

2599--B

2013-2014 Regular Sessions

I N A S S E M B L Y

January 16, 2013

Introduced by M. of A. PAULIN, JAFFEE, SCARBOROUGH, MILLMAN, ROBERTS, LAVINE, ROBINSON, GALEF, TITONE, ABINANTI, HOOPER -- Multi-Sponsored by -- M. of A. GABRYSZAK, GIBSON -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Children and Families -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules

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 OR CARE OF THE CHILD SHALL REPORT ANY ANTICIPATED
7 CHANGE IN PLACEMENT TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY
8 FOR THE CHILD NOT LATER THAN TEN DAYS PRIOR TO SUCH CHANGE IN ANY CASE
9 IN WHICH THE CHILD IS MOVED FROM THE FOSTER HOME OR PROGRAM INTO WHICH
10 HE OR SHE HAS BEEN PLACED OR IN WHICH THE FOSTER PARENTS MOVE OUT OF
11 STATE WITH THE CHILD; PROVIDED, HOWEVER, THAT WHERE AN IMMEDIATE CHANGE
12 OF PLACEMENT ON AN EMERGENCY BASIS IS REQUIRED, THE REPORT SHALL BE
13 TRANSMITTED NO LATER THAN THE NEXT BUSINESS DAY AFTER SUCH CHANGE IN
14 PLACEMENT HAS BEEN MADE. THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED
15 AGENCY SHALL ALSO SUBMIT A REPORT TO THE ATTORNEYS FOR THE PARTIES AND

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

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

16 S 2. Subparagraph (E) of paragraph (i) of subdivision (b) of section
17 1055 of the family court act, as amended by chapter 41 of the laws of
18 2010, is REPEALED.

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

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

49 S 4. Subparagraph (vii) of paragraph 2 of subdivision (d) of section
50 1089 of the family court act is amended by adding a new clause (H) to
51 read as follows:

52 (H) A DIRECTION THAT THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY
53 CHARGED WITH CARE AND CUSTODY OR GUARDIANSHIP AND CUSTODY OF THE CHILD,
54 AS APPLICABLE, REPORT ANY ANTICIPATED CHANGE IN PLACEMENT TO THE ATTOR-
55 NEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD NOT LATER THAN TEN
56 DAYS PRIOR TO SUCH CHANGE IN ANY CASE IN WHICH THE CHILD IS MOVED FROM

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

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

27 (G) IN ANY CASE IN WHICH AN ORDER HAS BEEN ISSUED PURSUANT TO THIS
28 SECTION APPROVING A FOSTER CARE PLACEMENT INSTRUMENT, THE SOCIAL
29 SERVICES OFFICIAL OR AUTHORIZED AGENCY CHARGED WITH CUSTODY OR CARE OF
30 THE CHILD SHALL REPORT ANY ANTICIPATED CHANGE IN PLACEMENT TO THE ATTOR-
31 NEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD NOT LATER THAN TEN
32 DAYS PRIOR TO SUCH CHANGE IN ANY CASE IN WHICH THE CHILD IS MOVED FROM
33 THE FOSTER HOME OR PROGRAM INTO WHICH HE OR SHE HAS BEEN PLACED OR IN
34 WHICH THE FOSTER PARENTS MOVE OUT OF STATE WITH THE CHILD; PROVIDED,
35 HOWEVER, THAT WHERE AN IMMEDIATE CHANGE OF PLACEMENT ON AN EMERGENCY
36 BASIS IS REQUIRED, THE REPORT SHALL BE TRANSMITTED NO LATER THAN THE
37 NEXT BUSINESS DAY AFTER SUCH CHANGE IN PLACEMENT HAS BEEN MADE. THE
38 SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY SHALL ALSO SUBMIT A REPORT
39 TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD OR
40 INCLUDE IN THE REPORT OF A CHANGE IN PLACEMENT ANY INDICATED REPORT OF
41 CHILD ABUSE OR MALTREATMENT WHERE THE CHILD OR ANOTHER CHILD IN THE SAME
42 HOME IS THE SUBJECT WITHIN FIVE DAYS OF THE INDICATION OF THE REPORT.
43 THE OFFICIAL OR AGENCY MAY PROTECT THE CONFIDENTIALITY OF IDENTIFYING OR
44 ADDRESS INFORMATION REGARDING THE FOSTER OR PROSPECTIVE ADOPTIVE
45 PARENTS. REPORTS REGARDING INDICATED REPORTS OF CHILD ABUSE OR
46 MALTREATMENT PROVIDED PURSUANT TO THIS SUBDIVISION SHALL INCLUDE A
47 STATEMENT ADVISING RECIPIENTS THAT THE INFORMATION IN SUCH REPORT OF
48 CHILD ABUSE OR MALTREATMENT SHALL BE KEPT CONFIDENTIAL, SHALL BE USED
49 ONLY IN CONNECTION WITH A PROCEEDING UNDER THIS SECTION OR RELATED
50 PROCEEDINGS UNDER THE FAMILY COURT ACT AND MAY NOT BE REDISCLOSED EXCEPT
51 AS NECESSARY FOR SUCH PROCEEDING OR PROCEEDINGS AND AS AUTHORIZED BY
52 LAW. REPORTS UNDER THIS PARAGRAPH MAY BE TRANSMITTED, INCLUDING, BUT
53 NOT LIMITED TO, BY ELECTRONIC MEANS OR ON THE RECORD DURING PROCEEDINGS
54 IN FAMILY COURT.

55 S 6. This act shall take effect immediately, provided that sections
56 one, three, four and five of this act shall take effect on the one

1 hundred twentieth day after it shall have become a law; provided, howev-
2 er, that section two of this act shall be deemed to have taken effect on
3 the same date as section 1 of chapter 342 of the laws of 2010, took
4 effect; and, effective immediately, the addition, amendment and/or
5 repeal of any rule or regulation necessary for the implementation of
6 this act on its effective date is authorized and directed to be
7 completed on or before such effective date.