STATE OF NEW YORK

4229--A

2019-2020 Regular Sessions

IN SENATE

March 5, 2019

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

AN ACT to amend the social services law, in relation to access to reports of child abuse and maltreatment by criminal justice agencies; and to repeal certain provisions of such law relating thereto

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

Section 1. Subparagraph (l) of paragraph (A) of subdivision 4 of section 422 of the social services law is REPEALED.

§ 2. Subdivision 4 of section 422 of the social services law is amended by adding a new paragraph (A-1) to read as follows:

(A-1) (a) The office shall establish a centralized database for criminal justice agencies to access in the performance of their duties which shall include all reports made pursuant to this title as well as any other information obtained, reports written or photographs taken concerning such reports in the possession of the office or local departments. The office shall maintain the format and content of such database and shall provide a method for which such reports and other information may be delivered to the office from local departments.

(b) For the purposes of this paragraph, "criminal justice agencies" shall mean a district attorney, an assistant district attorney or an investigator employed in the office of a district attorney; a sworn officer of the division of state police, of the regional state park police, of a county department of parks, of a city police department, or of a county, town or village police department or county sheriff's office or department; or an Indian police officer.

§ 3. The second undesignated paragraph and the closing paragraph of paragraph (A) and paragraphs (B), (C) and (D) of subdivision 4 of section 422 of the social services law, the second undesignated para-

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

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graph of paragraph (A) as amended by section 6 of part D of chapter 501 of the laws of 2012, the closing paragraph of paragraph (A) as added by chapter 12 of the laws of 1996, and paragraphs (B), (C) and (D) as amended by chapter 677 of the laws of 1985, are amended to read as follows:

After a child, other than a child in residential care, who is reported to the central register of abuse or maltreatment reaches the age of eighteen years, access to a child's record under subparagraphs (a) and (b) of this paragraph shall be permitted only if a sibling or off-spring of such child is before such person and is a suspected victim of child abuse or maltreatment. In addition, a person or official required to make a report of suspected child abuse or maltreatment pursuant to section four hundred thirteen of this [~~chapter~~] **title** shall receive, upon request, the findings of an investigation made pursuant to this title. However, no information may be released unless the person or official's identity is confirmed by the office. If the request for such information is made prior to the completion of an investigation of a report, the released information shall be limited to whether the report is "indicated", "unfounded" or "under investigation", whichever the case may be. If the request for such information is made after the completion of an investigation of a report, the released information shall be limited to whether the report is "indicated" or "unfounded", whichever the case may be. A person given access to the names or other information identifying the subjects of the report, or other persons named in the report, except the subject of the report or other persons named in the report, shall not divulge or make public such identifying information unless he or she is a district attorney or other law enforcement official and the purpose is to initiate court action or the disclosure is necessary in connection with the investigation or prosecution of the subject of the report for a crime alleged to have been committed by the subject against another person named in the report. Nothing in this section shall be construed to permit any release, disclosure or identification of the names or identifying descriptions of persons who have reported suspected child abuse or maltreatment to the statewide central register or the agency, institution, organization, program or other entity where such persons are employed or the agency, institution, organization or program with which they are associated without such persons' written permission except to persons, officials, and agencies enumerated in subparagraphs (e), (f), (h), (j)[~~, (l), (m)~~] and (v) of this paragraph.

To the extent that persons or agencies are given access **and** to information pursuant to subparagraphs (a), (b), (c), (j), (k)[~~, (l),~~] **and** (m)[~~, (o) and (q)~~] of this paragraph, such persons or agencies may give and receive such information to each other in order to facilitate an investigation conducted by such persons or agencies.

(B) Notwithstanding any inconsistent provision of law to the contrary, a city or county social services commissioner may withhold, in whole or in part, the release of any information which he or she is authorized to make available to persons or agencies identified in subparagraphs (a), (k), [~~(l),~~] (m), (n)[~~,~~] **and** (o)[~~, (p) and (q)~~] of paragraph (A) of this subdivision if such commissioner determines that such information is not related to the purposes for which such information is requested or when such disclosure will be detrimental to the child named in the report.

(C) A city or county social services commissioner who denies access by persons or agencies identified in subparagraphs (a), (k), [~~(l),~~] (m), (n)[~~,~~] **and** (o)[~~, (p) and (q)~~] of paragraph (A) of this subdivision to

records, reports or other information or parts thereof maintained by such commissioner in accordance with this title shall, within ten days from the date of receipt of the request fully explain in writing to the person requesting the records, reports or other information the reasons for the denial.

(D) A person or agency identified in subparagraphs (a), (k), [~~(l),~~] (m), (n)[~~,~~] **and** (o)[~~, (p) and (q)~~] of paragraph (A) of this subdivision who is denied access to records, reports or other information or parts thereof maintained by a local department pursuant to this title may bring a proceeding for review of such denial pursuant to article seventy-eight of the civil practice law and rules.

§ 4. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.