STATE OF NEW YORK

7938--B

2019-2020 Regular Sessions

IN ASSEMBLY

May 28, 2019

Introduced by M. of A. FERNANDEZ, GUNTHER -- (at request of the Justice Center for the Protection of People with Special Needs) -- read once and referred to the Committee on Mental Health -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law, in relation to the requirement to check the justice center's register of substantiated category one cases of abuse or neglect

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

Section 1. Subdivisions 2 and 3 of section 495 of the social services law, as added by section 1 of part B of chapter 501 of the laws of 2012, are amended to read as follows:

2. **(a)** All facility and provider agencies, other providers of services to vulnerable persons in programs licensed, certified or funded by any state oversight agency**, overnight, summer day and traveling summer day camps for children subject to the provisions of article thirteen-B of the public health law, any provider defined in paragraph (a) of subdivision six of section twenty-eight hundred ninety-nine of the public health law** and**, except for a state or local governmental official who receives an application for a permit to operate a camp that is subject to the provisions of article thirteen-B of the public health law,** other provider and licensing agencies as defined in subdivision three or four of section four hundred twenty-four-a of this chapter shall check the register of substantiated category one cases of abuse or neglect before determining whether to hire or otherwise allow any person as an employee, administrator, consultant, intern, volunteer or contractor who will have the potential for regular and substantial contact with a service recipient or before approving an applicant for a license, certificate,

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

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permit or other approval to provide care to a service recipient. (For state entities bound by collective bargaining, such action established by collective bargaining shall govern.)

(b) An inquiry regarding any current employee, administrator, consultant, intern, volunteer or contractor who will have the potential for regular and substantial contact with a service recipient may be made only once in any six-month period.

3. If a person is listed on the register of substantiated category one cases of abuse or neglect, a facility or provider agency and all other providers of services to vulnerable persons in programs licensed or certified by any state oversight agency shall not hire such a person to have regular and substantial contact with a service recipient in any such facility or program. **Other providers of services defined in subdivision two of this section, except providers or licensing agencies as defined in subdivision three or four of section four hundred twenty-four-a of this chapter, shall not hire such a person for any position in which the person would have the potential for regular and substantial contact with persons to whom they would be providing care, if the prospective employee is listed on the register of substantiated category one cases of abuse or neglect.** Other providers or licensing agencies as defined in subdivision three or four of section four hundred twenty-four-a of this chapter shall determine whether to hire or allow such a person to have regular or substantial contact with a service recipient in accordance with the provisions of subdivision five of section four hundred twenty-four-a of this chapter.

§ 2. Subdivision 7 of section 424-a of the social services law, as added by section 8 of part D of chapter 501 of the laws of 2012, is amended to read as follows:

7. Any facility[~~,~~] **or** provider agency, [~~**or program**~~] **as defined in subdivision four of section four hundred eighty-eight of this chapter,** that is required to conduct an inquiry pursuant to section four hundred ninety-five of this chapter **before determining whether to hire or otherwise allow any person as an employee, administrator, consultant, intern, volunteer or contractor who will have the potential for regular and substantial contact with a service recipient** shall first conduct the inquiry required under such section. If the result of the inquiry under section four hundred ninety-five of this chapter is that the person about whom the inquiry is made is on the register of substantiated category one cases of abuse or neglect and [~~**the**~~] **such** facility or provider agency is required to deny the application in accordance with article eleven of this chapter, the facility or provider agency shall not be required to make an inquiry of the office under this section.

§ 3. This act shall take effect immediately; provided however that section one of this act shall take effect one year after it shall have become a law and shall apply to any person who is a prospective employee, administrator, consultant, intern, volunteer, or contractor considered for any position in which they would have regular and substantial contact with persons to whom they would be providing care, on or after such date.