

7061

I N S E N A T E

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Introduced by Sens. FELDER, GOLDEN -- read twice and ordered printed,
and when printed to be committed to the Committee on Children and
Families

AN ACT to amend the social services law and the executive law, in
relation to access to law enforcement records during an active inves-
tigation of suspected child abuse or maltreatment undertaken by a
child protective service

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

1 Section 1. Section 424 of the social services law is amended by adding
2 a new subdivision 15 to read as follows:
3 15. A. NOTWITHSTANDING ANY LAW, RULE OR REGULATION TO THE CONTRARY,
4 THE STATE POLICE, THE DIVISION OF CRIMINAL JUSTICE SERVICES, THE DIVI-
5 SION OF PAROLE AND ANY OTHER DEPARTMENT, AGENCY, OR DIVISION OF THE
6 STATE THAT HOLDS RELEVANT RECORDS SHALL, WITHIN SEVENTY-TWO HOURS OF A
7 REQUEST BY A CHILD PROTECTIVE SERVICE, PROVIDE TO SUCH CHILD PROTECTIVE
8 SERVICE A FULL AND COMPLETE COPY OF ANY RECORDS THAT ARE NOT SEALED BY A
9 COURT OF COMPETENT JURISDICTION PURSUANT TO NEW YORK STATE LAW, THAT
10 PERTAIN TO AN ACTIVE INVESTIGATION OF SUSPECTED CHILD ABUSE OR MALTREAT-
11 MENT UNDERTAKEN BY A CHILD PROTECTIVE SERVICE PURSUANT TO THIS TITLE.
12 THE RECORDS THAT ARE SUBJECT TO THIS SUBDIVISION SHALL INCLUDE, BUT ARE
13 NOT LIMITED TO, ARREST AND CONVICTION RECORDS, ORDERS OF PROTECTION,
14 INFORMATION INDICATING THAT A PERSON NAMED IN A REPORT IS CURRENTLY
15 UNDER SUPERVISION OF A PROBATION OR PAROLE AGENCY OF THE STATE OR OF A
16 LOCAL GOVERNMENT AND THE CHARGE OR CHARGES RELATED THERETO, INFORMATION
17 INDICATING IF THERE IS AN OUTSTANDING ARREST WARRANT, INFORMATION INDI-
18 CATING IF A PERSON IS A REGISTERED SEX OFFENDER AND INFORMATION REGARD-
19 ING REQUESTS FOR POLICE SERVICES OR A POLICE RESPONSE TO A SPECIFIED
20 ADDRESS OR INVOLVING SPECIFIED PERSONS. SUCH REQUESTS FOR RECORDS MAY
21 INCLUDE A REQUEST FOR RECORDS NAMING ALL PERSONS NAMED IN A REPORT OF
22 SUSPECTED CHILD ABUSE OR MALTREATMENT. THIS SUBDIVISION DOES NOT AUTHOR-
23 IZE THE RELEASE OF CONFIDENTIAL MEDICAL RECORDS OR OF MENTAL HEALTH
24 RECORDS THAT MAY BE HELD BY AN AGENCY OF NEW YORK STATE. RECORDS OR
25 PARTS THEREOF MAY BE WITHHELD TO THE EXTENT NECESSARY TO NOT COMPROMISE

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

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1 AN ACTIVE CRIMINAL INVESTIGATION THAT IS BEING UNDERTAKEN BY THE AGENCY
2 THAT HOLDS SUCH RECORDS.

3 B. NOTWITHSTANDING ANY LAW, RULE OR REGULATION TO THE CONTRARY, LOCAL
4 MUNICIPAL POLICE DEPARTMENTS, COUNTY SHERIFF OFFICES, ALL FIRE DEPART-
5 MENTS WHETHER VOLUNTEER OR NOT, ALL 911 DISPATCH OPERATIONS, PAROLE
6 AGENCIES OR DEPARTMENTS, ALL AMBULANCE SERVICES WHETHER PUBLIC OR
7 PRIVATE AND ANY OTHER DEPARTMENT, AGENCY, OR DIVISION OF A LOCAL GOVERN-
8 MENT THAT HOLD RELEVANT RECORDS SHALL, WITHIN SEVENTY-TWO HOURS OF A
9 REQUEST BY A CHILD PROTECTIVE SERVICE, PROVIDE TO SUCH CHILD PROTECTIVE
10 SERVICE A FULL AND COMPLETE COPY OF ANY RECORDS THAT ARE NOT SEALED BY A
11 COURT OF COMPETENT JURISDICTION PURSUANT TO NEW YORK STATE LAW, THAT
12 PERTAIN TO AN ACTIVE INVESTIGATION OF SUSPECTED CHILD ABUSE OR MALTREAT-
13 MENT UNDERTAKEN BY A CHILD PROTECTIVE SERVICE PURSUANT TO THIS TITLE.
14 THE RECORDS THAT ARE SUBJECT TO THIS SUBDIVISION SHALL INCLUDE, BUT ARE
15 NOT LIMITED TO, ARREST AND CONVICTION RECORDS, ORDERS OF PROTECTION,
16 INFORMATION INDICATING THAT A PERSON NAMED IN A REPORT IS CURRENTLY
17 UNDER SUPERVISION OF A PROBATION OR PAROLE AGENCY OR DEPARTMENT OF THE
18 STATE OR OF A LOCAL GOVERNMENT AND THE CHARGE OR CHARGES RELATED THERE-
19 TO, INFORMATION INDICATING IF THERE IS AN OUTSTANDING ARREST WARRANT,
20 INFORMATION INDICATING IF A PERSON IS A REGISTERED SEX OFFENDER AND
21 INFORMATION REGARDING REQUESTS FOR POLICE SERVICES, INFORMATION THAT
22 THERE HAS BEEN A REQUEST FOR A POLICE RESPONSE OR OTHER EMERGENCY
23 RESPONSE TO A SPECIFIED ADDRESS OR INVOLVING SPECIFIED PERSONS. SUCH
24 REQUESTS FOR RECORDS MAY INCLUDE A REQUEST FOR RECORDS NAMING ALL
25 PERSONS NAMED IN A REPORT OF SUSPECTED CHILD ABUSE OR MALTREATMENT. THIS
26 SUBDIVISION DOES NOT AUTHORIZE THE RELEASE OF CONFIDENTIAL MEDICAL
27 RECORDS OR OF MENTAL HEALTH RECORDS THAT MAY BE HELD BY AN AGENCY OF NEW
28 YORK STATE. RECORDS OR PARTS THEREOF MAY BE WITHHELD TO THE EXTENT
29 NECESSARY TO NOT COMPROMISE AN ACTIVE CRIMINAL INVESTIGATION THAT IS
30 BEING UNDERTAKEN BY THE AGENCY THAT HOLDS SUCH RECORDS.

31 C. RECORDS OBTAINED BY A CHILD PROTECTIVE SERVICE PURSUANT TO PARA-
32 GRAPH A OR B OF THIS SUBDIVISION SHALL BE CONSIDERED PART OF A REPORT OF
33 SUSPECTED CHILD ABUSE OR MALTREATMENT AND SHALL BE CONFIDENTIAL AS
34 PROVIDED FOR IN SECTION FOUR HUNDRED TWENTY-TWO OF THIS ARTICLE AND MAY
35 ONLY BE DISCLOSED AS AUTHORIZED IN SUBDIVISION FOUR OF SECTION FOUR
36 HUNDRED TWENTY-TWO OF THIS ARTICLE. THE PENALTIES PRESCRIBED IN SUBDIVI-
37 SION TWELVE OF SECTION FOUR HUNDRED TWENTY-TWO OF THIS ARTICLE APPLY TO
38 ANY UNAUTHORIZED RELEASE OF ANY REPORT OBTAINED PURSUANT TO THIS SUBDI-
39 VISION.

40 D. ALL RECORDS THAT ARE TO BE PROVIDED TO A CHILD PROTECTIVE SERVICE
41 PURSUANT TO PARAGRAPHS A AND B OF THIS SUBDIVISION SHALL BE PROVIDED AT
42 NO COST TO THE CHILD PROTECTIVE SERVICE THAT HAS REQUESTED SUCH RECORD.

43 S 2. Subdivision 19 of section 837 of the executive law, as added by
44 chapter 1 of the laws of 2013, is amended and a new subdivision 20 is
45 added to read as follows:

46 19. Receive names and other non-clinical identifying information
47 pursuant to section 9.46 of the mental hygiene law; provided, however,
48 any such information shall be destroyed five years after such receipt,
49 or pursuant to a proceeding brought under article seventy-eight of the
50 civil practice law and rules determining that an individual is eligible
51 for a license pursuant to section 400.00 of the penal law and otherwise
52 permitted to possess a firearm[.];

53 20. SUPPLY ALL RECORDS REQUESTED BY A CHILD PROTECTIVE SERVICE AS
54 AUTHORIZED BY SUBDIVISION FIFTEEN OF SECTION FOUR HUNDRED TWENTY-FOUR OF
55 THE SOCIAL SERVICES LAW.

1 S 3. Section 223 of the executive law is amended by adding a new
2 subdivision 3 to read as follows:

3 3. THE SUPERINTENDENT SHALL FULLY AND PROMPTLY PROVIDE ALL RELEVANT
4 RECORDS THAT ARE REQUESTED BY A CHILD PROTECTIVE SERVICE PURSUANT TO
5 SUBDIVISION FIFTEEN OF SECTION FOUR HUNDRED TWENTY-FOUR OF THE SOCIAL
6 SERVICES LAW UNLESS SUCH RECORD OR PART THEREOF IS ALLOWED TO BE WITH-
7 HELD BY SUBDIVISION FIFTEEN OF SECTION FOUR HUNDRED TWENTY-FOUR OF THE
8 SOCIAL SERVICES LAW. ALL RELEVANT RECORDS THAT ARE CONTAINED WITHIN OR
9 AVAILABLE THROUGH THE BASIC SYSTEM ESTABLISHED BY SECTION TWO HUNDRED
10 EIGHTEEN OF THIS ARTICLE AND THE COMPUTER SYSTEM ESTABLISHED BY SECTION
11 TWO HUNDRED TWENTY-ONE-A OF THIS ARTICLE SHALL BE PROVIDED TO A CHILD
12 PROTECTIVE SERVICE. IN ADDITION, ANY RELEVANT RECORD THAT IS CONTAINED
13 IN ANY OTHER SYSTEM UNDER THE CONTROL OR SUPERVISION OF THE SUPERINTEN-
14 DENT THAT NOW EXISTS OR IS CREATED IN THE FUTURE SHALL BE PROVIDED TO A
15 CHILD PROTECTIVE SERVICE.

16 S 4. Section 223 of the executive law, as amended by chapter 843 of
17 the laws of 1980, is amended to read as follows:

18 S 223. Duties and powers of the superintendent of state police and of
19 members of the state police. 1. It shall be the duty of the superinten-
20 dent of the state police and of members of the state police to prevent
21 and detect crime and apprehend criminals. They shall also be subject to
22 the call of the governor and are empowered to co-operate with any other
23 department of the state or with local authorities. They shall have power
24 to arrest, without a warrant, any person committing or attempting to
25 commit within their presence or view a breach of the peace or other
26 violation of law, to serve and execute warrants of arrest or search
27 issued by proper authority and to exercise all other powers of police
28 officers of the state of New York. Any such warrants issued by any
29 magistrate of the state may be executed by them in any part of the state
30 according to the tenor thereof without indorsement. But they shall not
31 exercise their powers within the limits of any city to suppress rioting
32 and disorder except by direction of the governor or upon the request of
33 the mayor of the city with the approval of the governor. Any member of
34 the rank of sergeant or above may take pre-arraignment bail from any
35 defendant in the amounts and under the circumstances and conditions that
36 police may take bail.

37 2. THE SUPERINTENDENT SHALL FULLY AND PROMPTLY PROVIDE ALL RELEVANT
38 RECORDS THAT ARE REQUESTED BY A CHILD PROTECTIVE SERVICE PURSUANT TO
39 SUBDIVISION FIFTEEN OF SECTION FOUR HUNDRED TWENTY-FOUR OF THE SOCIAL
40 SERVICES LAW UNLESS SUCH RECORD OR PART THEREOF IS ALLOWED TO BE WITH-
41 HELD BY SUBDIVISION FIFTEEN OF SECTION FOUR HUNDRED TWENTY-FOUR OF THE
42 SOCIAL SERVICES LAW. ALL RELEVANT RECORDS THAT ARE CONTAINED WITHIN OR
43 AVAILABLE THROUGH THE BASIC SYSTEM ESTABLISHED BY SECTION TWO HUNDRED
44 EIGHTEEN OF THIS ARTICLE AND THE COMPUTER SYSTEM ESTABLISHED BY SECTION
45 TWO HUNDRED TWENTY-ONE-A OF THIS ARTICLE SHALL BE PROVIDED TO A CHILD
46 PROTECTIVE SERVICE. IN ADDITION, ANY RELEVANT RECORD THAT IS CONTAINED
47 IN ANY OTHER SYSTEM UNDER THE CONTROL OR SUPERVISION OF THE SUPERINTEN-
48 DENT THAT NOW EXISTS OR IS CREATED IN THE FUTURE SHALL BE PROVIDED TO A
49 CHILD PROTECTIVE SERVICE.

50 S 5. Section 259-k of the executive law is amended by adding a new
51 subdivision 5 to read as follows:

52 5. THE DIVISION OF PAROLE SHALL SUPPLY ALL RECORDS REQUESTED BY A
53 CHILD PROTECTIVE SERVICE AS AUTHORIZED BY SUBDIVISION FIFTEEN OF SECTION
54 FOUR HUNDRED TWENTY-FOUR OF THE SOCIAL SERVICES LAW.

55 S 6. Section 256-a of the executive law, as added by chapter 707 of
56 the laws of 1992, is amended to read as follows:

1 S 256-a. Providing information to child protection services. Upon a
2 determination by a probation agency or department that its records
3 regarding an individual presently under the supervision of the agency or
4 department are relevant to an investigation of child abuse or maltreat-
5 ment conducted by a child protective service pursuant to title six of
6 article six of the social services law, the probation agency or depart-
7 ment shall provide the records or portions thereof determined to be
8 relevant to the child protective service conducting the investigation.
9 Each probation agency or department shall make provisions for the trans-
10 mission of records required to be provided under this section. EACH
11 PROBATION AGENCY OR DEPARTMENT SHALL SUPPLY ALL RECORDS REQUESTED BY A
12 CHILD PROTECTIVE SERVICE AS AUTHORIZED BY SUBDIVISION FIFTEEN OF SECTION
13 FOUR HUNDRED TWENTY-FOUR OF THE SOCIAL SERVICES LAW.

14 S 7. This act shall take effect immediately, provided that the amend-
15 ments to section 223 of the executive law made by section three of this
16 act shall be subject to the expiration and reversion of such section
17 pursuant to section 3 of chapter 428 of the laws of 1999, as amended,
18 when upon such date the provisions of section four of this act shall
19 take effect.