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:

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

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

§ 4505. Confidential communication to clergy privileged. Unless the person confessing or confiding waives the privilege, a [~~clergyman~~] **clergy member**, or other minister of any religion or duly accredited Christian Science practitioner, shall not be allowed **to** disclose a confession or confidence made to him **or her** in his **or her** professional [~~character~~] **capacity** as spiritual advisor**, except when the confession or confidence relates to a matter involving abuse or maltreatment of a minor. Such privilege shall not be grounds for failure to report a case of suspected child abuse or maltreatment, as required by section four hundred thirteen of the social services law, and shall not be grounds for excluding evidence of child abuse or maltreatment from any examination, trial, or other judicial proceeding in which the commission of such abuse or maltreatment is a subject of inquiry**.

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

(a) The following persons and officials are required to report or cause a report to be made in accordance with this title when they have reasonable cause to suspect that a child coming before them in their professional or official capacity is an abused or maltreated child, or 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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maltreated child where the parent, guardian, custodian [~~or~~], other person legally responsible for such child **or other person related or unrelated to such child** comes before them in their professional or official capacity and states from personal knowledge facts, conditions or circumstances which, if correct, would render the child an abused or maltreated child: any physician; registered physician assistant; surgeon; medical examiner; coroner; dentist; dental hygienist; osteopath; optometrist; chiropractor; podiatrist; resident; intern; psychologist; registered nurse; social worker; emergency medical technician; licensed creative arts therapist; licensed marriage and family therapist; licensed mental health counselor; licensed psychoanalyst; licensed behavior analyst; certified behavior analyst assistant; hospital personnel engaged in the admission, examination, care or treatment of persons; a Christian Science practitioner; **clergy member or other minister of any religion;** school official, which includes but is not limited to school teacher, school guidance counselor, school psychologist, school social worker, school nurse, school administrator or other school personnel required to hold a teaching or administrative license or certificate; full or part-time compensated school employee required to hold a temporary coaching license or professional coaching certificate; social services worker; employee of a publicly-funded emergency shelter for families with children; director of a children's overnight camp, summer day camp or traveling summer day camp, as such camps are defined in section thirteen hundred ninety-two of the public health law; day care center worker; school-age child care worker; provider of family or group family day care; employee or volunteer in a residential care facility for children that is licensed, certified or operated by the office of children and family services; or any other child care or foster care worker; mental health professional; substance abuse counselor; alcoholism counselor; all persons credentialed by the office of alcoholism and substance abuse services; employees, who are expected to have regular and substantial contact with children, of a health home or health home care management agency contracting with a health home as designated by the department of health and authorized under section three hundred sixty-five-l of this chapter or such employees who provide home and community based services under a demonstration program pursuant to section eleven hundred fifteen of the federal social security act who are expected to have regular and substantial contact with children; peace officer; police officer; district attorney or assistant district attorney; investigator employed in the office of a district attorney; or other law enforcement official.

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

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

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

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

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

§ 5. This act shall take effect immediately.