

STATE OF NEW YORK

11316

IN ASSEMBLY

August 29, 2018

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Santabarbara) -- read once and referred to the Committee on Children and Families

AN ACT to amend the social services law, in relation to access to reports of child abuse and maltreatment by criminal justice agencies; and to repeal 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. Subparagraph (1) of paragraph (A) of subdivision 4 of
2 section 422 of the social services law is REPEALED.

3 § 2. Subdivision 4 of section 422 of the social services law is
4 amended by adding a new paragraph (A-1) to read as follows:

5 (A-1) (a) The office shall establish a centralized database for criminal
6 justice agencies to access in the performance of their duties which
7 shall include all reports made pursuant to this title as well as any
8 other information obtained, reports written or photographs taken
9 concerning such reports in the possession of the office or local depart-
10 ments. The office shall maintain the format and content of such database
11 and shall provide a method for which such reports and other information
12 may be delivered to the office from local departments.

13 (b) For the purposes of this paragraph, "criminal justice agencies"
14 shall mean a district attorney, an assistant district attorney or an
15 investigator employed in the office of a district attorney; a sworn
16 officer of the division of state police, of the regional state park
17 police, of a county department of parks, of a city police department, or
18 of a county, town or village police department or county sheriff's
19 office or department; or an Indian police officer.

20 § 3. The second undesignated paragraph and the closing paragraph of
21 paragraph (A) and paragraphs (B), (C) and (D) of subdivision 4 of
22 section 422 of the social services law, the second undesignated para-
23 graph of paragraph (A) as amended by section 6 of part D of chapter 501
24 of the laws of 2012, the closing paragraph of paragraph (A) as added by
25 chapter 12 of the laws of 1996, and paragraphs (B), (C) and (D) as

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

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1 amended by chapter 677 of the laws of 1985, are amended to read as
2 follows:

3 After a child, other than a child in residential care, who is reported
4 to the central register of abuse or maltreatment reaches the age of
5 eighteen years, access to a child's record under subparagraphs (a) and
6 (b) of this paragraph shall be permitted only if a sibling or off-spring
7 of such child is before such person and is a suspected victim of child
8 abuse or maltreatment. In addition, a person or official required to
9 make a report of suspected child abuse or maltreatment pursuant to
10 section four hundred thirteen of this ~~[chapter]~~ title shall receive,
11 upon request, the findings of an investigation made pursuant to this
12 title. However, no information may be released unless the person or
13 official's identity is confirmed by the office. If the request for such
14 information is made prior to the completion of an investigation of a
15 report, the released information shall be limited to whether the report
16 is "indicated", "unfounded" or "under investigation", whichever the case
17 may be. If the request for such information is made after the completion
18 of an investigation of a report, the released information shall be
19 limited to whether the report is "indicated" or "unfounded", whichever
20 the case may be. A person given access to the names or other information
21 identifying the subjects of the report, or other persons named in the
22 report, except the subject of the report or other persons named in the
23 report, shall not divulge or make public such identifying information
24 unless he or she is a district attorney or other law enforcement offi-
25 cial and the purpose is to initiate court action or the disclosure is
26 necessary in connection with the investigation or prosecution of the
27 subject of the report for a crime alleged to have been committed by the
28 subject against another person named in the report. Nothing in this
29 section shall be construed to permit any release, disclosure or iden-
30 tification of the names or identifying descriptions of persons who have
31 reported suspected child abuse or maltreatment to the statewide central
32 register or the agency, institution, organization, program or other
33 entity where such persons are employed or the agency, institution,
34 organization or program with which they are associated without such
35 persons' written permission except to persons, officials, and agencies
36 enumerated in subparagraphs (e), (f), (h), (j), ~~[(1)]~~ (m) and (v) of
37 this paragraph.

38 To the extent that persons or agencies are given access to information
39 pursuant to subparagraphs (a), (b), (c), (j), (k), ~~[(1)]~~ (m), (o) and
40 (q) of this paragraph, such persons or agencies may give and receive
41 such information to each other in order to facilitate an investigation
42 conducted by such persons or agencies.

43 (B) Notwithstanding any inconsistent provision of law to the contrary,
44 a city or county social services commissioner may withhold, in whole or
45 in part, the release of any information which he or she is authorized to
46 make available to persons or agencies identified in subparagraphs (a),
47 (k), ~~[(1)]~~ (m), (n), (o), (p) and (q) of paragraph (A) of this subdivi-
48 sion if such commissioner determines that such information is not
49 related to the purposes for which such information is requested or when
50 such disclosure will be detrimental to the child named in the report.

51 (C) A city or county social services commissioner who denies access by
52 persons or agencies identified in subparagraphs (a), (k), ~~[(1)]~~ (m),
53 (n), (o), (p) and (q) of paragraph (A) of this subdivision to records,
54 reports or other information or parts thereof maintained by such commis-
55 sioner in accordance with this title shall, within ten days from the
56 date of receipt of the request fully explain in writing to the person

1 requesting the records, reports or other information the reasons for the
2 denial.

3 (D) A person or agency identified in subparagraphs (a), (k), [~~(l)~~]
4 (m), (n), (o), (p) and (q) of paragraph (A) of this subdivision who is
5 denied access to records, reports or other information or parts thereof
6 maintained by a local department pursuant to this title may bring a
7 proceeding for review of such denial pursuant to article seventy-eight
8 of the civil practice law and rules.

9 § 4. This act shall take effect on the ninetieth day after it shall
10 have become a law. Effective immediately the addition, amendment and/or
11 repeal of any rule or regulation necessary for the implementation of
12 this act on its effective date are authorized to be made and completed
13 on or before such effective date.