

STATE OF NEW YORK

5711

2019-2020 Regular Sessions

IN SENATE

May 13, 2019

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

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.