STATE OF NEW YORK

3393

2019-2020 Regular Sessions

IN ASSEMBLY

January 29, 2019

Introduced by M. of A. ORTIZ, WOERNER, STEC -- read once and referred to the Committee on Children and Families

AN ACT to amend the social services law, in relation to directing child protective services to investigate for child abuse or maltreatment, in any case where a child, under the age of 3 years is in the vicinity of a person arrested for a controlled substance offense when the arrested person is the parent or guardian of, or person legally responsible for such child, and requiring the testing of such a child for the presence of controlled substances in his or her system; to amend the family court act, in relation to authorizing courts to order the production of such a child for the purpose of testing; and directing the office of children and family services to submit a report thereon to the governor and the legislature

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

Section 1. Section 424 of the social services law is amended by adding a new subdivision 15 to read as follows:

15. upon the receipt of a report of suspected child abuse or maltreatment of a child under the age of three years, made by a person required to report cases of suspected child abuse or maltreatment pursuant to section four hundred thirteen of this title, when such child was in the vicinity of his or her parent or guardian, or a person legally responsible for the child, who was arrested for an offense defined in article two hundred twenty of the penal law, immediately cause an investigation to be commenced to determine whether the child is abused and maltreated, and cause within ten days of such report, a hair follicle test or other appropriate test to be performed on the child to determine the presence of controlled substances in the child's system.

§ 2. Subparagraph (ii) of paragraph (a) of subdivision 2 of section 1034 of the family court act, as amended by chapter 740 of the laws of 2006, is amended to read as follows:

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

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(ii) Where a court order has been requested pursuant to this paragraph the court may issue an order under this section requiring that the parent or other persons legally responsible for the child or children produce the child or children at a particular location which may include a child advocacy center, or to a particular person for an interview of the child or children, and for observation of the condition of the child, outside of the presence of the parent or other person responsible**, and, in the case of a report submitted pursuant to subdivision fifteen of section four hundred twenty-four of the social services law, for the purpose of the testing of the child or children for the presence of controlled substances in accordance with such subdivision**.

§ 3. Subparagraph (ii) of paragraph (b) of subdivision 2 of section 1034 of the family court act, as amended by chapter 740 of the laws of 2006, is amended to read as follows:

(ii) Where a court order has been requested pursuant to this paragraph the court may issue an order under this section authorizing the person conducting the child protective investigation to enter the home in order to determine whether such child or children are present and/or to conduct a home visit and evaluate the home environment of the child or children**, and, in the case of a report submitted pursuant to subdivision fifteen of section four hundred twenty-four of the social services law, cause the child to be tested for the possible presence of controlled substances in the child's body in accordance with such subdivision**.

§ 4. Within one year of the effective date of this act, the office of children and family services shall compile data and submit a report to the governor and the legislature on the number of cases in which tests were conducted pursuant to subdivision 15 of section 424 of the social services law, and such report shall include such additional information and data as the office of children and family services shall deem to be necessary.

§ 5. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.