

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:

1 Section 1. Section 412 of the social services law is amended to add a
2 new subdivision 9 to read as follows:
3 9. "CRIMINAL JUSTICE AGENCY" MEANS A DISTRICT ATTORNEY, ASSISTANT
4 DISTRICT ATTORNEY, AN INVESTIGATOR EMPLOYED IN THE OFFICE OF A DISTRICT
5 ATTORNEY, OR A POLICE OFFICER DEFINED BY SUBDIVISION THIRTY-FOUR OF
6 SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW.
7 S 2. Subparagraph (1) of paragraph (A) of subdivision 4 of section 422
8 of the social services law, as amended by chapter 35 of the laws of
9 2001, is amended to read as follows:
10 (1) [a district attorney, an assistant district attorney or investi-
11 gator employed in the office of a district attorney, a sworn officer of
12 the division of state police, of the regional state park police, of a
13 city police department, or of a county, town or village police depart-
14 ment or county sheriff's office or department] A CRIMINAL JUSTICE AGENCY
15 when:
16 (I) such [official] AGENCY requests such information stating that such
17 information is necessary to conduct a criminal investigation or criminal
18 prosecution of a person, that there is reasonable cause to believe that
19 such person is the subject of a report, and that it is reasonable to
20 believe that due to the nature of the crime under investigation or pros-
21 ecution, such person is the subject of a report, and that it is reason-
22 able 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.

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1 or prosecution, such records may be related to the criminal investi-
2 gation or prosecution; OR

3 (II) SUCH AGENCY IS CONDUCTING AN INVESTIGATION OF A MISSING CHILD
4 WHERE SUCH AGENCY HAS REASON TO SUSPECT SUCH CHILD'S PARENT, GUARDIAN OR
5 OTHER PERSON LEGALLY RESPONSIBLE FOR SUCH CHILD IS THE SUBJECT OF A
6 REPORT, OR, SUCH CHILD OR SUCH CHILD'S SIBLING IS ANOTHER PERSON NAMED
7 IN A REPORT OF CHILD ABUSE OR MALTREATMENT AND THAT SUCH INFORMATION IS
8 NEEDED TO FURTHER SUCH INVESTIGATION. IF, UPON AN INITIAL DETERMINATION
9 MADE BY THE OFFICE OF CHILDREN AND FAMILY SERVICES OR LOCAL SOCIAL
10 SERVICES DISTRICT PURSUANT TO THIS CLAUSE, IT IS DETERMINED THAT SUCH
11 REPORTS, INFORMATION OR PHOTOGRAPHS ARE NOT AVAILABLE TO SUCH CRIMINAL
12 JUSTICE AGENCY PURSUANT TO THIS SUBDIVISION, THE CRIMINAL JUSTICE AGENCY
13 CONDUCTING THE INVESTIGATION MAY CONTACT THE OFFICE OF CHILDREN AND
14 FAMILY SERVICES AND REQUEST AN IMMEDIATE ADMINISTRATIVE REVIEW BY A
15 SUPERVISOR OR DESIGNATED EMPLOYEE, AS APPLICABLE, PURSUANT TO PARAGRAPH
16 (E) OF THIS SUBDIVISION. THE LOCAL SOCIAL SERVICES DISTRICT SHALL
17 PROVIDE THE CRIMINAL JUSTICE AGENCY WITH THE MOST EXPEDIENT AND APPRO-
18 PRIATE METHOD TO CONTACT THE OFFICE OF CHILDREN AND FAMILY SERVICES IN
19 ORDER TO REQUEST SUCH REVIEW. ONCE SUCH REQUEST IS RECEIVED, AND AFTER
20 CONSULTATION WITH THE REQUESTING CRIMINAL JUSTICE AGENCY, THE INDIVIDUAL
21 DESIGNATED PURSUANT TO PARAGRAPH (E) OF THIS SUBDIVISION SHALL IMME-
22 DIATELY REVIEW THE REQUEST AND DETERMINE DE NOVO WHETHER THE PROVISIONS
23 OF THIS CLAUSE APPLY AND, THEREFORE, ACCESS TO THE REQUESTED MATERIALS
24 SHOULD BE GRANTED. IF IT IS DETERMINED THAT THE CRIMINAL JUSTICE AGENCY
25 MAY HAVE ACCESS TO THE REQUESTED MATERIALS, SUCH MATERIALS SHALL BE
26 SUPPLIED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES OR DIRECTED TO BE
27 SUPPLIED BY THE LOCAL SOCIAL SERVICES DISTRICT IN POSSESSION OF SUCH
28 MATERIALS IMMEDIATELY AFTER THE COMPLETION OF SUCH ADMINISTRATIVE
29 REVIEW;

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

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

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

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