

STATE OF NEW YORK

4228

2019-2020 Regular Sessions

IN ASSEMBLY

February 1, 2019

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

AN ACT to amend the social services law, in relation to establishing a demonstration program implementing the Westchester county dual track child protective services system; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. Legislative intent. The legislature hereby finds and
2 declares that the challenge facing this state's child protective
3 services program demands that a bold new approach be tested to determine
4 how this state can fulfill its obligations to protect and defend chil-
5 dren, provide for their health, safety and welfare, and also make neces-
6 sary services and assistance available to families in a less confronta-
7 tional and intrusive manner, when circumstances so warrant. By
8 establishing a system in Westchester county, where complaints of alleged
9 child abuse and maltreatment are assigned to either an investigatory or
10 a family assessment and services track, it is the intent of the legisla-
11 ture to study and review alternative methods of fulfilling those obli-
12 gations and, at the same time, initiate the delivery of comprehensive
13 family rehabilitative services to children and families.

14 § 2. Short title. This act shall be known and may be cited as the
15 "Westchester county dual track demonstration program".

16 § 3. The social services law is amended by adding a new section 423-b
17 to read as follows:

18 § 423-b. Westchester county demonstration program to assess the feasi-
19 bility of enhancing alternative child protective services through the
20 use of a dual track approach. 1. (a) The office of children and family
21 services is hereby authorized and directed to establish a demonstration
22 program in Westchester county to address the feasibility of enhancing

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

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1 alternative child protective services through the use of a dual track
2 approach.

3 (b) Participation in the demonstration program by the Westchester
4 county social services district (hereinafter in this section referred to
5 as the "district") shall enable the district to assign complaints of
6 alleged child abuse and maltreatment received by the statewide central
7 register of child abuse and maltreatment, to one of two tracks:

8 (1) the investigative track, which operates in compliance with the
9 other sections of this title; or

10 (2) the family assessment and services track, designed to increase
11 family participation in voluntary services to improve family functioning
12 and prevent repeat reports. Cases assigned to this track shall not be
13 subject to the requirements otherwise applicable to cases reported to
14 the statewide register of child abuse and maltreatment pursuant to this
15 title, except as set forth in this section.

16 (c) The demonstration program authorized by this section shall be
17 conducted for the period commencing January first, two thousand twenty
18 and ending December thirty-first, two thousand twenty-three. The advi-
19 sory council established by this section shall exist until June thirti-
20 eth, two thousand twenty-four.

21 (d) The district shall establish a local advisory council to assist it
22 in implementing the dual track demonstration program and providing broad
23 based input.

24 (1) The advisory council shall consist of nine members: six members to
25 be appointed by the county of Westchester; one member to be appointed by
26 the commissioner of the office of children and family services; one
27 member to be appointed by the temporary president of the senate; and one
28 member to be appointed by the speaker of the assembly. Members shall be
29 appointed based upon their professional expertise, knowledge and experi-
30 ence in the area of child protective services. The advisory council
31 shall be broadly representative of programs and services offered in
32 connection with the provision of child protective services, advocacy
33 groups and community members.

34 (2) Members of the council shall be appointed prior to the commence-
35 ment of the demonstration program. The council shall advise and assist
36 the county of Westchester in developing plans, policies and procedures
37 relating to the conduct of the dual track child protective services
38 demonstration program authorized in this section. The council shall
39 undertake its duties as soon as practicable after appointment of the
40 members so as to ensure its early intervention in assessing and advising
41 with respect to the demonstration program. The council may consider any
42 matter relating to improving the demonstration program and shall advise
43 the county of Westchester and the office of children and family services
44 on such matters.

45 2. (a) The commissioner of the office of children and family services
46 shall develop an application format to be submitted by the county of
47 Westchester. The commissioner of the office of children and family
48 services shall permit the district broad discretion in planning and
49 implementing its dual track demonstration program.

50 (b) In addition to such other information as the commissioner of the
51 office of children and family services shall require to be included
52 within the application format, the application format shall contain the
53 following information:

54 (1) in conjunction with the office of children and family services
55 requirements and the provisions of this section, the factors to be
56 considered by the social services district in determining which cases

1 will be addressed through the family assessment and services track, the
2 size of the population and the geographic area to be the subject of the
3 demonstration program;

4 (2) the types of services and interventions to be provided to families
5 included in the family assessment and services track and a description
6 of how the services will be offered;

7 (3) a description of the process to be followed for planning and moni-
8 toring the services provided under the family assessment and services
9 track;

10 (4) a description of how the principles of family involvement and
11 support consistent with maintaining the safety of the child will be
12 implemented in the family assessment and services track;

13 (5) a description of how the dual track response system will enhance
14 the ability of the district to protect children, maintain the safety of
15 children and preserve families;

16 (6) a description of how the district will reduce the involvement of
17 government agencies with families and maintain the safety of children
18 through the use of community resources;

19 (7) a description of the staff resources proposed to be used in the
20 family assessment and services track, including the proposed staff work-
21 loads and qualifications;

22 (8) a description of the training that will be provided to district
23 and any non-district staff to be used in the demonstration program
24 including, but not limited to, a description of the training involving
25 maintaining the safety and well-being of children;

26 (9) a description of the community resources that are proposed to be
27 used in the family assessment and services track; and

28 (10) a description of any additional funding that may be utilized to
29 enhance the demonstration program.

30 3. The criteria for determining which cases may be placed in the
31 assessment track under the demonstration program shall be determined by
32 the local department of social services, in conjunction with the office
33 of children and family services. Provided, however, that reports includ-
34 ing any of the following allegations shall never be included in the
35 assessment track of a demonstration program:

36 (a) reports alleging that the subject committed or allowed to be
37 committed an offense defined in article one hundred thirty of the penal
38 law;

39 (b) reports alleging that the subject allowed, permitted or encouraged
40 a child to engage in any act described in sections 230.25, 230.30 and
41 230.32 of the penal law;

42 (c) reports alleging that the subject committed any of the acts
43 described in section 255.25 of the penal law;

44 (d) reports alleging that the subject allowed a child to engage in
45 acts or conduct described in article two hundred sixty-three of the
46 penal law;

47 (e) reports alleging that the subject committed assault in the first,
48 second or third degree against a child;

49 (f) reports alleging that the subject committed or attempted to commit
50 murder or manslaughter in the first or second degree;

51 (g) reports alleging that the subject abandoned a child pursuant to
52 subdivision five of section three hundred eighty-four-b of this article;

53 (h) reports alleging that the subject has subjected a child to severe
54 or repeated abuse as those terms are defined in paragraphs (a) and (b)
55 of subdivision eight of section three hundred eighty-four-b of this
56 article; and

1 (i) reports alleging that the subject has neglected a child so as to
2 substantially endanger the child's physical or mental health, including
3 a growth delay, which may be referred to as failure to thrive, that has
4 been diagnosed by a physician and is due to parental neglect.

5 4. The following procedures shall be followed for all cases included
6 in the family assessment and services track:

7 (a) Reports taken at the statewide central register of child abuse and
8 maltreatment shall be transmitted to the district.

9 (b) The district shall, consistent with the criteria developed pursu-
10 ant to subdivision three of this section, identify those reports which
11 are initially eligible to be included in the family assessment and
12 services track.

13 (c) For those reports which are included in the family assessment and
14 services track, the social services district shall not be subject to the
15 requirements of this title concerning initial investigation of reports
16 of suspected abuse and maltreatment of children, including notification
17 requirements. For reports assigned to the family assessment and
18 services track, the social services district shall be responsible for
19 ensuring that the children are safe in their homes. Such safety check
20 shall be commenced within twenty-four hours of receipt of the report and
21 completed within seven days. Based on the initial safety check, the
22 district shall determine if the report shall continue under the demon-
23 stration program. This safety check must be documented in the manner
24 specified by the office of children and family services. Should the
25 children be found to be safe in the home, the social services district
26 shall then identify service needs and family issues, if any, that should
27 be addressed.

28 (1) Where the social services district determines, based on the
29 initial safety check, that the report is appropriate to be included in
30 the family assessment and services track, the social services district
31 shall document the reason for that determination in the initial safety
32 check and inform the statewide central register of child abuse and
33 maltreatment that the report is part of the family assessment and
34 services track and request that the records of the statewide central
35 register of child abuse and maltreatment of such report be classified as
36 an assessment track case and be legally sealed in accordance with the
37 provisions of subdivision five of section four hundred twenty-two of
38 this title. Such sealed reports shall be maintained at the statewide
39 central register of child abuse and maltreatment for ten years after the
40 report was made.

41 (2) Where the social services district determines, based on the
42 initial safety check, to investigate the report as a report of suspected
43 child abuse or maltreatment, the social services district shall document
44 the reason for that decision in the initial safety check. Where the
45 social services district makes the determination to investigate the
46 report, all of the requirements of this title concerning investigations
47 of reports of suspected child abuse and maltreatment shall apply,
48 including the notification requirements. The report shall no longer be
49 eligible to be included in the family assessment and services track.

50 (d) Where the social services district has determined that a case is
51 appropriate to be included in the family assessment and services track,
52 the district's activities shall include, at a minimum, the following:

53 (1) the provision of written notice to each parent, guardian or other
54 person legally responsible for the child or children participating in
55 the family assessment and services track explaining that it is the
56 intent of the social services district to meet the needs of the family

1 without engaging in a traditional child protective services investi-
2 gation. The notice shall also explain that the workers assisting the
3 family in the family assessment and services track are mandated repor-
4 ters who are required to report suspected child abuse or maltreatment
5 and that those workers may be required to report new information that
6 they receive in their work with the family if that information gives
7 them reasonable cause to suspect that a child in the family is an abused
8 or maltreated child;

9 (2) an examination, with the family, of the family's strengths,
10 concerns and needs;

11 (3) where appropriate, an offer of assistance which shall include case
12 management that is supportive of family stabilization;

13 (4) the planning and provision of services responsive to the service
14 needs of the family; and

15 (5) an on-going joint evaluation and assessment of the family's
16 progress.

17 (e) After the social services district has received a report of
18 suspected maltreatment and determined that the report is initially
19 eligible to be included in the family assessment and services track,
20 pursuant to paragraph (b) of this subdivision, the activities described
21 in paragraphs (c) and (d) of this subdivision may be performed by the
22 social services district directly or through any other method currently
23 utilized by social services districts to obtain preventive services for
24 children and families. If a community-based agency determines, pursuant
25 to subparagraph two of paragraph (c) of this subdivision, that a report
26 must be investigated as a case of suspected child abuse or maltreatment,
27 the community-based agency shall so inform the social services district,
28 which shall then become responsible for conducting the child protective
29 services investigation in accordance with the requirements of this
30 title.

31 (f) A report selected for inclusion in the family assessment and
32 services track shall cease to be eligible for inclusion in such track if
33 at any time in the course of providing services the district or communi-
34 ty-based agency finds that:

35 (1) there is evidence of any of the acts listed in paragraphs (a)
36 through (i) of subdivision three of this section; or

37 (2) the parent or parents refuse to cooperate with the district or
38 community-based agency in developing or implementing a plan to address
39 the family problems or issues and a worker assisting the family in the
40 family assessment and services track has reasonable cause to suspect
41 that a child in the family is an abused or maltreated child.

42 (g) Where the district finds or is advised by a community-based agen-
43 cy, subsequent to the completion of the initial safety check, that the
44 report is not appropriate to continue in the family assessment and
45 services track pursuant to paragraph (f) of this subdivision, the
46 district shall contact the statewide central register of child abuse and
47 maltreatment and make a new report of suspected child abuse or maltreat-
48 ment.

49 (h) In any case where a report has been assigned to the investigatory
50 track, but after such initial assignment the district or a service
51 provider determines that because of any information it receives during
52 the investigation, or during the provision of care and services, that
53 such report should be removed and placed in the family assessment and
54 services track, the district shall so notify the statewide central
55 register of child abuse and maltreatment that it is now considering such
56 report as part of the family assessment and services track, and is

1 making a report to such register as if such report were initially to be
2 included in the family assessment and services track.

3 (i) Where a report has been included in the family assessment and
4 services track and a subsequent report involving the family is made to
5 the statewide central register of child abuse and maltreatment, and such
6 subsequent report is not eligible for inclusion in the family assessment
7 and services track, the local child protective services, in conducting
8 its investigation, shall work cooperatively with any district or commu-
9 nity-based agency staff that are already working with the family to
10 minimize to the extent practicable the chance that existing services
11 being provided to the family will be disrupted and to maximize to the
12 extent practicable the coordination of the existing services being
13 provided to the family with any new services to be provided to the fami-
14 ly.

15 (j) The district shall include in the training of employees charged
16 with making any of the referrals to, and investigations or assessments
17 in either of the two tracks techniques to identify instances where,
18 although reports were initially assigned to the family assessment and
19 services track subsequent information derived from such assessment rais-
20 es the possibility that unlawful or other inappropriate activities or
21 behavior may be present and would warrant referral to the investigatory
22 track and instances where, although reports were initially assigned to
23 the investigatory track, subsequent information derived from such inves-
24 tigation warrants a less intrusive and more service oriented approach.

25 (k) Any record or report or other documentation made in connection
26 with the conduct or operation of the family assessment and services
27 track by the district shall be deemed confidential and shall not be
28 disclosed, except to the office of children and family services, the
29 district, any provider of services acting by or on behalf of the
30 district and any social services district investigating a subsequent
31 report of abuse or maltreatment involving the same subject or the same
32 child or children named in the report initiating the family assessment
33 and services track case. Nothing contained in this paragraph shall
34 prohibit the office of children and family services or the local
35 district from publishing a statistical analysis or other report or
36 documentation, with identifying information removed, summarizing the
37 effectiveness of the dual track system created in this section.

38 (l) No person or provider of services shall suffer any liability where
39 such person or provider reasonably concludes, based on the results of
40 investigation or information gathered in providing services, that such a
41 referral from one track to another may be required by law.

42 5. Any expenditure made by the district in complying with and carrying
43 out the provisions of this section shall be subject to reimbursement by
44 the state in the same manner as expenditures for child protective
45 services investigations and may be supported by such other funding
46 sources as are appropriate including, but not limited to, preventive
47 services provided pursuant to section four hundred nine-a of this arti-
48 cle and independent living services. Nothing shall preclude the district
49 from seeking private funds for the support of the demonstration program.

50 6. (a) In conducting the demonstration program, the provisions of
51 sections four hundred nine-e and four hundred nine-f of this article
52 shall not be applicable to the district.

53 (b) All records created as part of the family assessment and services
54 track shall include, but not be limited to, documentation of the initial
55 safety check, the examination of the family's strengths, concerns and
56 needs, all services offered and accepted by the family, the plan for

1 supportive services for the family, and all evaluations and assessments
2 of the family's progress.

3 (c) Records created under the family assessment and services track
4 shall be maintained for ten years after the date of the initial report
5 to the statewide register of child abuse and maltreatment.

6 § 4. Severability clause. If any clause, sentence, paragraph, subdivi-
7 sion, section or part of this act shall be adjudged by any court of
8 competent jurisdiction to be invalid, such judgment shall not affect,
9 impair or invalidate the remainder thereof, but shall be confined in its
10 operation to the clause, sentence, paragraph, subdivision, section or
11 part thereof directly involved in the controversy in which such judgment
12 shall have been rendered. It is hereby declared to be the intent of the
13 legislature that this act would have been enacted even if such invalid
14 provisions had not been included herein.

15 § 5. This act shall take effect immediately and shall expire and be
16 deemed repealed July 2, 2024.