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

5803

2015-2016 Regular Sessions

I N A S S E M B L Y

March 4, 2015

Introduced by M. of A. FAHY, McDONALD, LUPARDO, LENTOL, SANTABARBARA, STECK -- read once and referred to the Committee on Children and Families

AN ACT to amend the social services law, in relation to the statewide central register of child abuse and maltreatment; and repealing certain provisions of such law relating thereto

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

Section 1. Section 412 of the social services law is amended to add a new subdivision 9 to read as follows:

9. "CRIMINAL JUSTICE AGENCY" MEANS A DISTRICT ATTORNEY, ASSISTANT DISTRICT ATTORNEY, AN INVESTIGATOR EMPLOYED IN THE OFFICE OF A DISTRICT ATTORNEY, OR A POLICE OFFICER DEFINED BY SUBDIVISION THIRTY-FOUR OF SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW.

S 2. Subparagraph (l) of paragraph (A) of subdivision 4 of section 422 of the social services law, as amended by chapter 35 of the laws of 2001, is amended to read as follows:

(l) [a district attorney, an assistant district attorney or investigator employed in the office of a district attorney, a sworn officer of the division of state police, of the regional state park police, of a city police department, or of a county, town or village police department or county sheriff's office or department] A CRIMINAL JUSTICE AGENCY when:

(I) such [official] AGENCY requests such information stating that such information is necessary to conduct a criminal investigation or criminal prosecution of a person, that there is reasonable cause to believe that such person is the subject of a report, and that it is reasonable to believe that due to the nature of the crime under investigation or prosecution, such person is the subject of a report, and that it is reasonable to believe that due to that nature of the crime under investigation

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

LBD09754-01-5

or prosecution, such records may be related to the criminal investigation or prosecution; OR

(II) SUCH AGENCY IS CONDUCTING AN INVESTIGATION OF A MISSING CHILD WHERE SUCH AGENCY HAS REASON TO SUSPECT SUCH CHILD'S PARENT, GUARDIAN OR OTHER PERSON LEGALLY RESPONSIBLE FOR SUCH CHILD IS THE SUBJECT OF A REPORT, OR, SUCH CHILD OR SUCH CHILD'S SIBLING IS ANOTHER PERSON NAMED IN A REPORT OF CHILD ABUSE OR MALTREATMENT AND THAT SUCH INFORMATION IS NEEDED TO FURTHER SUCH INVESTIGATION. IF, UPON AN INITIAL DETERMINATION MADE BY THE OFFICE OF CHILDREN AND FAMILY SERVICES OR LOCAL SOCIAL SERVICES DISTRICT PURSUANT TO THIS CLAUSE, IT IS DETERMINED THAT SUCH REPORTS, INFORMATION OR PHOTOGRAPHS ARE NOT AVAILABLE TO SUCH CRIMINAL JUSTICE AGENCY PURSUANT TO THIS SUBDIVISION, THE CRIMINAL JUSTICE AGENCY CONDUCTING THE INVESTIGATION MAY CONTACT THE OFFICE OF CHILDREN AND FAMILY SERVICES AND REQUEST AN IMMEDIATE ADMINISTRATIVE REVIEW BY A SUPERVISOR OR DESIGNATED EMPLOYEE, AS APPLICABLE, PURSUANT TO PARAGRAPH (E) OF THIS SUBDIVISION. THE LOCAL SOCIAL SERVICES DISTRICT SHALL PROVIDE THE CRIMINAL JUSTICE AGENCY WITH THE MOST EXPEDIENT AND APPROPRIATE METHOD TO CONTACT THE OFFICE OF CHILDREN AND FAMILY SERVICES IN ORDER TO REQUEST SUCH REVIEW. ONCE SUCH REQUEST IS RECEIVED, AND AFTER CONSULTATION WITH THE REQUESTING CRIMINAL JUSTICE AGENCY, THE INDIVIDUAL DESIGNATED PURSUANT TO PARAGRAPH (E) OF THIS SUBDIVISION SHALL IMMEDIATELY REVIEW THE REQUEST AND DETERMINE DE NOVO WHETHER THE PROVISIONS OF THIS CLAUSE APPLY AND, THEREFORE, ACCESS TO THE REQUESTED MATERIALS SHOULD BE GRANTED. IF IT IS DETERMINED THAT THE CRIMINAL JUSTICE AGENCY MAY HAVE ACCESS TO THE REQUESTED MATERIALS, SUCH MATERIALS SHALL BE SUPPLIED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES OR DIRECTED TO BE SUPPLIED BY THE LOCAL SOCIAL SERVICES DISTRICT IN POSSESSION OF SUCH MATERIALS IMMEDIATELY AFTER THE COMPLETION OF SUCH ADMINISTRATIVE REVIEW;

S 3. Subdivision 4 of section 422 of the social services law is amended by adding a new paragraph (E) to read as follows:

(E) THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, SHALL MAKE AVAILABLE A SUPERVISOR, OR OTHERWISE DESIGNATE AN EMPLOYEE, WHO SHALL BE IN REGULAR CONSULTATION WITH ATTORNEYS EMPLOYED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES AND SHALL BE EMPOWERED, IN CIRCUMSTANCES ARISING UNDER CLAUSE (II) OF SUBPARAGRAPH (L) OF PARAGRAPH (A) OF THIS SUBDIVISION, TO OVERRULE A DENIAL OF ACCESS BY A LOCAL SOCIAL SERVICES DISTRICT AND AUTHORIZE SUCH ACCESS IN ACCORDANCE WITH THIS SUBDIVISION AND THE AUTHORIZED REGULATIONS. SUCH SUPERVISOR OR EMPLOYEE MAY BE THE COMMISSIONER. THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL PROVIDE THE LOCAL SOCIAL SERVICES DISTRICTS WITH THE MOST EXPEDIENT AND APPROPRIATE METHOD THAT CRIMINAL JUSTICE AGENCIES MAY USE TO REQUEST AN ADMINISTRATIVE REVIEW PURSUANT TO CLAUSE (II) OF SUBPARAGRAPH (L) OF PARAGRAPH (A) OF THIS SUBDIVISION.

S 4. Subparagraph (q) of paragraph (A) of subdivision 4 of section 422 of the social services law is REPEALED.

S 5. This act shall take effect on the sixtieth day after it shall have become a law.