S T A T E O F N E W Y O R K

5248--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. The mental hygiene law is amended by adding two new sections 16.38 and 16.39 to read as follows:

S 16.38 MANDATORY REPORTING OF PHYSICAL OR SEXUAL ABUSE.

(A) ANY AND ALL ALLEGATIONS OF PHYSICAL OR SEXUAL ABUSE OF A PERSON WITH DEVELOPMENTAL, MENTAL OR PHYSICAL DISABILITIES RESIDING IN A FACILITY OPERATED, CERTIFIED, LICENSED, FUNDED OR OTHERWISE AUTHORIZED BY THE DEPARTMENT OR ANY OTHER PRIVATE FACILITY CARING FOR SUCH INDIVIDUALS REPORTED TO ANY ABUSE HOTLINE SHALL BE IMMEDIATELY FORWARDED TO LOCAL LAW ENFORCEMENT AND THE LOCAL DISTRICT ATTORNEY'S OFFICE.

(B) ALL MANDATORY REPORTERS, SUPERVISORS AND ANY OTHER INDIVIDUAL RECEIVING A COMPLAINT OR REPORTING AN ALLEGATION OF PHYSICAL OR SEXUAL ABUSE OF A PERSON WITH DEVELOPMENTAL, MENTAL OR PHYSICAL DISABILITIES RESIDING IN A FACILITY OPERATED, CERTIFIED, LICENSED, FUNDED OR OTHERWISE AUTHORIZED BY THE DEPARTMENT OR ANY OTHER PRIVATE FACILITY CARING FOR SUCH INDIVIDUALS SHALL IMMEDIATELY REPORT THE ALLEGATION TO LOCAL LAW ENFORCEMENT, LOCAL DISTRICT ATTORNEY'S OFFICE, CHILD ABUSE HOTLINE, IF APPLICABLE, ADULT PROTECTIVE SERVICES, IF APPLICABLE, AND TO THE STATEWIDE CENTRAL REGISTER OF CHILD ABUSE AND MALTREATMENT.

(C)(I) ANY ALLEGATION OF AN ABUSED CHILD IN RESIDENTIAL CARE AS DEFINED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED TWELVE-A OF THE 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.

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

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

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

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

(A) ANY DEATH OCCURRING IN A SUSPICIOUS, UNUSUAL, UNTIMELY OR UNEXPLAINED MANNER OF A PERSON WITH DEVELOPMENTAL, MENTAL OR PHYSICAL DISABILITIES RESIDING IN A FACILITY OPERATED, CERTIFIED, LICENSED, FUNDED OR OTHERWISE AUTHORIZED BY THE DEPARTMENT OR ANY OTHER PRIVATE FACILITY CARING FOR SUCH INDIVIDUALS SHALL BE IMMEDIATELY REPORTED TO LOCAL LAW ENFORCEMENT AND THE LOCAL DISTRICT ATTORNEY'S OFFICE.

(B) ANY DEATH OCCURRING IN A SUSPICIOUS, UNUSUAL, UNTIMELY OR UNEXPLAINED MANNER OF A CHILD IN RESIDENTIAL CARE AS DEFINED IN SUBDIVISION ONE OF SECTION FOUR HUNDRED TWELVE-A OF THE SOCIAL SERVICES LAW SHALL BE IMMEDIATELY REPORTED TO LOCAL LAW ENFORCEMENT, THE LOCAL DISTRICT ATTORNEY'S OFFICE AND THE STATEWIDE CENTRAL REGISTER OF CHILD ABUSE AND MALTREATMENT.

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

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