

# STATE OF NEW YORK

4736

2017-2018 Regular Sessions

## IN SENATE

February 27, 2017

Introduced by Sens. LANZA, ADDABBO, AVELLA, BROOKS, GALLIVAN, HAMILTON, LARKIN, LATIMER, ORTT, ROBACH, SAVINO, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health and Developmental Disabilities

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 § 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~~

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

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1 ~~or reporting to law enforcement or emergency services before or after~~  
2 ~~reporting to the vulnerable persons' central register.]~~

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

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

24 3. (a) Any human services professional required by this article to  
25 report a case of suspected abuse or neglect to a 9-1-1 operator, the  
26 county district attorney's office and the vulnerable persons' central  
27 register who knowingly and willfully fails to do so shall be guilty of a  
28 class [~~A misdemeanor~~] E felony.

29 (b) A mandated reporter who knowingly and willfully fails to report a  
30 case of suspected abuse or neglect to a 9-1-1 operator, the county  
31 district attorney's office and the vulnerable persons' central register  
32 may be subject to termination, subject to any applicable collective  
33 bargaining agreement. Any person or official required by this article to  
34 report a case of suspected abuse or neglect to a 9-1-1 operator, the  
35 county district attorney's office and the vulnerable persons' central  
36 register who knowingly and willfully fails to do so shall be civilly  
37 liable for the damages proximately caused by such failure.

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

50 5. All state and private agencies with mandatory reporters shall  
51 retrain all staff on reporting to a 9-1-1 operator and the county  
52 district attorney's office and all state and private websites, training  
53 manuals, informational brochures or pamphlets directing reporting shall  
54 state that such instances be reported to a 9-1-1 operator and the county  
55 district attorney's office. All former posters and wallet cards and any  
56 other information directing reporting of crimes and emergencies to the

1 justice center shall be removed and replaced by 9-1-1 reporting posters,  
2 wallet cards and all other sources that shall be located conspicuously  
3 in a timely manner.

4 § 2. This act shall take effect immediately.