

# STATE OF NEW YORK

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4763

2017-2018 Regular Sessions

## IN SENATE

February 27, 2017

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Introduced by Sen. AVELLA -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the family court act and the social services law, in relation to notice of indicated reports of child maltreatment and changes of placement in child protective and voluntary foster care placement and review proceedings; and to repeal certain provisions of the family court act, in relation to technical changes thereto

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

1 Section 1. Section 1017 of the family court act is amended by adding a  
2 new subdivision 5 to read as follows:

3 5. In any case in which an order has been issued pursuant to this  
4 article remanding or placing a child in the custody of the local social  
5 services district, the social services official or authorized agency  
6 charged with custody or care of the child shall report any anticipated  
7 change in placement to the attorneys for the parties and the attorney  
8 for the child not later than ten days prior to such change in any case  
9 in which the child is moved from the foster home or program into which  
10 he or she has been placed or in which the foster parents move out of  
11 state with the child; provided, however, that where an immediate change  
12 of placement on an emergency basis is required, the report shall be  
13 transmitted no later than the next business day after such change in  
14 placement has been made. The social services official or authorized  
15 agency shall also submit a report to the attorneys for the parties and  
16 the attorney for the child or include in the placement change report any  
17 indicated report of child abuse or maltreatment or concerning the child  
18 or (if a person or persons caring for the child is or are the subject of  
19 the report) another child in the same home within five days of the indi-  
20 cation of the report. The official or agency may protect the confiden-  
21 tiality of identifying or address information regarding the foster or

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

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1 prospective adoptive parents. Reports regarding indicated reports of  
2 child abuse or maltreatment provided pursuant to this subdivision shall  
3 include a statement advising recipients that the information in such  
4 report of child abuse or maltreatment shall be kept confidential, shall  
5 be used only in connection with a proceeding under this article or  
6 related proceedings under this act and may not be redisclosed except as  
7 necessary for such proceeding or proceedings and as authorized by law.  
8 Reports under this paragraph may be transmitted by any appropriate  
9 means, including, but not limited to, by electronic means or placement  
10 on the record during proceedings in family court.

11 § 2. Subparagraph (E) of paragraph (i) of subdivision (b) of section  
12 1055 of the family court act, as amended by chapter 41 of the laws of  
13 2010, is REPEALED.

14 § 3. Section 1055 of the family court act is amended by adding a new  
15 subdivision (j) to read as follows:

16 (j) In any case in which an order has been issued pursuant to this  
17 section placing a child in the custody or care of the commissioner of  
18 social services, the social services official or authorized agency  
19 charged with custody of the child shall report any anticipated change in  
20 placement to the attorneys for the parties and the attorney for the  
21 child not later than ten days prior to such change in any case in which  
22 the child is moved from the foster home or program into which he or she  
23 has been placed or in which the foster parents move out of state with  
24 the child; provided, however, that where an immediate change of place-  
25 ment on an emergency basis is required, the report shall be transmitted  
26 no later than the next business day after such change in placement has  
27 been made. The social services official or authorized agency shall also  
28 submit a report to the attorneys for the parties and the attorney for  
29 the child or include in the placement change report any indicated report  
30 of child abuse or maltreatment concerning the child or (if a person or  
31 persons caring for the child is or are the subject of the report) another  
32 child in the same home within five days of the indication of the  
33 report. The official or agency may protect the confidentiality of iden-  
34 tifying or address information regarding the foster or prospective adop-  
35 tive parents. Reports regarding indicated reports of child abuse or  
36 maltreatment provided pursuant to this subdivision shall include a  
37 statement advising recipients that the information in such report of  
38 child abuse or maltreatment shall be kept confidential, shall be used  
39 only in connection with a proceeding under this article or related  
40 proceedings under this act and may not be redisclosed except as neces-  
41 sary for such proceeding or proceedings and as authorized by law.  
42 Reports under this paragraph may be transmitted by any appropriate  
43 means, including, but not limited to, by electronic means or placement  
44 on the record during proceedings in family court.

45 § 4. Subparagraph (vii) of paragraph 2 of subdivision (d) of section  
46 1089 of the family court act is amended by adding a new clause (H) to  
47 read as follows:

48 (H) a direction that the social services official or authorized agency  
49 charged with care and custody or guardianship and custody of the child,  
50 as applicable, report any anticipated change in placement to the attor-  
51 neys for the parties and the attorney for the child not later than ten  
52 days prior to such change in any case in which the child is moved from  
53 the foster home or program into which he or she has been placed or in  
54 which the foster parents move out of state with the child; provided,  
55 however, that where an immediate change of placement on an emergency  
56 basis is required, the report shall be transmitted no later than the

1 next business day after such change in placement has been made. The  
2 social services official or authorized agency shall also submit a report  
3 to the attorneys for the parties and the attorney for the child or  
4 include in the placement change report any indicated report of child  
5 abuse or maltreatment concerning the child or (if a person or persons  
6 caring for the child is or are the subject of the report) another child  
7 in the same home within five days of the indication of the report. The  
8 official or agency may protect the confidentiality of identifying or  
9 address information regarding the foster or prospective adoptive  
10 parents. Reports under this paragraph shall not be sent to attorneys for  
11 birth parents whose parental rights have been terminated or who have  
12 surrendered their child or children. Reports regarding indicated reports  
13 of child abuse or maltreatment provided pursuant to this subdivision  
14 shall include a statement advising recipients that the information in  
15 such report of child abuse or maltreatment shall be kept confidential,  
16 shall be used only in connection with a proceeding under this article or  
17 related proceedings under this act and may not be redisclosed except as  
18 necessary for such proceeding or proceedings and as authorized by law.  
19 Reports under this paragraph may be transmitted by any appropriate  
20 means, including, but not limited to, by electronic means or placement  
21 on the record during proceedings in family court; and

22 § 5. Subdivision 3 of section 358-a of the social services law is  
23 amended by adding a new paragraph (g) to read as follows:

24 (g) In any case in which an order has been issued pursuant to this  
25 section approving a foster care placement instrument, the social  
26 services official or authorized agency charged with custody or care of  
27 the child shall report any anticipated change in placement to the attor-  
28 neys for the parties and the attorney for the child not later than ten  
29 days prior to such change in any case in which the child is moved from  
30 the foster home or program into which he or she has been placed or in  
31 which the foster parents move out of state with the child; provided,  
32 however, that where an immediate change of placement on an emergency  
33 basis is required, the report shall be transmitted no later than the  
34 next business day after such change in placement has been made. The  
35 social services official or authorized agency shall also submit a report  
36 to the attorneys for the parties and the attorney for the child or  
37 include in the placement change report any indicated report of child  
38 abuse or maltreatment concerning the child or (if a person or persons  
39 caring for the child is or are the subject of the report) concerning  
40 another child in the same home within five days of the indication of the  
41 report. The official or agency may protect the confidentiality of iden-  
42 tifying or address information regarding the foster or prospective adop-  
43 tive parents. Reports regarding indicated reports of child abuse or  
44 maltreatment provided pursuant to this subdivision shall include a  
45 statement advising recipients that the information in such report of  
46 child abuse or maltreatment shall be kept confidential, shall be used  
47 only in connection with a proceeding under this section or related  
48 proceedings under the family court act and may not be redisclosed except  
49 as necessary for such proceeding or proceedings and as authorized by  
50 law. Reports under this paragraph may be transmitted by any appropriate  
51 means, including, but not limited to, by electronic means or placement  
52 on the record during proceedings in family court.

53 § 6. This act shall take effect immediately, provided that sections  
54 one, three, four and five of this act shall take effect on the one  
55 hundred twentieth day after it shall have become a law; provided, howev-  
56 er, that section two of this act shall be deemed to have taken effect on

1 the same date as section 1 of chapter 342 of the laws of 2010, took  
2 effect; and, provided further, effective immediately, the addition,  
3 amendment and/or repeal of any rule or regulation necessary for the  
4 implementation of this act on its effective date is authorized and  
5 directed to be completed on or before such effective date.

REPEAL NOTE: Subparagraph (E) of paragraph (i) of subdivision (b) of section 1055 of the family court act, as amended by section 67 of chapter 41 of the laws of 2010 contains language inconsistent with language in chapter 342 of the laws of 2010.