STATE OF NEW YORK

10144

IN ASSEMBLY

May 10, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. L. Rosenthal) -- read once and referred to the Committee on Children and Families

AN ACT to amend the social services law, in relation to liability of certain agencies for negligence in the placement of a child or supervision of a child in foster care; and to amend the court of claims act, in relation to extending jurisdiction to certain claims for injuries to a child and exempting such claims for certain filing, service and contents of claim or notice requirements

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

Section 1. The social services law is amended by adding a new section 419-a to read as follows:

§ 419-a. Liability. Notwithstanding their performance of governmental functions, public agencies that are authorized agencies under this chapter, including without limitation, cities, counties, towns, villages and other municipalities, shall be liable for negligence by any person in the placement of a child in the authorized agency's legal custody, or in the supervision of a child in foster care, a foster home or foster parents, in the same manner and to the same extent as private entities.

§ 2. Section 9 of the court of claims act is amended by adding a new subdivision 14 to read as follows:

14. To hear and determine a claim for injuries to a child caused by any person due to negligence in the placement or supervision of the child in juvenile detention or other manner of custody by the state.

§ 3. Section 11 of the court of claims act is amended by adding a new subdivision d to read as follows:

d. The requirements of subdivision b of this section shall not apply to a claim alleging negligent acts or omissions by a person for physical, psychological, or other injury or condition suffered as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age, incest as defined in section 255.27, 255.26 or 255.25 of the penal law committed against a child less than eighteen

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

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years of age, or sex trafficking as defined in section 230.34 of the penal law, or sex trafficking of a child as defined in section 230.34-a of the penal law, or the use of a child in a sexual performance as defined in section 263.05 of the penal law or a predecessor statute that prohibited such conduct at the time of the act, which conduct was committed against a child less than eighteen years of age.

§ 4. Severability. The provisions of this act shall be severable, and if any clause, sentence, paragraph, subdivision or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 5. This act shall take effect immediately and its provisions shall be applicable to civil claims or causes of action filed before, on, or after, the effective date of this act.