

STATE OF NEW YORK

7927--A

2021-2022 Regular Sessions

IN ASSEMBLY

June 1, 2021

Introduced by M. of A. GUNTHER -- read once and referred to the Committee on Mental Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, the county law and the criminal procedure law, in relation to the justice center for the protection of people with special needs and providing for the repeal of certain provisions upon expiration thereof

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

1 Section 1. Section 552 of the executive law, as added by section 3 of
2 part A of chapter 501 of the laws of 2012, is amended to read as
3 follows:
4 § 552. Organization of the justice center. 1. The justice center shall
5 house the vulnerable persons' central register created in section four
6 hundred ninety-two of the social services law and shall perform all of
7 the necessary functions related to the receipt and acceptance of reports
8 of allegations of reportable incidents involving vulnerable persons, the
9 investigation of such accepted reports and the review of substantiated
10 findings of abuse or neglect, as defined in subdivision eleven of
11 section four hundred eighty-eight of the social services law, including
12 conducting any disciplinary proceedings for state employees resulting
13 from such substantiated findings (for state entities bound by collective
14 bargaining, the disciplinary process established through collective
15 bargaining shall govern). The justice center shall contain two separate
16 units, headed by two distinct deputies, one responsible for the [~~prose-~~
17 ~~cution~~] investigation of criminal matters and one for the investigation
18 and resolution of non-criminal matters. If, during an investigation,
19 what appeared to be a non-criminal matter warrants consideration for
20 criminal charges, the matter shall be promptly referred to the criminal
21 unit as well as the law enforcement agencies with jurisdiction over such
22 matter. Information collected during such investigations may only be

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

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1 shared between such units in accordance with state and federal constitu-
2 tional protections and laws and the secrecy provisions contained in
3 article one hundred ninety of the criminal procedure law, unless so
4 ordered by a court in a pending proceeding.

5 2. (a) The justice center also shall employ a special prosecutor and
6 inspector general for the protection of people with special needs
7 ("special prosecutor"), who shall be appointed by the governor. Other
8 state agencies shall be required to make facilities available for office
9 space throughout the state and to assist when requested with respect to
10 the duties of the office. Pursuant to the provisions of this section,
11 such special prosecutor shall have the duty and power: (i) to investi-
12 gate and, upon the consent of a district attorney, prosecute offenses
13 involving abuse or neglect, as defined in subdivision eleven of section
14 four hundred eighty-eight of the social services law, committed against
15 vulnerable persons by custodians as defined in subdivision two of
16 section four hundred eighty-eight of the social services law; and (ii)
17 to cooperate with and assist district attorneys and other local law
18 enforcement officials in their efforts against such abuse or neglect of
19 vulnerable persons. Provided that nothing herein shall diminish or
20 interfere with the ability of district attorneys at any time to receive
21 complaints, investigate ~~[and]~~ or maintain the ultimate authority to
22 prosecute any offense involving the suspected abuse or neglect of a
23 vulnerable person, or for any persons, whether a mandated reporter or
24 not, to report a complaint to a district attorney or other appropriate
25 law enforcement official. The special prosecutor may request and shall
26 receive, from any agency, department, division, board, bureau or commis-
27 sion of the state, or any political subdivision thereof, cooperation and
28 assistance in the performance of his or her duties, and may provide
29 technical and other assistance to any district attorney or law enforce-
30 ment official requesting assistance in the investigation or prosecution
31 of offenses involving the abuse or neglect of vulnerable persons.

32 (b) The special prosecutor, or one of his or her assistants, duly
33 authorized pursuant to paragraph (a) of this subdivision, is empowered
34 to apply for search warrants pursuant to article six hundred ninety of
35 the criminal procedure law, and, except in exigent circumstances, shall
36 give prior notice of the application to the district attorney of the
37 county in which such a warrant is to be executed, and in such exigent
38 circumstances shall give such notice as soon thereafter as is practica-
39 ble; provided, however that the failure to give notice of a search
40 warrant application to a district attorney shall not be a ground to
41 suppress the evidence seized in executing the warrant. ~~[He or she may~~
42 ~~designate an assistant to exercise any of such powers.]~~

43 (c) The special prosecutor or one of his or her assistants duly
44 authorized pursuant to paragraph (a) of this subdivision, may~~[, after~~
45 ~~consultation with the district attorney as to the time and place of such~~
46 ~~attendance or appearance,]~~ attend in person any term of ~~[the county]~~
47 court ~~[or supreme court]~~ having appropriate jurisdiction, including an
48 extraordinary special or trial term of the supreme court when one is
49 appointed pursuant to section one hundred forty-nine of the judiciary
50 law, or appear before the grand jury thereof, for the purpose of manag-
51 ing and conducting in such court or before such jury a criminal action
52 or proceeding concerned with an offense where any conduct constituting
53 or requisite to the completion of or in any other manner related to such
54 offense involved the abuse or neglect of a vulnerable person, as defined
55 in subdivision eleven of section four hundred eighty-eight of the social
56 services law. ~~[In such case, such special prosecutor or his or her~~

~~1 assistant so attending may exercise all the powers and perform all the
2 duties in respect of such actions or proceedings which the district
3 attorney would otherwise be authorized or required to exercise or
4 perform.]~~

5 § 2. Subdivision 1 of section 700 of the county law, as amended by
6 chapter 560 of the laws of 1991, is amended to read as follows:

7 1. Except as provided in section seven hundred one of this chapter, it
8 shall be the duty of every district attorney to conduct, or cause to be
9 conducted, all prosecutions for crimes and offenses cognizable by the
10 courts of the county for which he or she shall have been elected or
11 appointed; except when the place of trial of an indictment is changed
12 from one county to another, it shall be the duty of the district attor-
13 ney of the county where the indictment is found to conduct the trial of
14 the indictment so removed, and it shall be the duty of the district
15 attorney of the county to which such trial is changed to assist in such
16 trial upon the request of the district attorney of the county where the
17 indictment was found. He or she shall perform such additional and
18 related duties as may be prescribed by law and directed by the board of
19 supervisors.

20 § 3. Section 702 of the county law is amended by adding a new subdivi-
21 sion 8 to read as follows:

22 8. Notwithstanding any provision of law with respect to the require-
23 ments of residence or number of appointments, a district attorney may
24 appoint the special prosecutor and/or one or more of his or her assist-
25 ants employed by the justice center for the protection of people with
26 special needs as special assistant district attorneys with respect to
27 any investigation or prosecution involving abuse or neglect, as defined
28 in subdivision eleven of section four hundred eighty-eight of the social
29 services law, committed against a vulnerable person by a custodian as
30 defined in subdivision two of section four hundred eighty-eight of the
31 social services law. Nothing herein shall limit the duration of such
32 appointment, provided however, that such appointment may be rescinded at
33 any time by the district attorney.

34 § 4. Subdivision 32 of section 1.20 of the criminal procedure law, as
35 amended by section 2 of part PPP of chapter 59 of the laws of 2017, is
36 amended to read as follows:

37 32. "District attorney" means a district attorney, an assistant
38 district attorney or a special district attorney, and, where appropri-
39 ate, the attorney general, an assistant attorney general, a deputy
40 attorney general, a special deputy attorney general, or the special
41 prosecutor and inspector general for the protection of people with
42 special needs or his or her assistants when acting [~~pursuant to their~~
43 ~~duties~~] in [~~matters arising under~~] accordance with article twenty of the
44 executive law, or the inspector general of New York for transportation
45 or his or her deputies when acting pursuant to article four-B of the
46 executive law.

47 § 5. Subdivision 34 of section 1.20 of the criminal procedure law is
48 amended by adding a new paragraph (w) to read as follows:

49 (w) A sworn investigator employed by the justice center for the
50 protection of people with special needs.

51 § 6. Subdivision 34 of section 1.20 of the criminal procedure law is
52 amended by adding a new paragraph (w) to read as follows:

53 (w) A sworn investigator employed by the justice center for the
54 protection of people with special needs where such department or force
55 is certified in accordance with paragraph (d) of subdivision one of
56 section eight hundred forty-six-h of the executive law.

1 § 7. This act shall take effect immediately, provided, however that
2 section five of this act shall expire and be deemed repealed on the same
3 date as section 13 of part BBB of chapter 59 of the laws of 2021 takes
4 effect, when upon such date the provisions of section six of this act
5 shall take effect.