

STATE OF NEW YORK

6830--B

2017-2018 Regular Sessions

IN ASSEMBLY

March 21, 2017

Introduced by M. of A. WEPRIN, ABINANTI, JENNE, ARROYO, CARROLL, PHEFFER AMATO, PRETLOW, RIVERA, SEAWRIGHT, COOK, HYNDMAN, THIELE, D'URSO, SIMON, BLAKE, RAMOS, LENTOL, DAVILA, LAVINE, MAGEE, HIKIND, COLTON, VANEL, M. G. MILLER, STIRPE, BARRON, WOERNER, CUSICK, WALKER, DE LA ROSA, JEAN-PIERRE, MOSLEY, CAHILL, TITONE, BARNWELL, CRESPO, ZEBROWSKI, O'DONNELL, CASTORINA, ABBATE, ENGLEBRIGHT, AUBRY, OAKS, STEC, CURRAN, JAFFEE, SCHIMMINGER, HOOPER, ORTIZ, PICHARDO, BRABENEC, B. MILLER, BICHOTTE, BARCLAY, KOLB, FINCH, PALMESANO, LAWRENCE, LALOR, GARBARINO, MURRAY, RA, McDONOUGH, RAIA, MONTESANO, WALSH, JOHNS, CROUCH, BUTLER, DiPIETRO, ERRIGO, GIGLIO, FITZPATRICK, WILLIAMS, GALEF, PALUMBO, BENEDETTO, JOYNER, DICKENS, DILAN, SOLAGES, MALLIOTAKIS, WRIGHT, MORINELLO -- Multi-Sponsored by -- M. of A. BLANKENBUSH, CYMBROWITZ, DenDEKKER, KIM, PERRY, L. ROSENTHAL -- read once and referred to the Committee on Social Services -- reference changed to the Committee on Mental Health -- recommitted to the Committee on Mental Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

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 added by section
2 1 of part B of chapter 501 of the laws of 2012, subdivision 4 as amended
3 by chapter 126 of the laws of 2014, subdivision 5 as added by chapter
4 422 of the laws of 2017, is amended to read as follows:
5 § 491. Duty to report incidents. 1. (a) Mandated reporters shall
6 report allegations of reportable incidents to the vulnerable persons'
7 central register as established by section four hundred ninety-two of
8 this article and in accordance with the requirements set forth therein.

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

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1 and, in the case of all suspicious and unexplained injuries, including
2 broken bones, hematomas, open wounds beyond minor first aid, black eyes,
3 swollen noses, extreme and questionable bruising, choke marks, burns,
4 all individuals served found unresponsive and all unexplained or suspi-
5 cious deaths, to a 9-1-1 operator and the vulnerable persons' central
6 register. All medical emergencies that threaten the health, safety or
7 life of individuals served shall be reported immediately to a 9-1-1
8 operator.

9 (b) Allegations of reportable incidents shall be reported immediately
10 to the vulnerable persons' central register upon discovery, and in the
11 case of all suspicious and unexplained injuries, including broken bones,
12 hematomas, open wounds beyond minor first aid, black eyes, swollen
13 noses, extreme and questionable bruising, choke marks, burns, all indi-
14 viduals served found unresponsive and all unexplained or suspicious
15 deaths, shall be reported immediately to a 9-1-1 operator and the
16 vulnerable persons' central register upon discovery. For purposes of
17 this article, "discovery" occurs when the mandated reporter witnesses a
18 suspected reportable incident or when another person, including the
19 vulnerable person, comes before the mandated reporter in the mandated
20 reporter's professional or official capacity and provides the mandated
21 reporter with reasonable cause to suspect that the vulnerable person has
22 been subjected to a reportable incident. A report to the register shall
23 include the name, title and contact information of every person known to
24 the mandated reporter to have the same information as the mandated
25 reporter concerning the reportable incident. Nothing in this subdivision
26 shall be construed to prohibit a mandated reporter from contacting or
27 reporting to law enforcement or emergency services before or after
28 reporting to the vulnerable persons' central register.

29 (c) The substance or content of any psychological, psychiatric, thera-
30 peutic, clinical or medical reports, evaluations or like materials or
31 information pertaining to the treatment of a patient or client of a
32 mandatory reporter who reports a reportable incident of such patient or
33 client pursuant to this article, must be provided by such mandatory
34 reporter upon request of the justice center for the protection of people
35 with special needs and local police if such records are essential for a
36 full investigation of such allegation, notwithstanding any applicable
37 privilege which would otherwise bar the disclosure of such materials and
38 records pursuant to article forty-five of the civil practice law and
39 rules or other provision of law except applicable federal law governing
40 the disclosure of patient and related medical records.

41 2. Any person or official required to report allegations of reportable
42 incidents pursuant to this section may take or cause to be taken color
43 photographs of visible trauma and the face of the vulnerable person
44 named in the report and upon the consent of a person authorized to
45 consent to medical care for the vulnerable person, shall, if medically
46 indicated, cause to be performed a radiological examination of the
47 vulnerable person. Any photographs or radiological examinations taken
48 shall be provided to the justice center and local police for use only
49 for the purposes of an investigation of a reportable incident.

50 3. (a) Any human services professional required by this article to
51 report a case of suspected abuse or neglect to the vulnerable persons'
52 central register, or in the case of all suspicious and unexplained inju-
53 ries, including broken bones, hematomas, open wounds beyond minor first
54 aid, black eyes, swollen noses, extreme and questionable bruising, choke
55 marks, burns, all individuals served found unresponsive and all unex-
56 plained or suspicious deaths, to a 9-1-1 operator and the vulnerable

1 persons' central register who knowingly and willfully fails to do so
2 shall be guilty of a class A misdemeanor.

3 (b) A mandated reporter who knowingly and willfully fails to report a
4 case of suspected abuse or neglect to the vulnerable persons' central
5 register, or suspicious and unexplained injuries, including broken
6 bones, hematomas, open wounds beyond minor first aid, black eyes, swol-
7 len noses, extreme and questionable bruising, choke marks, burns, all
8 individuals served found unresponsive and all unexplained or suspicious
9 deaths, to a 9-1-1 operator and the vulnerable persons' central regis-
10 ter, may be subject to termination, subject to any applicable collective
11 bargaining agreement. Any person or official required by this article to
12 report a case of suspected abuse or neglect to the vulnerable persons'
13 central register, or, in the case of all suspicious and unexplained
14 injuries, including broken bones, hematomas, open wounds beyond minor
15 first aid, black eyes, swollen noses, extreme and questionable bruising,
16 choke marks, burns, all individuals served found unresponsive and all
17 unexplained or suspicious deaths, to a 9-1-1 operator and the vulnerable
18 persons' central register and any medical emergencies that threaten the
19 health, safety or life of individuals served not reported immediately to
20 a 9-1-1 operator who knowingly and willfully fails to do so shall be
21 civilly liable for the damages proximately caused by such failure.

22 4. A medical or other public or private institution, state agency,
23 school, facility or provider agency or its vendors or contractors shall
24 not take any retaliatory personnel action, as such term is defined in
25 paragraph (e) of subdivision one of section seven hundred forty of the
26 labor law, against an employee or agent or vendor or contractor because
27 such employee or agent or vendor or contractor believes that he or she
28 has reasonable cause to suspect that a vulnerable person has been
29 subjected to a reportable incident and that employee or agent or vendor
30 or contractor therefore makes a report in accordance with this section
31 and/or cooperated with the investigation of a reportable incident. A
32 court of competent jurisdiction may grant injunctive relief to any
33 person determined to have been subjected to such retaliation.

34 5. State oversight agencies shall ensure that all facilities or
35 provider agencies operated, licensed, or certified by such state over-
36 sight agencies have policies and procedures in place to identify and
37 report possible crimes against a service recipient by a custodian. State
38 oversight agencies shall provide guidance to facilities or provider
39 agencies operated, licensed, or certified by such state oversight agen-
40 cies that do not already have policies and procedures for the identifi-
41 cation and reporting of possible crimes.

42 6. All state and private agencies with mandatory reporters shall
43 ensure that all staff are trained on reporting to a 9-1-1 operator and
44 all state and private websites, training manuals, informational
45 brochures or pamphlets directing reporting shall state that all suspi-
46 cious and unexplained injuries, including broken bones, hematomas, open
47 wounds beyond minor first aid, black eyes, swollen noses, extreme and
48 questionable bruising, choke marks, burns, all individuals served found
49 unresponsive and all suspicious or unexplained deaths, be reported to a
50 9-1-1 operator and the vulnerable persons' central register. All exist-
51 ing posters and wallet cards and any other information directing the
52 handling of reportable incidents will be updated as needed and posted in
53 a conspicuously located and timely manner to reflect the new require-
54 ments.

55 § 2. This act shall take effect on the first of November next succeed-
56 ing the date on which it shall have become a law.