

10383

I N A S S E M B L Y

May 25, 2016

Introduced by M. of A. HARRIS, GUNTHER -- (at request of the Justice Center for the Protection of People With Special Needs) -- read once and referred to the Committee on Mental Health

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:

1 Section 1. Subdivisions 2 and 3 of section 495 of the social services
2 law, as added by section 1 of part B of chapter 501 of the laws of 2012,
3 are amended to read as follows:
4 2. (A) All facility and provider agencies, other providers of services
5 to vulnerable persons in programs licensed, certified or funded by any
6 state oversight agency, OVERNIGHT, SUMMER DAY AND TRAVELING SUMMER DAY
7 CAMPS FOR CHILDREN SUBJECT TO THE PROVISIONS OF ARTICLE THIRTEEN-B OF
8 THE PUBLIC HEALTH LAW, ANY RESIDENTIAL HEALTH CARE FACILITY LICENSED
9 UNDER ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW, ANY CERTIFIED HOME
10 HEALTH AGENCY, LICENSED HOME CARE SERVICES AGENCY OR LONG TERM HOME
11 HEALTH CARE PROGRAM CERTIFIED UNDER ARTICLE THIRTY-SIX OF THE PUBLIC
12 HEALTH LAW, ANY ADULT HOME, ENRICHED HOUSING PROGRAM OR RESIDENCE FOR
13 ADULTS LICENSED UNDER ARTICLE SEVEN OF THIS CHAPTER and other provider
14 and licensing agencies as defined in subdivision three or four of
15 section four hundred twenty-four-a of this chapter shall check the
16 register of substantiated category one cases of abuse or neglect before
17 determining whether to hire or otherwise allow any person as an employ-
18 ee, administrator, consultant, intern, volunteer or contractor who will
19 have the potential for regular and substantial contact with a service
20 recipient or before approving an applicant for a license, certificate,
21 permit or other approval to provide care to a service recipient. (For
22 state entities bound by collective bargaining, such action established
23 by collective bargaining shall govern.)
24 (B) AN INQUIRY REGARDING ANY CURRENT EMPLOYEE, ADMINISTRATOR, CONSULT-
25 ANT, 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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1 REGULAR AND SUBSTANTIAL CONTACT WITH A SERVICE RECIPIENT MAY BE MADE
2 ONLY ONCE IN ANY SIX-MONTH PERIOD.

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

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

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

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