

6010

2015-2016 Regular Sessions

I N S E N A T E

June 22, 2015

Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the social services law, in relation to duty to report incidents to 9-1-1 and the county district attorney's office

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

1 Section 1. Section 491 of the social services law, as amended by
2 section 1 of part B of chapter 501 of the laws of 2012 and subdivision 4
3 as amended by chapter 126 of the laws of 2014, is amended to read as
4 follows:

5 S 491. Duty to report incidents. 1. (a) Mandated reporters shall
6 report allegations of reportable incidents to A 9-1-1 OPERATOR, THE
7 COUNTY DISTRICT ATTORNEY'S OFFICE AND the vulnerable persons' central
8 register as established by section four hundred ninety-two of this arti-
9 cle and in accordance with the requirements set forth therein.

10 (b) Allegations of reportable incidents shall be reported immediately
11 to A 9-1-1 OPERATOR, THE COUNTY DISTRICT ATTORNEY'S OFFICE AND the
12 vulnerable persons' central register upon discovery. For purposes of
13 this article, "discovery" occurs when the mandated reporter witnesses a
14 suspected reportable incident or when another person, including the
15 vulnerable person, comes before the mandated reporter in the mandated
16 reporter's professional or official capacity and provides the mandated
17 reporter with reasonable cause to suspect that the vulnerable person has
18 been subjected to a reportable incident. A report to the register shall
19 include the name, title and contact information of every person known to
20 the mandated reporter to have the same information as the mandated
21 reporter concerning the reportable incident. [Nothing in this subdivi-
22 sion shall be construed to prohibit a mandated reporter from contacting
23 or reporting to law enforcement or emergency services before or after
24 reporting to the vulnerable persons' central register.]

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

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1 (c) The substance or content of any psychological, psychiatric, thera-
2 peutic, clinical or medical reports, evaluations or like materials or
3 information pertaining to the treatment of a patient or client of a
4 mandatory reporter who reports a reportable incident of such patient or
5 client pursuant to this article, must be provided by such mandatory
6 reporter upon request of the justice center for the protection of people
7 with special needs if such records are essential for a full investi-
8 gation of such allegation, notwithstanding any applicable privilege
9 which would otherwise bar the disclosure of such materials and records
10 pursuant to article forty-five of the civil practice law and rules or
11 other provision of law except applicable federal law governing the
12 disclosure of patient and related medical records.

13 2. Any person or official required to report allegations of reportable
14 incidents pursuant to this section may take or cause to be taken color
15 photographs of visible trauma and the face of the vulnerable person
16 named in the report and upon the consent of a person authorized to
17 consent to medical care for the vulnerable person, shall, if medically
18 indicated, cause to be performed a radiological examination of the
19 vulnerable person. Any photographs or radiological examinations taken
20 shall be provided to the justice center for use only for the purposes of
21 an investigation of a reportable incident.

22 3. (a) Any human services professional required by this article to
23 report a case of suspected abuse or neglect to A 9-1-1 OPERATOR, THE
24 COUNTY DISTRICT ATTORNEY'S OFFICE AND the vulnerable persons' central
25 register who knowingly and willfully fails to do so shall be guilty of a
26 class [A misdemeanor] E FELONY.

27 (b) A mandated reporter who knowingly and willfully fails to report a
28 case of suspected abuse or neglect to A 9-1-1 OPERATOR, THE COUNTY
29 DISTRICT ATTORNEY'S OFFICE AND the vulnerable persons' central register
30 may be subject to termination, subject to any applicable collective
31 bargaining agreement. Any person or official required by this article to
32 report a case of suspected abuse or neglect to A 9-1-1 OPERATOR, THE
33 COUNTY DISTRICT ATTORNEY'S OFFICE AND the vulnerable persons' central
34 register who knowingly and willfully fails to do so shall be civilly
35 liable for the damages proximately caused by such failure.

36 4. A medical or other public or private institution, state agency,
37 school, facility or provider agency or its vendors or contractors shall
38 not take any retaliatory personnel action, as such term is defined in
39 paragraph (e) of subdivision one of section seven hundred forty of the
40 labor law, against an employee or agent or vendor or contractor because
41 such employee or agent or vendor or contractor believes that he or she
42 has reasonable cause to suspect that a vulnerable person has been
43 subjected to a reportable incident and that employee or agent or vendor
44 or contractor therefore makes a report in accordance with this section
45 and/or cooperated with the investigation of a reportable incident. A
46 court of competent jurisdiction may grant injunctive relief to any
47 person determined to have been subjected to such retaliation.

48 5. ALL STATE AND PRIVATE AGENCIES WITH MANDATORY REPORTERS SHALL
49 RETRAIN ALL STAFF ON REPORTING TO A 9-1-1 OPERATOR AND THE COUNTY
50 DISTRICT ATTORNEY'S OFFICE AND ALL STATE AND PRIVATE WEBSITES, TRAINING
51 MANUALS, INFORMATIONAL BROCHURES OR PAMPHLETS DIRECTING REPORTING SHALL
52 STATE THAT SUCH INSTANCES BE REPORTED TO A 9-1-1 OPERATOR AND THE COUNTY
53 DISTRICT ATTORNEY'S OFFICE. ALL FORMER POSTERS AND WALLET CARDS AND ANY
54 OTHER INFORMATION DIRECTING REPORTING OF CRIMES AND EMERGENCIES TO THE
55 JUSTICE CENTER SHALL BE REMOVED AND REPLACED BY 9-1-1 REPORTING POSTERS,

1 WALLET CARDS AND ALL OTHER SOURCES THAT SHALL BE LOCATED CONSPICUOUSLY
2 IN A TIMELY MANNER.
3 S 2. This act shall take effect immediately.