

4081--A

2013-2014 Regular Sessions

I N   S E N A T E

March 7, 2013

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Introduced by Sen. FELDER -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the family court act and the social services law, in relation to notice of indicated reports of child maltreatment and changes of placement in child protective and voluntary foster care placement and review proceedings; and to repeal certain provisions of the family court act, in relation to technical changes thereto

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

1     Section 1. Section 1017 of the family court act is amended by adding a  
2     new subdivision 5 to read as follows:  
3     5. IN ANY CASE IN WHICH AN ORDER HAS BEEN ISSUED PURSUANT TO THIS  
4     ARTICLE REMANDING OR PLACING A CHILD IN THE CUSTODY OF THE LOCAL SOCIAL  
5     SERVICES DISTRICT, THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY  
6     CHARGED WITH CUSTODY OF THE CHILD SHALL REPORT ANY ANTICIPATED CHANGE IN  
7     PLACEMENT TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR THE  
8     CHILD NOT LATER THAN TEN DAYS PRIOR TO SUCH CHANGE IN ANY CASE IN WHICH  
9     THE CHILD IS MOVED FROM THE FOSTER HOME OR PROGRAM INTO WHICH HE OR SHE  
10    HAS BEEN PLACED OR IN WHICH THE FOSTER PARENTS MOVE OUT OF STATE WITH  
11    THE CHILD; PROVIDED, HOWEVER, THAT WHERE AN IMMEDIATE CHANGE OF PLACE-  
12    MENT ON AN EMERGENCY BASIS IS REQUIRED, THE REPORT SHALL BE TRANSMITTED  
13    NO LATER THAN THE NEXT BUSINESS DAY AFTER SUCH CHANGE IN PLACEMENT HAS  
14    BEEN MADE. EACH REPORT SHALL STATE THE ANTICIPATED DATE OF THE CHANGE,  
15    THE GROUNDS FOR THE OFFICIAL'S OR AGENCY'S CONCLUSION THAT SUCH CHANGE  
16    IS IN THE BEST INTERESTS OF THE CHILD AND CONTACT INFORMATION FOR A  
17    SOCIAL SERVICES OR AGENCY OFFICIAL WHO MAY BE CONTACTED FOR ADDITIONAL  
18    INFORMATION. THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY SHALL  
19    ALSO SUBMIT A REPORT TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY

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

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1 FOR THE CHILD OR INCLUDE IN THE REPORT OF A CHANGE IN PLACEMENT ANY  
2 INDICATED REPORT OF CHILD ABUSE OR MALTREATMENT WHERE THE CHILD OR  
3 ANOTHER CHILD IN THE SAME HOME IS THE SUBJECT WITHIN FIVE DAYS OF THE  
4 INDICATION OF THE REPORT. THE OFFICIAL OR AGENCY MAY PROTECT THE CONFIDENTIALITY OF IDENTIFYING OR ADDRESS INFORMATION REGARDING THE FOSTER OR  
5 PROSPECTIVE ADOPTIVE PARENTS. REPORTS REGARDING INDICATED REPORTS OF  
6 CHILD ABUSE OR MALTREATMENT PROVIDED PURSUANT TO THIS SUBDIVISION SHALL  
7 INCLUDE A STATEMENT ADVISING RECIPIENTS THAT THE INFORMATION IN SUCH  
8 REPORT OF CHILD ABUSE OR MALTREATMENT SHALL BE KEPT CONFIDENTIAL, SHALL  
9 BE USED ONLY IN CONNECTION WITH A PROCEEDING UNDER THIS ARTICLE OR  
10 RELATED PROCEEDINGS UNDER THIS ACT AND MAY NOT BE REDISCLOSED EXCEPT AS  
11 NECESSARY FOR SUCH PROCEEDING OR PROCEEDINGS AND AS AUTHORIZED BY LAW.  
12 REPORTS UNDER THIS PARAGRAPH MAY BE TRANSMITTED IN WRITING, BY ELECTRONIC  
13 MEANS OR ON THE RECORD DURING PROCEEDINGS IN FAMILY COURT.

15 S 2. Subparagraph (E) of paragraph (i) of subdivision (b) of section  
16 1055 of the family court act, as amended by chapter 41 of the laws of  
17 2010, is REPEALED.

18 S 3. Section 1055 of the family court act is amended by adding a new  
19 subdivision (j) to read as follows:

20 (J) IN ANY CASE IN WHICH AN ORDER HAS BEEN ISSUED PURSUANT TO THIS  
21 SECTION PLACING A CHILD IN THE CUSTODY OF THE COMMISSIONER OF SOCIAL  
22 SERVICES, THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY CHARGED WITH  
23 CUSTODY OF THE CHILD SHALL REPORT ANY ANTICIPATED CHANGE IN PLACEMENT TO  
24 THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD NOT LATER  
25 THAN TEN DAYS PRIOR TO SUCH CHANGE IN ANY CASE IN WHICH THE CHILD IS  
26 MOVED FROM THE FOSTER HOME OR PROGRAM INTO WHICH HE OR SHE HAS BEEN  
27 PLACED OR IN WHICH THE FOSTER PARENTS MOVE OUT OF STATE WITH THE CHILD;  
28 PROVIDED, HOWEVER, THAT WHERE AN IMMEDIATE CHANGE OF PLACEMENT ON AN  
29 EMERGENCY BASIS IS REQUIRED, THE REPORT SHALL BE TRANSMITTED NO LATER  
30 THAN THE NEXT BUSINESS DAY AFTER SUCH CHANGE IN PLACEMENT HAS BEEN MADE.  
31 EACH REPORT SHALL STATE THE ANTICIPATED DATE OF THE CHANGE, THE GROUNDS  
32 FOR THE OFFICIAL'S OR AGENCY'S CONCLUSION THAT SUCH CHANGE IS IN THE  
33 BEST INTERESTS OF THE CHILD AND CONTACT INFORMATION FOR A SOCIAL  
34 SERVICES OR AGENCY OFFICIAL WHO MAY BE CONTACTED FOR ADDITIONAL INFORMATION. THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY SHALL ALSO  
35 SUBMIT A REPORT TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR  
36 THE CHILD OR INCLUDE IN THE REPORT OF A CHANGE IN PLACEMENT ANY INDICATED  
37 REPORT OF CHILD ABUSE OR MALTREATMENT WHERE THE CHILD OR ANOTHER  
38 CHILD IN THE SAME HOME IS THE SUBJECT WITHIN FIVE DAYS OF THE INDICATION  
39 OF THE REPORT. THE OFFICIAL OR AGENCY MAY PROTECT THE CONFIDENTIALITY OF  
40 IDENTIFYING OR ADDRESS INFORMATION REGARDING THE FOSTER OR PROSPECTIVE  
41 ADOPTIVE PARENTS. REPORTS REGARDING INDICATED REPORTS OF CHILD ABUSE OR  
42 MALTREATMENT PROVIDED PURSUANT TO THIS SUBDIVISION SHALL INCLUDE A  
43 STATEMENT ADVISING RECIPIENTS THAT THE INFORMATION IN SUCH REPORT OF  
44 CHILD ABUSE OR MALTREATMENT SHALL BE KEPT CONFIDENTIAL, SHALL BE USED  
45 ONLY IN CONNECTION WITH A PROCEEDING UNDER THIS ARTICLE OR RELATED  
46 PROCEEDINGS UNDER THIS ACT AND MAY NOT BE REDISCLOSED EXCEPT AS NECESSARY  
47 FOR SUCH PROCEEDING OR PROCEEDINGS AND AS AUTHORIZED BY LAW.  
48 REPORTS UNDER THIS PARAGRAPH MAY BE TRANSMITTED IN WRITING, BY ELECTRONIC  
49 MEANS OR ON THE RECORD DURING PROCEEDINGS IN FAMILY COURT.

51 S 4. Subparagraph (vii) of paragraph 2 of subdivision (d) of section  
52 1089 of the family court act is amended by adding a new clause (H) to  
53 read as follows:

54 (H) A DIRECTION THAT THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY  
55 CHARGED WITH CARE AND CUSTODY OR GUARDIANSHIP AND CUSTODY OF THE CHILD,  
56 AS APPLICABLE, REPORT ANY ANTICIPATED CHANGE IN PLACEMENT TO THE ATTOR-

1 NEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD NOT LATER THAN TEN  
2 DAYS PRIOR TO SUCH CHANGE IN ANY CASE IN WHICH THE CHILD IS MOVED FROM  
3 THE FOSTER HOME OR PROGRAM INTO WHICH HE OR SHE HAS BEEN PLACED OR IN  
4 WHICH THE FOSTER PARENTS MOVE OUT OF STATE WITH THE CHILD; PROVIDED,  
5 HOWEVER, THAT WHERE AN IMMEDIATE CHANGE OF PLACEMENT ON AN EMERGENCY  
6 BASIS IS REQUIRED, THE REPORT SHALL BE TRANSMITTED NO LATER THAN THE  
7 NEXT BUSINESS DAY AFTER SUCH CHANGE IN PLACEMENT HAS BEEN MADE. EACH  
8 REPORT SHALL STATE THE ANTICIPATED DATE OF THE CHANGE, THE GROUNDS FOR  
9 THE OFFICIAL'S OR AGENCY'S CONCLUSION THAT SUCH CHANGE IS IN THE BEST  
10 INTERESTS OF THE CHILD AND CONTACT INFORMATION FOR A SOCIAL SERVICES OR  
11 AGENCY OFFICIAL WHO MAY BE CONTACTED FOR ADDITIONAL INFORMATION. THE  
12 SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY SHALL ALSO SUBMIT A REPORT  
13 TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD OR  
14 INCLUDE IN THE REPORT OF A CHANGE IN PLACEMENT ANY INDICATED REPORT OF  
15 CHILD ABUSE OR MALTREATMENT WHERE THE CHILD OR ANOTHER CHILD IN THE SAME  
16 HOME IS THE SUBJECT WITHIN FIVE DAYS OF THE INDICATION OF THE REPORT.  
17 THE OFFICIAL OR AGENCY MAY PROTECT THE CONFIDENTIALITY OF IDENTIFYING OR  
18 ADDRESS INFORMATION REGARDING THE FOSTER OR PROSPECTIVE ADOPTIVE  
19 PARENTS. REPORTS UNDER THIS PARAGRAPH SHALL NOT BE SENT TO ATTORNEYS FOR  
20 BIRTH PARENTS WHOSE PARENTAL RIGHTS HAVE BEEN TERMINATED OR WHO HAVE  
21 SURRENDERED THEIR CHILD OR CHILDREN. REPORTS REGARDING INDICATED  
22 REPORTS OF CHILD ABUSE OR MALTREATMENT PROVIDED PURSUANT TO THIS SUBDI-  
23 VISION SHALL INCLUDE A STATEMENT ADVISING RECIPIENTS THAT THE INFORMA-  
24 TION IN SUCH REPORT OF CHILD ABUSE OR MALTREATMENT SHALL BE KEPT CONFID-  
25 DENTIAL, SHALL BE USED ONLY IN CONNECTION WITH A PROCEEDING UNDER THIS  
26 ARTICLE OR RELATED PROCEEDINGS UNDER THIS ACT AND MAY NOT BE REDISCLOSED  
27 EXCEPT AS NECESSARY FOR SUCH PROCEEDING OR PROCEEDINGS AND AS AUTHORIZED  
28 BY LAW. REPORTS UNDER THIS PARAGRAPH MAY BE TRANSMITTED IN WRITING, BY  
29 ELECTRONIC MEANS OR ON THE RECORD DURING PROCEEDINGS IN FAMILY COURT;  
30 AND

31 S 5. Subdivision 3 of section 358-a of the social services law is  
32 amended by adding a new paragraph (g) to read as follows:

33 (G) IN ANY CASE IN WHICH AN ORDER HAS BEEN ISSUED PURSUANT TO THIS  
34 SECTION APPROVING A FOSTER CARE PLACEMENT INSTRUMENT, THE SOCIAL  
35 SERVICES OFFICIAL OR AUTHORIZED AGENCY CHARGED WITH CUSTODY OF THE CHILD  
36 SHALL REPORT ANY ANTICIPATED CHANGE IN PLACEMENT TO THE ATTORNEYS FOR  
37 THE PARTIES AND THE ATTORNEY FOR THE CHILD NOT LATER THAN TEN DAYS PRIOR  
38 TO SUCH CHANGE IN ANY CASE IN WHICH THE CHILD IS MOVED FROM THE FOSTER  
39 HOME OR PROGRAM INTO WHICH HE OR SHE HAS BEEN PLACED OR IN WHICH THE  
40 FOSTER PARENTS MOVE OUT OF STATE WITH THE CHILD; PROVIDED, HOWEVER, THAT  
41 WHERE AN IMMEDIATE CHANGE OF PLACEMENT ON AN EMERGENCY BASIS IS  
42 REQUIRED, THE REPORT SHALL BE TRANSMITTED NO LATER THAN THE NEXT BUSI-  
43 NESS DAY AFTER SUCH CHANGE IN PLACEMENT HAS BEEN MADE. EACH REPORT SHALL  
44 STATE THE ANTICIPATED DATE OF THE CHANGE, THE GROUNDS FOR THE OFFICIAL'S  
45 OR AGENCY'S CONCLUSION THAT SUCH CHANGE IS IN THE BEST INTERESTS OF THE  
46 CHILD AND CONTACT INFORMATION FOR A SOCIAL SERVICES OR AGENCY OFFICIAL  
47 WHO MAY BE CONTACTED FOR ADDITIONAL INFORMATION. THE SOCIAL SERVICES  
48 OFFICIAL OR AUTHORIZED AGENCY SHALL ALSO SUBMIT A REPORT TO THE ATTOR-  
49 NEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD OR INCLUDE IN THE  
50 REPORT OF A CHANGE IN PLACEMENT ANY INDICATED REPORT OF CHILD ABUSE OR  
51 MALTREATMENT WHERE THE CHILD OR ANOTHER CHILD IN THE SAME HOME IS THE  
52 SUBJECT WITHIN FIVE DAYS OF THE INDICATION OF THE REPORT. THE OFFICIAL  
53 OR AGENCY MAY PROTECT THE CONFIDENTIALITY OF IDENTIFYING OR ADDRESS  
54 INFORMATION REGARDING THE FOSTER OR PROSPECTIVE ADOPTIVE PARENTS.  
55 REPORTS REGARDING INDICATED REPORTS OF CHILD ABUSE OR MALTREATMENT  
56 PROVIDED PURSUANT TO THIS SUBDIVISION SHALL INCLUDE A STATEMENT ADVISING

1 RECIPIENTS THAT THE INFORMATION IN SUCH REPORT OF CHILD ABUSE OR  
2 MALTREATMENT SHALL BE KEPT CONFIDENTIAL, SHALL BE USED ONLY IN  
3 CONNECTION WITH A PROCEEDING UNDER THIS SECTION OR RELATED PROCEEDINGS  
4 UNDER THE FAMILY COURT ACT AND MAY NOT BE REDISCLOSED EXCEPT AS NECES-  
5 SARY FOR SUCH PROCEEDING OR PROCEEDINGS AND AS AUTHORIZED BY LAW.  
6 REPORTS UNDER THIS PARAGRAPH MAY BE TRANSMITTED IN WRITING, BY ELECTRON-  
7 IC MEANS OR ON THE RECORD DURING PROCEEDINGS IN FAMILY COURT.  
8 S 6. This act shall take effect immediately, provided that sections  
9 one, three, four and five of this act shall take effect on the sixtieth  
10 day after it shall have become a law; provided, however, that section  
11 two of this act shall be deemed to have taken effect on the same date as  
12 section 1 of chapter 342 of the laws of 2010, took effect; and, effec-  
13 tive immediately, the addition, amendment and/or repeal of any rule or  
14 regulation necessary for the implementation of this act on its effective  
15 date is authorized and directed to be completed on or before such effec-  
16 tive date.