

# STATE OF NEW YORK

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1599

2021-2022 Regular Sessions

## IN ASSEMBLY

January 11, 2021

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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 two and ending December thirty-first, two thousand twenty-five. The  
19 advisory council established by this section shall exist until June  
20 thirtieth, two thousand twenty-six.

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, 2026.