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

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I N S E N A T E

April 29, 2016

Introduced by Sen. CARLUCCI -- (at request of the Justice Center for the Protection of People with Special Needs) -- read twice and ordered printed, and when printed to be committed to the Committee on 34

AN ACT to amend the social services law, in relation to the requirement to check the justice center's register of substantiated category one cases of abuse or neglect

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

Section 1. Subdivisions 2 and 3 of section 495 of the social services law, as added by section 1 of part B of chapter 501 of the laws of 2012, are amended to read as follows:

2. (A) All facility and provider agencies, other providers of services to vulnerable persons in programs licensed, certified or funded by any state oversight agency, OVERNIGHT, SUMMER DAY AND TRAVELING SUMMER DAY CAMPS FOR CHILDREN SUBJECT TO THE PROVISIONS OF ARTICLE THIRTEEN-B OF THE PUBLIC HEALTH LAW, ANY RESIDENTIAL HEALTH CARE FACILITY LICENSED UNDER ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW, ANY CERTIFIED HOME HEALTH AGENCY, LICENSED HOME CARE SERVICES AGENCY OR LONG TERM HOME HEALTH CARE PROGRAM CERTIFIED UNDER ARTICLE THIRTY-SIX OF THE PUBLIC HEALTH LAW, ANY ADULT HOME, ENRICHED HOUSING PROGRAM OR RESIDENCE FOR ADULTS LICENSED UNDER ARTICLE SEVEN OF THIS CHAPTER and other provider and licensing agencies as defined in subdivision three or four of section four hundred twenty-four-a of this chapter shall check the register of substantiated category one cases of abuse or neglect before determining whether to hire or otherwise allow any person as an employee, administrator, consultant, intern, volunteer or contractor who will have the potential for regular and substantial contact with a service recipient or before approving an applicant for a license, certificate, permit or other approval to provide care to a service recipient. (For state entities bound by collective bargaining, such action established by collective bargaining shall govern.)

(B) AN INQUIRY REGARDING ANY CURRENT EMPLOYEE, ADMINISTRATOR, CONSULTANT, INTERN, VOLUNTEER OR CONTRACTOR WHO WILL HAVE THE POTENTIAL FOR

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

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REGULAR AND SUBSTANTIAL CONTACT WITH A SERVICE RECIPIENT MAY BE MADE ONLY ONCE IN ANY SIX-MONTH PERIOD.

3. If a person is listed on the register of substantiated category one cases of abuse or neglect, a facility or provider agency and all other providers of services to vulnerable persons, AS DEFINED IN SUBDIVISION FIFTEEN OF SECTION FOUR HUNDRED EIGHTY-EIGHT OF THIS ARTICLE, in programs licensed or certified by any state oversight agency shall not hire such a person to have regular and substantial contact with a service recipient in any such facility or program. OTHER PROVIDERS OF SERVICES DEFINED IN SUBDIVISION TWO OF THIS SECTION, EXCEPT PROVIDERS OR LICENSING AGENCIES AS DEFINED IN SUBDIVISION THREE OR FOUR OF SECTION FOUR HUNDRED TWENTY-FOUR-A OF THIS CHAPTER, SHALL DETERMINE WHETHER TO HIRE OR ALLOW SUCH A PERSON TO HAVE REGULAR AND SUBSTANTIAL CONTACT WITH A SERVICE RECIPIENT IN ACCORDANCE WITH GUIDELINES ESTABLISHED BY THE EXECUTIVE DIRECTOR OF THE JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS. Other providers or licensing agencies as defined in subdivision three or four of section four hundred twenty-four-a of this chapter shall determine whether to hire or allow such a person to have regular or substantial contact with a service recipient in accordance with the provisions of subdivision five of section four hundred twenty-four-a of this chapter.

S 2. Subdivision 7 of section 424-a of the social services law, as added by section 8 of part D of chapter 501 of the laws of 2012, is amended to read as follows:

7. Any facility[,] OR provider agency, [or program] AS DEFINED IN SUBDIVISION FOUR OF SECTION FOUR HUNDRED EIGHTY-EIGHT OF THIS CHAPTER, that is required to conduct an inquiry pursuant to section four hundred ninety-five of this chapter BEFORE DETERMINING WHETHER TO HIRE OR OTHERWISE ALLOW ANY PERSON AS AN EMPLOYEE, ADMINISTRATOR, CONSULTANT, INTERN, VOLUNTEER OR CONTRACTOR WHO WILL HAVE THE POTENTIAL FOR REGULAR AND SUBSTANTIAL CONTACT WITH A SERVICE RECIPIENT shall first conduct the inquiry required under such section. If the result of the inquiry under section four hundred ninety-five of this chapter is that the person about whom the inquiry is made is on the register of substantiated category one cases of abuse or neglect and [the] SUCH facility or provider agency is required to deny the application in accordance with article eleven of this chapter, the facility or provider agency shall not be required to make an inquiry of the office under this section.

S 3. This act shall take effect on the sixtieth day after it shall have become a law.