track.

21 S 2. Paragraph (b) of subdivision five of section 427-a of the social
22 services law, as added by chapter 452 of the laws of 2007, is amended to
23 read as follows:

24 (b) All records created as part of the family assessment and services
25 track shall include, but not be limited to, documentation of the initial
26 safety [check] ASSESSMENT, the examination of the family's strengths,
27 concerns and needs, all services offered and accepted by the family, the
28 plan for supportive services for the family, all evaluations and assess-
29 ments of the family's progress, and all periodic risk assessments.

30 S 3. Subdivision 5-a of section 422 of the social services law, as
31 added by chapter 452 of the laws of 2007, is amended to read as follows:

32 5-a. Upon notification from a local social services district, that a
33 report is part of the family assessment and services track pursuant to
34 subparagraph (i) of paragraph (c) of subdivision four of section four
35 hundred twenty-seven-a of this title, the central register shall forth-
36 with identify the report as an assessment track case and legally seal
37 such report. ACCESS TO RECORDS ASSIGNED TO THE FAMILY ASSESSMENT AND
38 SERVICES TRACK AND INFORMATION CONCERNING SUCH RECORDS IS GOVERNED BY
39 PARAGRAPH (D) OF SUBDIVISION FIVE OF SECTION FOUR HUNDRED TWENTY-SEVEN-A
40 OF THIS TITLE.

41 S 4. Paragraph (d) of subdivision 5 of section 427-a of the social
42 services law, as added by chapter 452 of the laws of 2007, is amended to
43 read as follows:

44 (d) All records created as part of the family assessment and services
45 track, INCLUDING BUT NOT LIMITED TO REPORTS MADE OR WRITTEN AS WELL AS
46 ANY OTHER INFORMATION OBTAINED OR PHOTOGRAPHS TAKEN CONCERNING SUCH
47 RECORDS shall be confidential and shall be made available only to:

48 (I) staff of the office of children and family services and persons
49 designated by the office of children and family services;

50 (II) the social services district responsible for the FAMILY ASSESS-
51 MENT AND SERVICES TRACK case;

52 (III) community-based agencies that have contracts with the social
53 services district to carry out activities for the district under the
54 family assessment and services track; [and]

55 (IV) providers of services under the family assessment and services
56 track; [and]

1 (V) any social services district investigating a subsequent report of
2 abuse or maltreatment involving the same subject or the same child or
3 children named in the report;

4 (VI) A COURT, BUT ONLY WHILE THE FAMILY IS RECEIVING SERVICES PROVIDED
5 UNDER THE FAMILY ASSESSMENT AND SERVICES TRACK AND ONLY PURSUANT TO A
6 COURT ORDER OR JUDICIAL SUBPOENA, ISSUED AFTER NOTICE AND AN OPPORTUNITY
7 FOR THE SUBJECT OF THE REPORT AND ALL PARTIES TO THE PRESENT PROCEEDING
8 TO BE HEARD, BASED ON A JUDICIAL FINDING THAT SUCH RECORDS ARE NECESSARY
9 FOR THE DETERMINATION OF AN ISSUE BEFORE THE COURT. THE RECORDS TO BE
10 DISCLOSED PURSUANT TO A JUDICIAL SUBPOENA SHALL BE SUBMITTED TO THE
11 COURT FOR INSPECTION AND FOR SUCH DIRECTIONS AS MAY BE NECESSARY TO
12 PROTECT CONFIDENTIALITY, INCLUDING BUT NOT LIMITED TO REDACTION OF
13 PORTIONS OF THE RECORDS, AND TO DETERMINE ANY FURTHER LIMITS ON REDIS-
14 CLOSURE IN ADDITION TO THE LIMITATIONS PROVIDED FOR IN THIS TITLE. A
15 COURT SHALL NOT HAVE ACCESS TO THE SEALED FAMILY ASSESSMENT AND SERVICES
16 RECORDS AFTER THE CONCLUSION OF SERVICES PROVIDED UNDER THE FAMILY
17 ASSESSMENT AND SERVICES TRACK; AND

18 (VII) THE SUBJECT OF THE REPORT INCLUDED IN THE RECORDS OF THE FAMILY
19 ASSESSMENT AND SERVICES TRACK.

20 S 5. Subdivision 5 of section 427-a of the social services law is
21 amended by adding a new paragraph (e) to read as follows:

22 (E) PERSONS GIVEN ACCESS TO SEALED RECORDS PURSUANT TO PARAGRAPH (D)
23 OF THIS SUBDIVISION SHALL NOT REDISCLOSE SUCH RECORDS EXCEPT AS FOLLOWS:

24 (I) THE OFFICE OF CHILDREN AND FAMILY SERVICES AND SOCIAL SERVICES
25 DISTRICTS MAY DISCLOSE AGGREGATE, NON-CLIENT IDENTIFIABLE INFORMATION;

26 (II) SOCIAL SERVICES DISTRICTS, COMMUNITY-BASED AGENCIES THAT HAVE
27 CONTRACTS WITH A SOCIAL SERVICES DISTRICT TO CARRY OUT ACTIVITIES FOR
28 THE DISTRICT UNDER THE FAMILY ASSESSMENT AND SERVICES TRACK, AND PROVID-
29 ERS OF SERVICES UNDER THE FAMILY ASSESSMENT AND SERVICES TRACK, MAY
30 EXCHANGE SUCH RECORDS AS NECESSARY TO CARRY OUT ACTIVITIES AND SERVICES
31 RELATED TO THE SAME CHILD OR CHILDREN NAMED IN THE RECORDS OF A FAMILY
32 ASSESSMENT AND SERVICES TRACK CASE;

33 (III) THE CHILD PROTECTIVE SERVICE OF A SOCIAL SERVICES DISTRICT MAY
34 UNSEAL A REPORT AND INFORMATION CONCERNING A REPORT OF A CASE UNDER THE
35 FAMILY ASSESSMENT AND SERVICES TRACK IN THE EVENT SUCH REPORT OR INFOR-
36 MATION IS RELEVANT TO A SUBSEQUENT REPORT OF SUSPECTED CHILD ABUSE OR
37 MALTREATMENT. INFORMATION FROM SUCH AN UNSEALED REPORT THAT IS RELEVANT
38 TO THE SUBSEQUENT REPORT OF SUSPECTED CHILD ABUSE AND MALTREATMENT MAY
39 BE USED BY THE CHILD PROTECTIVE SERVICE FOR PURPOSES OF INVESTIGATION
40 AND FAMILY COURT ACTION CONCERNING THE SUBSEQUENT REPORT AND MAY BE
41 INCLUDED IN THE RECORD OF THE INVESTIGATION OF THE SUBSEQUENT REPORT. IF
42 THE SOCIAL SERVICES DISTRICT INITIATES A PROCEEDING UNDER ARTICLE TEN OF
43 THE FAMILY COURT ACT IN CONNECTION WITH SUCH A SUBSEQUENT REPORT OF
44 SUSPECTED CHILD ABUSE AND MALTREATMENT AND THERE IS INFORMATION IN THE
45 REPORT OF A PREVIOUS CASE UNDER THE FAMILY ASSESSMENT AND SERVICES TRACK
46 THAT IS RELEVANT TO THE PROCEEDING, THE SOCIAL SERVICES DISTRICT SHALL
47 INCLUDE SUCH INFORMATION IN THE RECORD OF THE INVESTIGATION OF THE
48 SUBSEQUENT REPORT OF SUSPECTED CHILD ABUSE OR MALTREATMENT AND SHALL
49 MAKE THAT INFORMATION AVAILABLE TO THE FAMILY COURT AND THE OTHER
50 PARTIES FOR USE IN SUCH PROCEEDING PROVIDED, HOWEVER, THAT THE INFORMA-
51 TION INCLUDED FROM THE PREVIOUS CASE UNDER THE FAMILY ASSESSMENT AND
52 SERVICES TRACK SHALL THEN BE SUBJECT TO ALL LAWS AND REGULATIONS REGARD-
53 ING CONFIDENTIALITY THAT APPLY TO THE RECORD OF THE INVESTIGATION OF
54 SUCH SUBSEQUENT REPORT OF SUSPECTED CHILD ABUSE OR MALTREATMENT. THE
55 FAMILY COURT MAY CONSIDER THE INFORMATION FROM THE PREVIOUS CASE UNDER

1 THE FAMILY ASSESSMENT AND SERVICES TRACK THAT IS RELEVANT TO SUCH
2 PROCEEDING IN MAKING ANY DETERMINATIONS IN THE PROCEEDING; AND

3 (IV) A SUBJECT OF THE REPORT MAY, AT HIS OR HER DISCRETION, PRESENT
4 RECORDS FROM THE FAMILY ASSESSMENT AND SERVICES TRACK CASE, IN WHOLE OR
5 IN PART, IN ANY PROCEEDING UNDER ARTICLE TEN OF THE FAMILY COURT ACT IN
6 WHICH THE SUBJECT IS A RESPONDENT. A SUBJECT OF THE REPORT ALSO MAY, AT
7 HIS OR HER DISCRETION, PRESENT RECORDS FROM THE FAMILY ASSESSMENT AND
8 SERVICES TRACK, IN WHOLE OR IN PART, IN ANY PROCEEDING INVOLVING THE
9 CUSTODY OF, OR VISITATION WITH THE SUBJECT'S CHILDREN, OR IN ANY OTHER
10 RELEVANT PROCEEDING. IN MAKING ANY DETERMINATION IN SUCH A PROCEEDING,
11 THE COURT MAY CONSIDER ANY PORTION OF THE FAMILY ASSESSMENT AND SERVICE
12 TRACK REPORT OR ANY INFORMATION CONCERNING THE REPORT RECORDS PRESENTED
13 BY THE SUBJECT OF THE REPORT THAT IS RELEVANT TO THE PROCEEDING.

14 S 6. Subdivision 8 of section 427-a of the social services law, as
15 amended by chapter 452 of the laws of 2007, is amended to read as
16 follows:

17 8. The office of children and family services shall [complete a]
18 report [evaluating the implementation of any] ON THE differential
19 response programs established pursuant to this section AS PART OF THE
20 ANNUAL REPORT REQUIRED PURSUANT TO SECTION FOUR HUNDRED TWENTY-SIX OF
21 THIS TITLE. [The report shall assess the effectiveness of the programs
22 in promoting broader community involvement in meeting service needs,
23 expanding and expediting access to appropriate services, improving the
24 cooperation of families, reducing subsequent abuse and maltreatment
25 reports, and promoting child safety. Such report shall also recommend
26 whether or not to continue the provisions of this section and shall be
27 submitted to the governor and the legislature no later than the first
28 day of January, two thousand eleven.] SUCH ANNUAL REPORT SHALL INCLUDE
29 DETAILED INFORMATION CONCERNING THE RACIAL AND ETHNIC CHARACTERISTICS OF
30 THE FAMILY MEMBERS AND PERSONS SERVED BY THE DIFFERENTIAL RESPONSE
31 PROGRAM, AS WELL AS THE RACIAL AND ETHNIC CHARACTERISTICS OF THE FAMILY
32 MEMBERS AND PERSONS SERVED UNDER THE TRADITIONAL CHILD PROTECTIVE
33 SERVICES PROGRAM, IN EACH LOCAL SOCIAL SERVICES DISTRICT IN THE STATE.

34 S 7. This act shall take effect immediately; provided, however, that
35 the amendments to section 427-a of the social services law made by
36 sections one, two, four, five and six of this act shall not affect the
37 repeal of such section and shall be deemed repealed therewith; and
38 provided, further, that the amendments to subdivision 5-a of section 422
39 of the social services law made by section three of this act shall not
40 affect the repeal of such subdivision and shall be deemed repealed ther-
41 ewith.