

4081--B

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 -- 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 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  
16    THE ATTORNEY FOR THE CHILD OR INCLUDE IN THE REPORT OF A CHANGE IN  
17    PLACEMENT ANY INDICATED REPORT OF CHILD ABUSE OR MALTREATMENT WHERE THE  
18    CHILD OR ANOTHER CHILD IN THE SAME HOME IS THE SUBJECT WITHIN FIVE DAYS

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

LBD03045-06-3

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

13 S 2. Subparagraph (E) of paragraph (i) of subdivision (b) of section  
14 1055 of the family court act, as amended by chapter 41 of the laws of  
15 2010, is REPEALED.

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

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

46 S 4. Subparagraph (vii) of paragraph 2 of subdivision (d) of section  
47 1089 of the family court act is amended by adding a new clause (H) to  
48 read as follows:

49 (H) A DIRECTION THAT THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY  
50 CHARGED WITH CARE AND CUSTODY OR GUARDIANSHIP AND CUSTODY OF THE CHILD,  
51 AS APPLICABLE, REPORT ANY ANTICIPATED CHANGE IN PLACEMENT TO THE ATTOR-  
52 NEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD NOT LATER THAN TEN  
53 DAYS PRIOR TO SUCH CHANGE IN ANY CASE IN WHICH THE CHILD IS MOVED FROM  
54 THE FOSTER HOME OR PROGRAM INTO WHICH HE OR SHE HAS BEEN PLACED OR IN  
55 WHICH THE FOSTER PARENTS MOVE OUT OF STATE WITH THE CHILD; PROVIDED,  
56 HOWEVER, THAT WHERE AN IMMEDIATE CHANGE OF PLACEMENT ON AN EMERGENCY

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

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

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

52 S 6. This act shall take effect immediately, provided that sections  
53 one, three, four and five of this act shall take effect on the one  
54 hundred twentieth day after it shall have become a law; provided, howev-  
55 er, that section two of this act shall be deemed to have taken effect on  
56 the same date as section 1 of chapter 342 of the laws of 2010, took

1 effect; and, effective immediately, the addition, amendment and/or  
2 repeal of any rule or regulation necessary for the implementation of  
3 this act on its effective date is authorized and directed to be  
4 completed on or before such effective date.