

# STATE OF NEW YORK

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6427--A

2019-2020 Regular Sessions

## IN SENATE

June 10, 2019

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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.

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

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

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

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