

# STATE OF NEW YORK

6662

2019-2020 Regular Sessions

## IN ASSEMBLY

March 14, 2019

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

AN ACT to amend the civil practice law and rules and the social services law, in relation to the "child abuse reporting expansion (CARE) act"

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

1 Section 1. This act shall be known and may be cited as the "child  
2 abuse reporting expansion (CARE) act".

3 § 2. Section 4505 of the civil practice law and rules, as amended by  
4 chapter 520 of the laws of 1965, is amended to read as follows:

5 § 4505. Confidential communication to clergy privileged. Unless the  
6 person confessing or confiding waives the privilege, a [~~clergyman~~] cler-  
7 gy member, or other minister of any religion or duly accredited Chris-  
8 tian Science practitioner, shall not be allowed to disclose a confession  
9 or confidence made to him or her in his or her professional [~~character~~]  
10 capacity as spiritual advisor, except when the confession or confidence  
11 relates to a matter involving abuse or maltreatment of a minor. Such  
12 privilege shall not be grounds for failure to report a case of suspected  
13 child abuse or maltreatment, as required by section four hundred thir-  
14 teen of the social services law, and shall not be grounds for excluding  
15 evidence of child abuse or maltreatment from any examination, trial, or  
16 other judicial proceeding in which the commission of such abuse or  
17 maltreatment is a subject of inquiry.

18 § 3. Paragraph (a) of subdivision 1 of section 413 of the social  
19 services law, as amended by section 7 of part C of chapter 57 of the  
20 laws of 2018, is amended to read as follows:

21 (a) The following persons and officials are required to report or  
22 cause a report to be made in accordance with this title when they have  
23 reasonable cause to suspect that a child coming before them in their  
24 professional or official capacity is an abused or maltreated child, or  
25 when they have reasonable cause to suspect that a child is an abused or

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

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1 maltreated child where the parent, guardian, custodian [~~or~~], other  
2 person legally responsible for such child or other person related or  
3 unrelated to such child comes before them in their professional or offi-  
4 cial capacity and states from personal knowledge facts, conditions or  
5 circumstances which, if correct, would render the child an abused or  
6 maltreated child: any physician; registered physician assistant;  
7 surgeon; medical examiner; coroner; dentist; dental hygienist; osteo-  
8 path; optometrist; chiropractor; podiatrist; resident; intern; psychol-  
9 ogist; registered nurse; social worker; emergency medical technician;  
10 licensed creative arts therapist; licensed marriage and family thera-  
11 pist; licensed mental health counselor; licensed psychoanalyst; licensed  
12 behavior analyst; certified behavior analyst assistant; hospital person-  
13 nel engaged in the admission, examination, care or treatment of persons;  
14 a Christian Science practitioner; clergy member or other minister of any  
15 religion; school official, which includes but is not limited to school  
16 teacher, school guidance counselor, school psychologist, school social  
17 worker, school nurse, school administrator or other school personnel  
18 required to hold a teaching or administrative license or certificate;  
19 full or part-time compensated school employee required to hold a tempo-  
20 rary coaching license or professional coaching certificate; social  
21 services worker; employee of a publicly-funded emergency shelter for  
22 families with children; director of a children's overnight camp, summer  
23 day camp or traveling summer day camp, as such camps are defined in  
24 section thirteen hundred ninety-two of the public health law; day care  
25 center worker; school-age child care worker; provider of family or group  
26 family day care; employee or volunteer in a residential care facility  
27 for children that is licensed, certified or operated by the office of  
28 children and family services; or any other child care or foster care  
29 worker; mental health professional; substance abuse counselor; alcohol-  
30 ism counselor; all persons credentialed by the office of alcoholism and  
31 substance abuse services; employees, who are expected to have regular  
32 and substantial contact with children, of a health home or health home  
33 care management agency contracting with a health home as designated by  
34 the department of health and authorized under section three hundred  
35 sixty-five-1 of this chapter or such employees who provide home and  
36 community based services under a demonstration program pursuant to  
37 section eleven hundred fifteen of the federal social security act who  
38 are expected to have regular and substantial contact with children;  
39 peace officer; police officer; district attorney or assistant district  
40 attorney; investigator employed in the office of a district attorney; or  
41 other law enforcement official.

42 § 4. Section 420 of the social services law, as added by chapter 1039  
43 of the laws of 1973, is amended to read as follows:

44 § 420. Penalties for failure to report. 1. Any person, official or  
45 institution required by this title to report a case of suspected child  
46 abuse or maltreatment who willfully fails to do so shall be guilty of a  
47 class A misdemeanor for a first offense and a class E felony for a  
48 second or subsequent offense.

49 2. Any person, official or institution required by this title to  
50 report a case of suspected child abuse or maltreatment who acts as part  
51 of a plan or scheme having as its object the prevention of discovery of  
52 child abuse or maltreatment by lawful authorities for the purpose of  
53 protecting or insulating any person, official, or institution from  
54 arrest or prosecution, shall be guilty of a class A misdemeanor for a  
55 first offense and a class E felony for a second or subsequent offense.

1 regardless of whether the second or subsequent offense involves any of  
2 the same facts or persons as the first or other prior offense.

3 3. Any person, official or institution required by this title to  
4 report a case of suspected child abuse or maltreatment who knowingly and  
5 willfully fails to do so shall be civilly liable for the damages proxi-  
6 mately caused by such failure.

7 § 5. This act shall take effect immediately.