

STATE OF NEW YORK

6427--A

2019-2020 Regular Sessions

IN SENATE

June 10, 2019

Introduced by Sen. MONTGOMERY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law, in relation to the standard of proof for unfounded and indicated reports of abuse or maltreatment and the admissibility of reports of child abuse and maltreatment; and to amend the social services law and the family court act, in relation to the administration of the statewide central register of child abuse and maltreatment

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

1 Section 1. Subdivisions 6 and 7 of section 412 of the social services
2 law, as added by chapter 1039 of the laws of 1973 and as renumbered by
3 chapter 323 of the laws of 2008, are amended to read as follows:

4 6. An "unfounded report" means any report made pursuant to this title
5 unless an investigation determines that [~~some credible evidence~~] a fair
6 preponderance of evidence of the alleged abuse or maltreatment exists;

7 7. An "indicated report" means a report made pursuant to this title if
8 an investigation determines that [~~some credible evidence~~] a fair prepon-
9 derance of evidence of the alleged abuse or maltreatment exists.

10 § 2. Section 651-a of the family court act, as amended by chapter 12
11 of the laws of 1996, is amended to read as follows:

12 § 651-a. Reports of child abuse and maltreatment; admissibility. In
13 any proceeding brought pursuant to this section to determine the custody
14 or visitation of minors, a report made to the statewide central register
15 of child abuse and maltreatment, pursuant to title six of article six of
16 the social services law, or a portion thereof, which is otherwise admis-
17 sible as a business record pursuant to rule forty-five hundred eighteen
18 of the civil practice law and rules shall not be admissible in evidence,
19 notwithstanding such rule, unless an investigation of such report

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

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1 conducted pursuant to title six of article six of the social services
2 law has determined that there is [~~some-credible~~] a fair preponderance of
3 evidence of the alleged abuse or maltreatment, that the subject of the
4 report has been notified that the report is indicated. In addition, if
5 such report has been reviewed by the state commissioner of social
6 services or his designee and has been determined to be unfounded, it
7 shall not be admissible in evidence. If such report has been so reviewed
8 and has been amended to delete any finding, each such deleted finding
9 shall not be admissible. If the state commissioner of social services or
10 his designee has amended the report to add any new finding, each such
11 new finding, together with any portion of the original report not
12 deleted by the commissioner or his designee, shall be admissible if it
13 meets the other requirements of this section and is otherwise admissible
14 as a business record. If such a report, or portion thereof, is admissi-
15 ble in evidence but is uncorroborated, it shall not be sufficient to
16 make a fact finding of abuse or maltreatment in such proceeding. Any
17 other evidence tending to support the reliability of such report shall
18 be sufficient corroboration.

19 § 3. Paragraph (c) of subdivision 2 of section 421 of the social
20 services law, as amended by chapter 718 of the laws of 1986, is amended
21 to read as follows:

22 (c) issue guidelines to assist local child protective services in the
23 interpretation and assessment of reports of abuse and maltreatment made
24 to the statewide central register described in section four hundred
25 twenty-two of this article. Such guidelines shall include information,
26 standards and criteria for [~~the identification of credible~~] assessing
27 whether a fair preponderance of evidence of alleged abuse and maltreat-
28 ment exists as required to determine whether a report may be indicated.

29 § 4. The opening paragraph of paragraph (a) of subdivision 5 of
30 section 422 of the social services law, as amended by section 7 of part
31 D of chapter 501 of the laws of 2012, is amended to read as follows:

32 Unless an investigation of a report conducted pursuant to this title
33 determines that there is [~~some-credible~~] a fair preponderance of
34 evidence of the alleged abuse or maltreatment, all information identify-
35 ing the subjects of the report and other persons named in the report
36 shall be legally sealed forthwith by the central register and any local
37 child protective services or the state agency which investigated the
38 report. Such unfounded reports may only be unsealed and made available:

39 § 5. Paragraph (c) of subdivision 5 of section 422 of the social
40 services law, as added by chapter 555 of the laws of 2000, is amended to
41 read as follows:

42 (c) Notwithstanding any other provision of law, the office of children
43 and family services may, in its discretion, grant a request to expunge
44 an unfounded report where: (i) the source of the report was convicted of
45 a violation of subdivision three of section 240.55 of the penal law in
46 regard to such report; or (ii) the subject of the report presents clear
47 and convincing evidence that affirmatively refutes the allegation of
48 abuse or maltreatment; provided however, that the absence of [~~credible~~]
49 a fair preponderance of evidence supporting the allegation of abuse or
50 maltreatment shall not be the sole basis to expunge the report. Nothing
51 in this paragraph shall require the office of children and family
52 services to hold an administrative hearing in deciding whether to
53 expunge a report. Such office shall make its determination upon review-
54 ing the written evidence submitted by the subject of the report and any
55 records or information obtained from the state or local agency which
56 investigated the allegations of abuse or maltreatment.

1 § 6. Subdivision 6 of section 422 of the social services law, as
2 amended by section 7 of part D of chapter 501 of the laws of 2012, is
3 amended to read as follows:

4 6. In all other cases, the record of the report to the statewide
5 central register shall be expunged ten years after the eighteenth birth-
6 day of the youngest child named in the report. Provided however, in
7 cases where the report was indicated for maltreatment, the record of the
8 report to the statewide central register shall be conditionally sealed
9 eight years after the report is received by the statewide central regis-
10 ter, so long as there are no other indicated reports of abuse or
11 maltreatment with such individual named as the subject of the report.
12 Provided, further, that if such individual is named as the subject of a
13 report in any subsequent indicated abuse or maltreatment reports, such
14 record shall be immediately unsealed and the subsequent indicated report
15 shall be ineligible for conditional sealing. Reports conditionally
16 sealed pursuant to this subdivision shall be maintained in the statewide
17 central register, however such reports shall not be made available
18 except to: (a) entities included in paragraph (a) of subdivision five of
19 this section; (b) authorized agencies that are considering licensing the
20 subject of the report to become a foster or adoptive parent; (c) child
21 protective services that are considering recommending the subject of the
22 report as a custodial or visitation resource; (d) head start programs
23 which are funded pursuant to title V of the federal economic opportunity
24 act of 1964, early intervention services established pursuant to section
25 twenty-five hundred forty of the public health law, preschool services
26 established pursuant to section forty-four hundred ten of the education
27 law and child day care providers as defined in section three hundred
28 ninety of this article for the purposes of determining employment, but
29 only for an additional four years after such record is conditionally
30 sealed; and (e) the court, upon receiving a recommendation regarding a
31 potential foster or adoptive parent or a custodial or visitation
32 resource from a child protective service if such recommendation was
33 based in any part on the indicated report. In the case of a child in
34 residential care the record of the report to the statewide central
35 register shall be expunged ten years after the reported child's eigh-
36 teenth birthday. In any case and at any time, the commissioner of the
37 office of children and family services may amend any record upon good
38 cause shown and notice to the subjects of the report and other persons
39 named in the report.

40 § 7. Paragraph (a) of subdivision 8 of section 422 of the social
41 services law, as amended by chapter 12 of the laws of 1996, and subpara-
42 graph (ii) as amended by chapter 323 of the laws of 2008, is amended to
43 read as follows:

44 (a) (i) At any time subsequent to the completion of the investigation
45 [~~but in no event later than ninety days after the subject of the report~~
46 ~~is notified that the report is indicated]~~ the subject may request the
47 commissioner to amend the record of the report. [~~If~~] After an initial
48 request, subsequent requests may be made for the purpose of determining
49 whether, due to a change in the subject's circumstances, the indicated
50 case continues to be relevant and reasonably related pursuant to subpar-
51 agraph (ii) of paragraph (c) of this subdivision. Such evaluation shall
52 take place no more than biennially. Where a proceeding pursuant to
53 article ten of the family court act based on the same allegations that
54 were indicated is pending, the request to amend shall be stayed until
55 the disposition of such family court proceeding or, if the petition is
56 dismissed at the conclusion of an adjournment in contemplation of

1 dismissal or suspended judgment, at such time of the dismissal, whichever
2 is later. Unless such request has been stayed, if the commissioner
3 does not amend the report in accordance with such request within ninety
4 days of receiving the request, the subject shall have the right to a
5 fair hearing, held in accordance with paragraph (b) of this subdivision,
6 to determine whether the record of the report in the central register
7 should be amended on the grounds that it is inaccurate or it is being
8 maintained in a manner inconsistent with this title.

9 (ii) Upon receipt of a request to amend the record of a child abuse
10 and maltreatment report the office of children and family services shall
11 immediately send a written request to the child protective service or
12 the state agency which was responsible for investigating the allegations
13 of abuse or maltreatment for all records, reports and other information
14 maintained by the service or state agency pertaining to such indicated
15 report. The service or state agency shall as expeditiously as possible
16 but within no more than twenty working days of receiving such request,
17 forward all records, reports and other information it maintains on such
18 indicated report to the office of children and family services, includ-
19 ing a copy of any petition or court order based on the allegations that
20 were indicated. [~~The~~] Unless such request to amend has been stayed, the
21 office of children and family services shall as expeditiously as possi-
22 ble but within no more than fifteen working days of receiving such mate-
23 rials from the child protective service or state agency, review all such
24 materials in its possession concerning the indicated report and deter-
25 mine, after affording such service or state agency a reasonable opportu-
26 nity to present its views, whether there is a fair preponderance of the
27 evidence to find that the subject committed the act or acts of child
28 abuse or maltreatment giving rise to the indicated report and whether,
29 based on guidelines developed by the office of children and family
30 services pursuant to subdivision five of section four hundred twenty-
31 four-a of this title, such act or acts could be relevant and reasonably
32 related to employment of the subject of the report by a provider agency,
33 as defined by subdivision three of section four hundred twenty-four-a of
34 this title, or relevant and reasonably related to the subject of the
35 report being allowed to have regular and substantial contact with chil-
36 dren who are cared for by a provider agency, or relevant and reasonably
37 related to the approval or disapproval of an application submitted by
38 the subject of the report to a licensing agency, as defined by subdivi-
39 sion four of section four hundred twenty-four-a of this title.

40 (iii) If it is determined at the review held pursuant to this para-
41 graph [~~(a)~~] that there is [~~no credible~~] not a fair preponderance of
42 evidence in the record to find that the subject committed an act or acts
43 of child abuse or maltreatment, the [~~department~~] office of children and
44 family services shall amend the record to indicate that the report is
45 "unfounded" and notify the subject forthwith.

46 (iv) If it is determined at the review held pursuant to this paragraph
47 [~~(a)~~] that there is [~~some credible~~] a fair preponderance of evidence in
48 the record to find that the subject committed such act or acts but that
49 such act or acts could not be relevant and reasonably related to the
50 employment of the subject by a provider agency or to the subject being
51 allowed to have regular and substantial contact with children who are
52 cared for by a provider agency or the approval or disapproval of an
53 application which could be submitted by the subject to a licensing agen-
54 cy, the [~~department~~] office of children and family services shall be
55 precluded from informing a provider or licensing agency which makes an
56 inquiry to [~~the department~~] such office pursuant to the provisions of

1 section four hundred twenty-four-a of this title concerning the subject
2 that the person about whom the inquiry is made is the subject of an
3 indicated report of child abuse or maltreatment. The ~~[department]~~ office
4 of children and family services shall notify forthwith the subject of
5 the report of such determinations and that a fair hearing has been sche-
6 duled pursuant to paragraph (b) of this subdivision. The sole issue at
7 such hearing shall be whether the subject has been shown by ~~[some-credi-~~
8 ble] a fair preponderance of evidence to have committed the act or acts
9 of child abuse or maltreatment giving rise to the indicated report.

10 (v) If it is determined at the review held pursuant to this paragraph
11 ~~[(a)]~~ that there is ~~[some-credible]~~ a fair preponderance of evidence in
12 the record to prove that the subject committed an act or acts of child
13 abuse or maltreatment and that such act or acts could be relevant and
14 reasonably related to the employment of the subject by a provider agency
15 or to the subject being allowed to have regular and substantial contact
16 with children cared for by a provider agency or the approval or disap-
17 proval of an application which could be submitted by the subject to a
18 licensing agency, the ~~[department]~~ office of children and family
19 services shall notify forthwith the subject of the report of such deter-
20 minations and that a fair hearing has been scheduled pursuant to para-
21 graph (b) of this subdivision.

22 § 8. Subparagraphs (i) and (ii) of paragraph (b) of subdivision 8 of
23 section 422 of the social services law, as amended by chapter 12 of the
24 laws of 1996, are amended to read as follows:

25 (i) If the ~~[department]~~ office of children and family services, ~~[with-~~
26 in ninety days of] upon receiving a request from the subject that the
27 record of a report be amended, does not amend the record in accordance
28 with such request, ~~[the department]~~ such office shall schedule a fair
29 hearing and shall provide notice of the scheduled hearing date to the
30 subject, the statewide central register and, as appropriate, to the
31 child protective service or the state agency which investigated the
32 report.

33 (ii) The burden of proof in such a hearing shall be on the child
34 protective service or the state agency which investigated the report, as
35 the case may be. In such a hearing, the fact that there is a family
36 court finding of abuse or neglect against the subject in regard to an
37 allegation contained in the report shall create an irrebuttable presump-
38 tion that said allegation is substantiated by ~~[some-credible]~~ a fair
39 preponderance of evidence. Where the petitioning child protective agen-
40 cy withdraws with prejudice an allegation in a petition, or a family
41 court finds on the merits that an allegation does not constitute abuse
42 or neglect or was not supported by a fair preponderance of the evidence,
43 or an allegation has been dismissed at the conclusion of either an
44 adjournment in contemplation of dismissal or suspended judgment, if such
45 allegation was the same as the allegation in an indicated report, the
46 office of children and family services shall amend such indicated report
47 to be unfounded.

48 § 9. Subparagraphs (i) and (ii) of paragraph (c) of subdivision 8 of
49 section 422 of the social services law, as amended by chapter 12 of the
50 laws of 1996, and the opening paragraph of subparagraph (ii) as amended
51 by chapter 323 of the laws of 2008, are amended to read as follows:

52 (i) If it is determined at the fair hearing that there is ~~[no-credi-~~
53 ble] not a fair preponderance of evidence in the record to find that the
54 subject committed an act or acts of child abuse or maltreatment, the
55 ~~[department]~~ office of children and family services shall amend the
56 record to reflect that such a finding was made at the administrative

1 hearing, order any child protective service or state agency which inves-
2 tigated the report to similarly amend its records of the report, and
3 shall notify the subject forthwith of the determination.

4 (ii) Upon a determination made at a fair hearing [~~held on or after~~
5 ~~January first, nineteen hundred eighty-six~~] scheduled pursuant to the
6 provisions of subparagraph (v) of paragraph (a) of this subdivision that
7 the subject has been shown by a fair preponderance of the evidence to
8 have committed the act or acts of child abuse or maltreatment giving
9 rise to the indicated report, the hearing officer shall determine, based
10 on guidelines developed by the office of children and family services
11 pursuant to subdivision five of section four hundred twenty-four-a of
12 this title, whether such act or acts are relevant and reasonably related
13 to employment of the subject by a provider agency, as defined by subdi-
14 vision three of section four hundred twenty-four-a of this title, or
15 relevant and reasonably related to the subject being allowed to have
16 regular and substantial contact with children who are cared for by a
17 provider agency or relevant and reasonably related to the approval or
18 disapproval of an application submitted by the subject to a licensing
19 agency, as defined by subdivision four of section four hundred twenty-
20 four-a of this title.

21 Upon a determination made at a fair hearing that the act or acts of
22 abuse or maltreatment are relevant and reasonably related to employment
23 of the subject by a provider agency or the subject being allowed to have
24 regular and substantial contact with children who are cared for by a
25 provider agency or the approval or denial of an application submitted by
26 the subject to a licensing agency, the [~~department~~] office of children
27 and family services shall notify the subject forthwith. The [~~department~~]
28 office of children and family services shall inform a provider or
29 licensing agency which makes an inquiry to [~~the department~~] such office
30 pursuant to the provisions of section four hundred twenty-four-a of this
31 title concerning the subject that the person about whom the inquiry is
32 made is the subject of an indicated child abuse or maltreatment report.

33 The failure to determine at the fair hearing that the act or acts of
34 abuse and maltreatment are relevant and reasonably related to the
35 employment of the subject by a provider agency or to the subject being
36 allowed to have regular and substantial contact with children who are
37 cared for by a provider agency or the approval or denial of an applica-
38 tion submitted by the subject to a licensing agency shall preclude the
39 [~~department~~] office of children and family services from informing a
40 provider or licensing agency which makes an inquiry to [~~the department~~]
41 such office pursuant to the provisions of section four hundred twenty-
42 four-a of this title concerning the subject that the person about whom
43 the inquiry is made is the subject of an indicated child abuse or
44 maltreatment report.

45 § 10. Paragraph (e) of subdivision 8 of section 422 of the social
46 services law, as added by chapter 12 of the laws of 1996, is amended to
47 read as follows:

48 (e) Should the [~~department~~] office of children and family services
49 grant the request of the subject of the report pursuant to this subdivi-
50 sion either through an administrative review or fair hearing to amend an
51 indicated report to an unfounded report[~~Such~~], such report shall be
52 legally sealed and shall be released and expunged in accordance with the
53 standards set forth in subdivision five of this section.

54 § 11. Subparagraphs (i), (ii), (iii), and (v) of paragraph (e) of
55 subdivision 1 of section 424-a of the social services law, subparagraphs
56 (i), (ii) and (iii) as amended by chapter 12 of the laws of 1996, and

1 subparagraph (v) as amended by chapter 634 of the laws of 1988, are
2 amended and six new subparagraphs (vi), (vii), (viii), (ix), (x) and
3 (xi) are added to read as follows:

4 (i) Subject to the provisions of subparagraph (ii) of this paragraph,
5 the department shall inform the provider or licensing agency, or child
6 care resource and referral programs pursuant to subdivision six of this
7 section whether or not the person is the subject of an indicated child
8 abuse and maltreatment report only if: (a) the time for the subject of
9 the report to request an amendment of the record of the report pursuant
10 to [~~subdivision eight of section four hundred twenty-two~~] subparagraph
11 (v) of this paragraph has expired without any such request having been
12 made; or (b) such request was made within such time and a fair hearing
13 regarding the request has been finally determined by the commissioner
14 and the record of the report has not been amended to unfound the report
15 or delete the person as a subject of the report.

16 (ii) If the subject of an indicated report of child abuse or maltreat-
17 ment has not requested an amendment of the record of the report [~~within~~
18 ~~the time specified in subdivision eight of section four hundred twenty-~~
19 ~~two of this title or if the subject had a fair hearing pursuant to such~~
20 ~~section prior to January first, nineteen hundred eighty-six~~] and an
21 inquiry is made to the [~~department~~] office of children and family
22 services pursuant to this subdivision concerning the subject of the
23 report, [~~the department~~] such office shall, as expeditiously as possible
24 but within no more than ten working days of receipt of the inquiry,
25 determine whether, in fact, the person about whom an inquiry is made is
26 the subject of an indicated report. Upon making a determination that the
27 person about whom the inquiry is made is the subject of an indicated
28 report of child abuse and maltreatment, the [~~department~~] office of chil-
29 dren and family services shall immediately send a written request to the
30 child protective service or state agency which was responsible for
31 investigating the allegations of abuse or maltreatment for all records,
32 reports and other information maintained by the service or state agency
33 on the subject. The service or state agency shall, as expeditiously as
34 possible but within no more than twenty working days of receiving such
35 request, forward all records, reports and other information it maintains
36 on the indicated report to the [~~department~~] office of children and fami-
37 ly services, including a copy of any petition or court order based on
38 the allegations that were indicated. [~~The department~~] Where a proceed-
39 ing pursuant to article ten of the family court act is pending based on
40 the same allegations that were indicated, the office of children and
41 family services shall stay determination of whether there is a fair
42 preponderance of the evidence to support the indication until the dispo-
43 sition of such family court proceeding or if the petition is dismissed
44 at the conclusion of an adjournment in contemplation of dismissal or
45 suspended judgment, at such time of the dismissal, whichever is later.
46 Unless such determination has been stayed, the office of children and
47 family services shall, within fifteen working days of receiving such
48 records, reports and other information from the child protective service
49 or state agency, review all records, reports and other information in
50 its possession concerning the subject and determine whether there is
51 [~~some credible~~] a fair preponderance of evidence to find that the
52 subject had committed the act or acts of child abuse or maltreatment
53 giving rise to the indicated report.

54 (iii) If it is determined, after affording such service or state agen-
55 cy a reasonable opportunity to present its views, that there is [~~no~~
56 ~~credible~~] not a fair preponderance of evidence in the record to find

1 that the subject committed such act or acts, the [~~department~~] office of
2 children and family services shall amend the record to indicate that the
3 report was unfounded and notify the inquiring party that the person
4 about whom the inquiry is made is not the subject of an indicated
5 report. [~~If the subject of the report had a fair hearing pursuant to~~
6 ~~subdivision eight of section four hundred twenty two of this title prior~~
7 ~~to January first, nineteen hundred eighty six and the fair hearing had~~
8 ~~been finally determined by the commissioner and the record of the report~~
9 ~~had not been amended to unfound the report or delete the person as a~~
10 ~~subject of the report, then the department shall determine that there is~~
11 ~~some credible evidence to find that the subject had committed the act or~~
12 ~~acts of child abuse or maltreatment giving rise to the indicated~~
13 ~~report.~~]

14 (v) If it is determined after a review by the [~~department~~] office of
15 children and family services of all records, reports and information in
16 its possession concerning the subject of the report that there is [~~some~~
17 ~~credible~~] a fair preponderance of evidence to prove that the subject
18 committed the act or acts of abuse or maltreatment giving rise to the
19 indicated report [~~and that such act or acts are relevant and reasonably~~
20 ~~related to issues concerning the employment of the subject by a provider~~
21 ~~agency or to the subject being allowed to have regular and substantial~~
22 ~~contact with children cared for by a provider agency or the approval or~~
23 ~~disapproval of an application which has been submitted by the subject to~~
24 ~~a licensing agency, the department shall inform the inquiring party that~~
25 ~~the person about whom the inquiry is made is the subject of an indicated~~
26 ~~report of child abuse and maltreatment; the department shall also notify~~
27 ~~the subject of the inquiry of his or her fair hearing rights granted~~
28 ~~pursuant to paragraph (c) of subdivision two of this section], the
29 office of children and family services shall notify the subject of the
30 determination of such report and of the subject's right to request a
31 fair hearing within ninety days. If the subject shall request a hearing
32 within ninety days, the office of children and family services shall
33 schedule a fair hearing and shall provide notice of the scheduled hear-
34 ing date to the subject, the statewide central register and, as appro-
35 priate, to the child protective service or state agency which investi-
36 gated such report.~~

37 (vi) The burden of proof in such a hearing shall be on the child
38 protective service or state agency which investigated the report. In
39 such a hearing, the fact that there is a family court finding of abuse
40 or neglect against the subject in regard to an allegation contained in
41 such report shall create an irrebuttable presumption that said allega-
42 tion is substantiated by a fair preponderance of evidence. Where the
43 petitioning child protective agency withdraws with prejudice an allega-
44 tion in a petition, or a family court finds on the merits that an alle-
45 gation does not constitute abuse or neglect or was not supported by a
46 fair preponderance of the evidence, or a petition has been dismissed at
47 the conclusion of either an adjournment in contemplation of a dismissal
48 or suspended judgment, if such allegation was at the same time as the
49 allegation in an indicated report the office of children and family
50 services shall amend such indicated report to be unfounded.

51 (vii) If it shall be determined at the fair hearing that there is no
52 fair preponderance of evidence in the record to find that the subject
53 committed an act or acts of child abuse or maltreatment, the office of
54 children and family services shall amend the record to reflect that such
55 a finding was made at the administrative hearing, order any child
56 protective service or state agency which investigated the report to

1 similarly amend its records of such report, notify the subject of the
2 determination, and notify the inquiring party that the person about whom
3 such inquiry was made is not the subject of an indicated report.

4 (viii) Upon a determination at the fair hearing that the subject has
5 been shown, by a fair preponderance of the evidence, to have committed
6 the act or acts of child abuse or maltreatment giving rise to the indi-
7 cated report, the hearing officer shall determine, based on guidelines
8 developed by the office of children and family services pursuant to
9 subdivision five of this section, whether such act or acts are relevant
10 and reasonably related to the subject being allowed to have regular and
11 substantial contact with children who are cared for by a provider agen-
12 cy, or relevant and reasonably related to the approval or disapproval of
13 an application submitted by the subject to a licensing agency.

14 (ix) Upon a determination made at a fair hearing that the act or acts
15 of abuse or maltreatment are relevant and reasonably related to the
16 employment of the subject by a provider agency, the subject being
17 allowed to have regular and substantial contact with children who are
18 cared for by a provider agency or the approval or denial of an applica-
19 tion submitted by the subject to a licensing agency, the office of chil-
20 dren and family services shall notify the subject and shall inform the
21 inquiring party that the person about whom such inquiry was made is the
22 subject of an indicated report of child abuse or maltreatment.

23 (x) The failure to determine at the fair hearing that the act or acts
24 of abuse and maltreatment are relevant and reasonably related to the
25 employment of the subject by a provider agency, the subject being
26 allowed to have regular and substantial contact with children who are
27 cared for by a provider agency or the approval or denial of an applica-
28 tion submitted by the subject to a licensing agency shall preclude the
29 office of children and family services from informing a provider or
30 licensing agency that such person is the subject of an indicated report
31 of child abuse or maltreatment.

32 (xi) Should the office of children and family services grant the
33 request of the subject of the report pursuant to this subdivision,
34 either through an administrative review or fair hearing, to amend an
35 indicated report to an unfounded report, such report shall be legally
36 sealed and shall be released and expunged in accordance with the stand-
37 ards set forth in subdivision five of section four hundred twenty-two of
38 this title.

39 § 12. Paragraph (iii) of subdivision (f) of section 1051 of the family
40 court act, as added by chapter 430 of the laws of 1994, is amended to
41 read as follows:

42 (iii) that the report made to the state central register of child
43 abuse and maltreatment upon which the petition is based will remain on
44 file until ten years after the eighteenth birthday of the youngest child
45 named in such report, that the respondent will be unable to obtain
46 expungement of such report~~[, and]~~ that if such report is for maltreat-
47 ment, it shall be legally conditionally sealed after eight years unless
48 a determination is made to seal it earlier so long as such individual is
49 not named as the subject of the report in any subsequent indicated
50 reports of abuse or maltreatment. The court shall also inform the
51 respondent that the existence of such [~~report~~] reports which are not
52 conditionally sealed may be made known to employers seeking to screen
53 employee applicants [~~in the field of child care, and]~~ for positions
54 involving potential contact with children, and that conditionally sealed
55 reports may be available to child protective services and law enforce-
56 ment conducting subsequent investigations, to [~~child-care~~] authorized

1 agencies if the respondent applies to become a foster parent [~~or~~], adop-
2 tive parent or seeks custody of or visitation with a child, or for an
3 additional four years after the record has been conditionally sealed, to
4 head start programs which are funded pursuant to title V of the federal
5 economic opportunity act of 1964, early intervention services estab-
6 lished pursuant to section twenty-five hundred forty of the public
7 health law, preschool services established pursuant to section forty-
8 four hundred ten of the education law and child care providers as
9 defined in section three hundred ninety of the social services law, for
10 the purposes of determining employment.

11 Any finding upon such an admission or consent made without such notice
12 being given by the court shall be vacated upon motion of any party. In
13 no event shall a person other than the respondent, either in person or
14 in writing, make an admission or consent to a finding of neglect or
15 abuse.

16 § 13. This act shall take effect immediately; provided, however that
17 section one of this act shall take effect on the ninetieth day after it
18 shall have become a law; provided, however, that sections six and eight
19 of this act shall take effect on the one hundred eightieth day after it
20 shall have become a law; and section seven of this act shall take effect
21 on the thirtieth day after it shall have become a law.