STATE OF NEW YORK

1796

2017-2018 Regular Sessions

IN ASSEMBLY

January 13, 2017

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Children and Families

AN ACT to amend the social services law, in relation to establishing a demonstration program implementing the Westchester county dual track child protective services system; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Legislative intent. The legislature hereby finds and declares that the challenge facing this state's child protective services program demands that a bold new approach be tested to determine how this state can fulfill its obligations to protect and defend children, provide for their health, safety and welfare, and also make necessary services and assistance available to families in a less confrontational and intrusive manner, when circumstances so warrant. By establishing a system in Westchester county, where complaints of alleged child abuse and maltreatment are assigned to either an investigatory or a family assessment and services track, it is the intent of the legislature to study and review alternative methods of fulfilling those obligations and, at the same time, initiate the delivery of comprehensive family rehabilitative services to children and families.

§ 2. Short title. This act shall be known and may be cited as the "Westchester county dual track demonstration program".

§ 3. The social services law is amended by adding a new section 423-b to read as follows:

§ 423-b. Westchester county demonstration program to assess the feasibility of enhancing alternative child protective services through the use of a dual track approach. 1. (a) The office of children and family services is hereby authorized and directed to establish a demonstration program in Westchester county to address the feasibility of enhancing

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

LBD03265-01-7

alternative child protective services through the use of a dual track approach.

(b) Participation in the demonstration program by the Westchester county social services district (hereinafter in this section referred to as the "district") shall enable the district to assign complaints of alleged child abuse and maltreatment received by the statewide central register of child abuse and maltreatment, to one of two tracks:

(1) the investigative track, which operates in compliance with the other sections of this title; or

(2) the family assessment and services track, designed to increase family participation in voluntary services to improve family functioning and prevent repeat reports. Cases assigned to this track shall not be subject to the requirements otherwise applicable to cases reported to the statewide register of child abuse and maltreatment pursuant to this title, except as set forth in this section.

(c) The demonstration program authorized by this section shall be conducted for the period commencing January first, two thousand eighteen and ending December thirty-first, two thousand twenty-one. The advisory council established by this section shall exist until June thirtieth, two thousand twenty-two.

(d) The district shall establish a local advisory council to assist it in implementing the dual track demonstration program and providing broad based input.

(1) The advisory council shall consist of nine members: six members to be appointed by the county of Westchester; one member to be appointed by the commissioner of the office of children and family services; one member to be appointed by the temporary president of the senate; and one member to be appointed by the speaker of the assembly. Members shall be appointed based upon their professional expertise, knowledge and experience in the area of child protective services. The advisory council shall be broadly representative of programs and services offered in connection with the provision of child protective services, advocacy groups and community members.

(2) Members of the council shall be appointed prior to the commencement of the demonstration program. The council shall advise and assist the county of Westchester in developing plans, policies and procedures relating to the conduct of the dual track child protective services demonstration program authorized in this section. The council shall undertake its duties as soon as practicable after appointment of the members so as to ensure its early intervention in assessing and advising with respect to the demonstration program. The council may consider any matter relating to improving the demonstration program and shall advise the county of Westchester and the office of children and family services on such matters.

2. (a) The commissioner of the office of children and family services shall develop an application format to be submitted by the county of Westchester. The commissioner of the office of children and family services shall permit the district broad discretion in planning and implementing its dual track demonstration program.

(b) In addition to such other information as the commissioner of the office of children and family services shall require to be included within the application format, the application format shall contain the following information:

(1) in conjunction with the office of children and family services requirements and the provisions of this section, the factors to be considered by the social services district in determining which cases

will be addressed through the family assessment and services track, the size of the population and the geographic area to be the subject of the demonstration program;

(2) the types of services and interventions to be provided to families included in the family assessment and services track and a description of how the services will be offered;

(3) a description of the process to be followed for planning and monitoring the services provided under the family assessment and services track;

(4) a description of how the principles of family involvement and support consistent with maintaining the safety of the child will be implemented in the family assessment and services track;

(5) a description of how the dual track response system will enhance the ability of the district to protect children, maintain the safety of children and preserve families;

(6) a description of how the district will reduce the involvement of government agencies with families and maintain the safety of children through the use of community resources;

(7) a description of the staff resources proposed to be used in the family assessment and services track, including the proposed staff workloads and qualifications;

(8) a description of the training that will be provided to district and any non-district staff to be used in the demonstration program including, but not limited to, a description of the training involving maintaining the safety and well-being of children;

(9) a description of the community resources that are proposed to be used in the family assessment and services track; and

(10) a description of any additional funding that may be utilized to enhance the demonstration program.

3. The criteria for determining which cases may be placed in the assessment track under the demonstration program shall be determined by the local department of social services, in conjunction with the office of children and family services. Provided, however, that reports including any of the following allegations shall never be included in the assessment track of a demonstration program:

(a) reports alleging that the subject committed or allowed to be committed an offense defined in article one hundred thirty of the penal law;

(b) reports alleging that the subject allowed, permitted or encouraged a child to engage in any act described in sections 230.25, 230.30 and 230.32 of the penal law;

(c) reports alleging that the subject committed any of the acts described in section 255.25 of the penal law;

(d) reports alleging that the subject allowed a child to engage in acts or conduct described in article two hundred sixty-three of the penal law;

(e) reports alleging that the subject committed assault in the first, second or third degree against a child;

(f) reports alleging that the subject committed or attempted to commit murder or manslaughter in the first or second degree;

(g) reports alleging that the subject abandoned a child pursuant to subdivision five of section three hundred eighty-four-b of this article;

(h) reports alleging that the subject has subjected a child to severe or repeated abuse as those terms are defined in paragraphs (a) and (b) of subdivision eight of section three hundred eighty-four-b of this article; and

(i) reports alleging that the subject has neglected a child so as to substantially endanger the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect.

4. The following procedures shall be followed for all cases included in the family assessment and services track:

(a) Reports taken at the statewide central register of child abuse and maltreatment shall be transmitted to the district.

(b) The district shall, consistent with the criteria developed pursuant to subdivision three of this section, identify those reports which are initially eligible to be included in the family assessment and services track.

(c) For those reports which are included in the family assessment and services track, the social services district shall not be subject to the requirements of this title concerning initial investigation of reports of suspected abuse and maltreatment of children, including notification requirements. For reports assigned to the family assessment and services track, the social services district shall be responsible for ensuring that the children are safe in their homes. Such safety check shall be commenced within twenty-four hours of receipt of the report and completed within seven days. Based on the initial safety check, the district shall determine if the report shall continue under the demonstration program. This safety check must be documented in the manner specified by the office of children and family services. Should the children be found to be safe in the home, the social services district shall then identify service needs and family issues, if any, that should be addressed.

(1) Where the social services district determines, based on the initial safety check, that the report is appropriate to be included in the family assessment and services track, the social services district shall document the reason for that determination in the initial safety check and inform the statewide central register of child abuse and maltreatment that the report is part of the family assessment and services track and request that the records of the statewide central register of child abuse and maltreatment of such report be classified as an assessment track case and be legally sealed in accordance with the provisions of subdivision five of section four hundred twenty-two of this title. Such sealed reports shall be maintained at the statewide central register of child abuse and maltreatment for ten years after the report was made.

(2) Where the social services district determines, based on the initial safety check, to investigate the report as a report of suspected child abuse or maltreatment, the social services district shall document the reason for that decision in the initial safety check. Where the social services district makes the determination to investigate the report, all of the requirements of this title concerning investigations of reports of suspected child abuse and maltreatment shall apply, including the notification requirements. The report shall no longer be eligible to be included in the family assessment and services track.

(d) Where the social services district has determined that a case is appropriate to be included in the family assessment and services track, the district's activities shall include, at a minimum, the following:

(1) the provision of written notice to each parent, guardian or other person legally responsible for the child or children participating in the family assessment and services track explaining that it is the intent of the social services district to meet the needs of the family

without engaging in a traditional child protective services investigation. The notice shall also explain that the workers assisting the family in the family assessment and services track are mandated reporters who are required to report suspected child abuse or maltreatment and that those workers may be required to report new information that they receive in their work with the family if that information gives them reasonable cause to suspect that a child in the family is an abused or maltreated child;

(2) an examination, with the family, of the family's strengths, concerns and needs;

(3) where appropriate, an offer of assistance which shall include case management that is supportive of family stabilization;

(4) the planning and provision of services responsive to the service needs of the family; and

(5) an on-going joint evaluation and assessment of the family's progress.

(e) After the social services district has received a report of suspected maltreatment and determined that the report is initially eligible to be included in the family assessment and services track, pursuant to paragraph (b) of this subdivision, the activities described in paragraphs (c) and (d) of this subdivision may be performed by the social services district directly or through any other method currently utilized by social services districts to obtain preventive services for children and families. If a community-based agency determines, pursuant to subparagraph two of paragraph (c) of this subdivision, that a report must be investigated as a case of suspected child abuse or maltreatment, the community-based agency shall so inform the social services district, which shall then become responsible for conducting the child protective services investigation in accordance with the requirements of this title.

(f) A report selected for inclusion in the family assessment and services track shall cease to be eligible for inclusion in such track if at any time in the course of providing services the district or community-based agency finds that:

(1) there is evidence of any of the acts listed in paragraphs (a) through (i) of subdivision three of this section; or

(2) the parent or parents refuse to cooperate with the district or community-based agency in developing or implementing a plan to address the family problems or issues and a worker assisting the family in the family assessment and services track has reasonable cause to suspect that a child in the family is an abused or maltreated child.

(g) Where the district finds or is advised by a community-based agency, subsequent to the completion of the initial safety check, that the report is not appropriate to continue in the family assessment and services track pursuant to paragraph (f) of this subdivision, the district shall contact the statewide central register of child abuse and maltreatment and make a new report of suspected child abuse or maltreatment.

(h) In any case where a report has been assigned to the investigatory track, but after such initial assignment the district or a service provider determines that because of any information it receives during the investigation, or during the provision of care and services, that such report should be removed and placed in the family assessment and services track, the district shall so notify the statewide central register of child abuse and maltreatment that it is now considering such report as part of the family assessment and services track, and is

making a report to such register as if such report were initially to be included in the family assessment and services track.

(i) Where a report has been included in the family assessment and services track and a subsequent report involving the family is made to the statewide central register of child abuse and maltreatment, and such subsequent report is not eligible for inclusion in the family assessment and services track, the local child protective services, in conducting its investigation, shall work cooperatively with any district or community-based agency staff that are already working with the family to minimize to the extent practicable the chance that existing services being provided to the family will be disrupted and to maximize to the extent practicable the coordination of the existing services being provided to the family with any new services to be provided to the family.

(j) The district shall include in the training of employees charged with making any of the referrals to, and investigations or assessments in either of the two tracks techniques to identify instances where, although reports were initially assigned to the family assessment and services track subsequent information derived from such assessment raises the possibility that unlawful or other inappropriate activities or behavior may be present and would warrant referral to the investigatory track and instances where, although reports were initially assigned to the investigatory track, subsequent information derived from such investigation warrants a less intrusive and more service oriented approach.

(k) Any record or report or other documentation made in connection with the conduct or operation of the family assessment and services track by the district shall be deemed confidential and shall not be disclosed, except to the office of children and family services, the district, any provider of services acting by or on behalf of the district and any social services district investigating a subsequent report of abuse or maltreatment involving the same subject or the same child or children named in the report initiating the family assessment and services track case. Nothing contained in this paragraph shall prohibit the office of children and family services or the local district from publishing a statistical analysis or other report or documentation, with identifying information removed, summarizing the effectiveness of the dual track system created in this section.

(l) No person or provider of services shall suffer any liability where such person or provider reasonably concludes, based on the results of investigation or information gathered in providing services, that such a referral from one track to another may be required by law.

5. Any expenditure made by the district in complying with and carrying out the provisions of this section shall be subject to reimbursement by the state in the same manner as expenditures for child protective services investigations and may be supported by such other funding sources as are appropriate including, but not limited to, preventive services provided pursuant to section four hundred nine-a of this article and independent living services. Nothing shall preclude the district from seeking private funds for the support of the demonstration program.

6. (a) In conducting the demonstration program, the provisions of sections four hundred nine-e and four hundred nine-f of this article shall not be applicable to the district.

(b) All records created as part of the family assessment and services track shall include, but not be limited to, documentation of the initial safety check, the examination of the family's strengths, concerns and needs, all services offered and accepted by the family, the plan for

supportive services for the family, and all evaluations and assessments of the family's progress.

(c) Records created under the family assessment and services track shall be maintained for ten years after the date of the initial report to the statewide register of child abuse and maltreatment.

§ 4. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 5. This act shall take effect immediately and shall expire and be deemed repealed July 2, 2022.