

5331

2015-2016 Regular Sessions

I N S E N A T E

May 13, 2015

Introduced by Sen. FELDER -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the family court act and the social services law, in relation to notice of indicated reports of child maltreatment and changes of placement in child protective and voluntary foster care placement and review proceedings; and to repeal certain provisions of the family court act, in relation to technical changes thereto

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

1 Section 1. Section 1017 of the family court act is amended by adding a
2 new subdivision 5 to read as follows:
3 5. IN ANY CASE IN WHICH AN ORDER HAS BEEN ISSUED PURSUANT TO THIS
4 ARTICLE REMANDING OR PLACING A CHILD IN THE CUSTODY OF THE LOCAL SOCIAL
5 SERVICES DISTRICT, THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY
6 CHARGED WITH CUSTODY OR CARE OF THE CHILD SHALL REPORT ANY ANTICIPATED
7 CHANGE IN PLACEMENT TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY
8 FOR THE CHILD NOT LATER THAN TEN DAYS PRIOR TO SUCH CHANGE IN ANY CASE
9 IN WHICH THE CHILD IS MOVED FROM THE FOSTER HOME OR PROGRAM INTO WHICH
10 HE OR SHE HAS BEEN PLACED OR IN WHICH THE FOSTER PARENTS MOVE OUT OF
11 STATE WITH THE CHILD; PROVIDED, HOWEVER, THAT WHERE AN IMMEDIATE CHANGE
12 OF PLACEMENT ON AN EMERGENCY BASIS IS REQUIRED, THE REPORT SHALL BE
13 TRANSMITTED NO LATER THAN THE NEXT BUSINESS DAY AFTER SUCH CHANGE IN
14 PLACEMENT HAS BEEN MADE. THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED
15 AGENCY SHALL ALSO SUBMIT A REPORT TO THE ATTORNEYS FOR THE PARTIES AND
16 THE ATTORNEY FOR THE CHILD OR INCLUDE IN THE PLACEMENT CHANGE REPORT ANY
17 INDICATED REPORT OF CHILD ABUSE OR MALTREATMENT OR CONCERNING THE CHILD
18 OR (IF A PERSON OR PERSONS CARING FOR THE CHILD IS OR ARE THE SUBJECT OF
19 THE REPORT) ANOTHER CHILD IN THE SAME HOME WITHIN FIVE DAYS OF THE INDIC-
20 ATION OF THE REPORT. THE OFFICIAL OR AGENCY MAY PROTECT THE CONFIDEN-
21 TIALITY OF IDENTIFYING OR ADDRESS INFORMATION REGARDING THE FOSTER OR

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

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1 PROSPECTIVE ADOPTIVE PARENTS. REPORTS REGARDING INDICATED REPORTS OF
2 CHILD ABUSE OR MALTREATMENT PROVIDED PURSUANT TO THIS SUBDIVISION SHALL
3 INCLUDE A STATEMENT ADVISING RECIPIENTS THAT THE INFORMATION IN SUCH
4 REPORT OF CHILD ABUSE OR MALTREATMENT SHALL BE KEPT CONFIDENTIAL, SHALL
5 BE USED ONLY IN CONNECTION WITH A PROCEEDING UNDER THIS ARTICLE OR
6 RELATED PROCEEDINGS UNDER THIS ACT AND MAY NOT BE REDISCLOSED EXCEPT AS
7 NECESSARY FOR SUCH PROCEEDING OR PROCEEDINGS AND AS AUTHORIZED BY LAW.
8 REPORTS UNDER THIS PARAGRAPH MAY BE TRANSMITTED BY ANY APPROPRIATE
9 MEANS, INCLUDING, BUT NOT LIMITED TO, BY ELECTRONIC MEANS OR PLACEMENT
10 ON THE RECORD DURING PROCEEDINGS IN FAMILY COURT.

11 S 2. Subparagraph (E) of paragraph (i) of subdivision (b) of section
12 1055 of the family court act, as amended by chapter 41 of the laws of
13 2010, is REPEALED.

14 S 3. Section 1055 of the family court act is amended by adding a new
15 subdivision (j) to read as follows:

16 (J) IN ANY CASE IN WHICH AN ORDER HAS BEEN ISSUED PURSUANT TO THIS
17 SECTION PLACING A CHILD IN THE CUSTODY OR CARE OF THE COMMISSIONER OF
18 SOCIAL SERVICES, THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY
19 CHARGED WITH CUSTODY OF THE CHILD SHALL REPORT ANY ANTICIPATED CHANGE IN
20 PLACEMENT TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR THE
21 CHILD NOT LATER THAN TEN DAYS PRIOR TO SUCH CHANGE IN ANY CASE IN WHICH
22 THE CHILD IS MOVED FROM THE FOSTER HOME OR PROGRAM INTO WHICH HE OR SHE
23 HAS BEEN PLACED OR IN WHICH THE FOSTER PARENTS MOVE OUT OF STATE WITH
24 THE CHILD; PROVIDED, HOWEVER, THAT WHERE AN IMMEDIATE CHANGE OF PLACE-
25 MENT ON AN EMERGENCY BASIS IS REQUIRED, THE REPORT SHALL BE TRANSMITTED
26 NO LATER THAN THE NEXT BUSINESS DAY AFTER SUCH CHANGE IN PLACEMENT HAS
27 BEEN MADE. THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY SHALL ALSO
28 SUBMIT A REPORT TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR
29 THE CHILD OR INCLUDE IN THE PLACEMENT CHANGE REPORT ANY INDICATED REPORT
30 OF CHILD ABUSE OR MALTREATMENT CONCERNING THE CHILD OR (IF A PERSON OR
31 PERSONS CARING FOR THE CHILD IS OR ARE THE SUBJECT OF THE REPORT) ANOTH-
32 ER CHILD IN THE SAME HOME WITHIN FIVE DAYS OF THE INDICATION OF THE
33 REPORT. THE OFFICIAL OR AGENCY MAY PROTECT THE CONFIDENTIALITY OF IDEN-
34 TIFYING OR ADDRESS INFORMATION REGARDING THE FOSTER OR PROSPECTIVE ADOP-
35 TIVE PARENTS. REPORTS REGARDING INDICATED REPORTS OF CHILD ABUSE OR
36 MALTREATMENT PROVIDED PURSUANT TO THIS SUBDIVISION SHALL INCLUDE A
37 STATEMENT ADVISING RECIPIENTS THAT THE INFORMATION IN SUCH REPORT OF
38 CHILD ABUSE OR MALTREATMENT SHALL BE KEPT CONFIDENTIAL, SHALL BE USED
39 ONLY IN CONNECTION WITH A PROCEEDING UNDER THIS ARTICLE OR RELATED
40 PROCEEDINGS UNDER THIS ACT AND MAY NOT BE REDISCLOSED EXCEPT AS NECES-
41 SARY FOR SUCH PROCEEDING OR PROCEEDINGS AND AS AUTHORIZED BY LAW.
42 REPORTS UNDER THIS PARAGRAPH MAY BE TRANSMITTED BY ANY APPROPRIATE
43 MEANS, INCLUDING, BUT NOT LIMITED TO, BY ELECTRONIC MEANS OR PLACEMENT
44 ON THE RECORD DURING PROCEEDINGS IN FAMILY COURT.

45 S 4. Subparagraph (vii) of paragraph 2 of subdivision (d) of section
46 1089 of the family court act is amended by adding a new clause (H) to
47 read as follows:

48 (H) A DIRECTION THAT THE SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY
49 CHARGED WITH CARE AND CUSTODY OR GUARDIANSHIP AND CUSTODY OF THE CHILD,
50 AS APPLICABLE, REPORT ANY ANTICIPATED CHANGE IN PLACEMENT TO THE ATTOR-
51 NEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD NOT LATER THAN TEN
52 DAYS PRIOR TO SUCH CHANGE IN ANY CASE IN WHICH THE CHILD IS MOVED FROM
53 THE FOSTER HOME OR PROGRAM INTO WHICH HE OR SHE HAS BEEN PLACED OR IN
54 WHICH THE FOSTER PARENTS MOVE OUT OF STATE WITH THE CHILD; PROVIDED,
55 HOWEVER, THAT WHERE AN IMMEDIATE CHANGE OF PLACEMENT ON AN EMERGENCY
56 BASIS IS REQUIRED, THE REPORT SHALL BE TRANSMITTED NO LATER THAN THE

1 NEXT BUSINESS DAY AFTER SUCH CHANGE IN PLACEMENT HAS BEEN MADE. THE
2 SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY SHALL ALSO SUBMIT A REPORT
3 TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD OR
4 INCLUDE IN THE PLACEMENT CHANGE REPORT ANY INDICATED REPORT OF CHILD
5 ABUSE OR MALTREATMENT CONCERNING THE CHILD OR (IF A PERSON OR PERSONS
6 CARING FOR THE CHILD IS OR ARE THE SUBJECT OF THE REPORT) ANOTHER CHILD
7 IN THE SAME HOME WITHIN FIVE DAYS OF THE INDICATION OF THE REPORT. THE
8 OFFICIAL OR AGENCY MAY PROTECT THE CONFIDENTIALITY OF IDENTIFYING OR
9 ADDRESS INFORMATION REGARDING THE FOSTER OR PROSPECTIVE ADOPTIVE
10 PARENTS. REPORTS UNDER THIS PARAGRAPH SHALL NOT BE SENT TO ATTORNEYS FOR
11 BIRTH PARENTS WHOSE PARENTAL RIGHTS HAVE BEEN TERMINATED OR WHO HAVE
12 SURRENDERED THEIR CHILD OR CHILDREN. REPORTS REGARDING INDICATED REPORTS
13 OF CHILD ABUSE OR MALTREATMENT PROVIDED PURSUANT TO THIS SUBDIVISION
14 SHALL INCLUDE A STATEMENT ADVISING RECIPIENTS THAT THE INFORMATION IN
15 SUCH REPORT OF CHILD ABUSE OR MALTREATMENT SHALL BE KEPT CONFIDENTIAL,
16 SHALL BE USED ONLY IN CONNECTION WITH A PROCEEDING UNDER THIS ARTICLE OR
17 RELATED PROCEEDINGS UNDER THIS ACT AND MAY NOT BE REDISCLOSED EXCEPT AS
18 NECESSARY FOR SUCH PROCEEDING OR PROCEEDINGS AND AS AUTHORIZED BY LAW.
19 REPORTS UNDER THIS PARAGRAPH MAY BE TRANSMITTED BY ANY APPROPRIATE
20 MEANS, INCLUDING, BUT NOT LIMITED TO, BY ELECTRONIC MEANS OR PLACEMENT
21 ON THE RECORD DURING PROCEEDINGS IN FAMILY COURT; AND

22 S 5. Subdivision 3 of section 358-a of the social services law is
23 amended by adding a new paragraph (g) to read as follows:

24 (G) IN ANY CASE IN WHICH AN ORDER HAS BEEN ISSUED PURSUANT TO THIS
25 SECTION APPROVING A FOSTER CARE PLACEMENT INSTRUMENT, THE SOCIAL
26 SERVICES OFFICIAL OR AUTHORIZED AGENCY CHARGED WITH CUSTODY OR CARE OF
27 THE CHILD SHALL REPORT ANY ANTICIPATED CHANGE IN PLACEMENT TO THE ATTOR-
28 NEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD NOT LATER THAN TEN
29 DAYS PRIOR TO SUCH CHANGE IN ANY CASE IN WHICH THE CHILD IS MOVED FROM
30 THE FOSTER HOME OR PROGRAM INTO WHICH HE OR SHE HAS BEEN PLACED OR IN
31 WHICH THE FOSTER PARENTS MOVE OUT OF STATE WITH THE CHILD; PROVIDED,
32 HOWEVER, THAT WHERE AN IMMEDIATE CHANGE OF PLACEMENT ON AN EMERGENCY
33 BASIS IS REQUIRED, THE REPORT SHALL BE TRANSMITTED NO LATER THAN THE
34 NEXT BUSINESS DAY AFTER SUCH CHANGE IN PLACEMENT HAS BEEN MADE. THE
35 SOCIAL SERVICES OFFICIAL OR AUTHORIZED AGENCY SHALL ALSO SUBMIT A REPORT
36 TO THE ATTORNEYS FOR THE PARTIES AND THE ATTORNEY FOR THE CHILD OR
37 INCLUDE IN THE PLACEMENT CHANGE REPORT ANY INDICATED REPORT OF CHILD
38 ABUSE OR MALTREATMENT CONCERNING THE CHILD OR (IF A PERSON OR PERSONS
39 CARING FOR THE CHILD IS OR ARE THE SUBJECT OF THE REPORT) CONCERNING
40 ANOTHER CHILD IN THE SAME HOME WITHIN FIVE DAYS OF THE INDICATION OF THE
41 REPORT. THE OFFICIAL OR AGENCY MAY PROTECT THE CONFIDENTIALITY OF IDEN-
42 TIFYING OR ADDRESS INFORMATION REGARDING THE FOSTER OR PROSPECTIVE ADOP-
43 TIVE PARENTS. REPORTS REGARDING INDICATED REPORTS OF CHILD ABUSE OR
44 MALTREATMENT PROVIDED PURSUANT TO THIS SUBDIVISION SHALL INCLUDE A
45 STATEMENT ADVISING RECIPIENTS THAT THE INFORMATION IN SUCH REPORT OF
46 CHILD ABUSE OR MALTREATMENT SHALL BE KEPT CONFIDENTIAL, SHALL BE USED
47 ONLY IN CONNECTION WITH A PROCEEDING UNDER THIS SECTION OR RELATED
48 PROCEEDINGS UNDER THE FAMILY COURT ACT AND MAY NOT BE REDISCLOSED EXCEPT
49 AS NECESSARY FOR SUCH PROCEEDING OR PROCEEDINGS AND AS AUTHORIZED BY
50 LAW. REPORTS UNDER THIS PARAGRAPH MAY BE TRANSMITTED BY ANY APPROPRIATE
51 MEANS, INCLUDING, BUT NOT LIMITED TO, BY ELECTRONIC MEANS OR PLACEMENT
52 ON THE RECORD DURING PROCEEDINGS IN FAMILY COURT.

53 S 6. This act shall take effect immediately, provided that sections
54 one, three, four and five of this act shall take effect on the one
55 hundred twentieth day after it shall have become a law; provided, howev-
56 er, that section two of this act shall be deemed to have taken effect on

1 the same date as section 1 of chapter 342 of the laws of 2010, took
2 effect; and, provided further, effective immediately, the addition,
3 amendment and/or repeal of any rule or regulation necessary for the
4 implementation of this act on its effective date is authorized and
5 directed to be completed on or before such effective date.

REPEAL NOTE: Subparagraph (E) of paragraph (i) of subdivision (b) of section 1055 of the family court act, as amended by section 67 of chapter 41 of the laws of 2010 contains language inconsistent with language in chapter 342 of the laws of 2010.