STATE OF NEW YORK

901--A

2023-2024 Regular Sessions

IN SENATE

January 9, 2023

Introduced by Sens. BRISPORT, BAILEY, BROUK, CHU, CLEARE, COMRIE, COONEY, FERNANDEZ, GONZALEZ, GOUNARDES, HARCKHAM, HOYLMAN-SIGAL, JACKSON, LIU, MYRIE, RAMOS, RIVERA, SALAZAR, SEPULVEDA, SERRANO, SKOUFIS, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families -- recommitted to the Committee on Children and Families in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law, in relation to requiring child protective services to disclose certain information to parents and caretakers who are the subject of a child protective services investigation

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 424-c to read as follows:

§ 424-c. Information regarding parent or caretaker's rights. A parent or caretaker has the right to receive certain information regarding their rights at the initial point of contact during a child protective services investigation.

1. Upon receiving a report of alleged maltreatment or abuse of a child pursuant to section four hundred fifteen of this title child protective services shall, at the initial point of contact with a parent or caretaker, orally and in writing disseminate, in plain language of the parent or caretaker's preferred language, information regarding the parent or caretaker's rights during such investigation and shall document in the case record that such information has been provided to the parent or caretaker. Such information shall include, but need not be limited to, the following information:

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

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(a) The parent or caretaker is not required to permit the child protective services representative to enter the residence of the parent or caretaker;

(b) The parent or caretaker who is the subject of the investigation is entitled to be informed of the allegations being investigated;

(c) The parent or caretaker is not required to speak with the child protective services representative, and any statement made by the parent, caretaker or other family member may be used against the parent or caretaker in an administrative or court proceeding;

(d) The parent or caretaker is entitled to seek the advice of an attorney and to have an attorney present when the parent or caretaker is questioned by a child protective services representative, including at any meeting conducted with the parent or caretaker to determine whether the parent or caretaker's child should be removed from the home;

(e) The child protective services representative is not an attorney and cannot provide legal advice to the parent or caretaker;

(f) The parent or caretaker is not required to allow a child protective services representative to interview or examine a child;

(g) The parent or caretaker is not required to sign any document or accept any services presented by a child protective services representative, and is entitled to have an attorney review any such document before agreeing to sign it;

(h) Contact information for resources which may be available to parents and caretakers during a child protective services investigation, including legal services from a designated organization; and

(i) The parent or caretaker is entitled to exercise any and all rights. Regardless of whether the parent or caretaker exercises their rights, child protective services is required to determine how best to assess the safety of the child or children. The parent or caretaker may wish to speak with an attorney or advocate before they determine how to proceed.

2. The child protective services representative shall make reasonable efforts to ensure that the notice and all information required to be provided to a parent or caretaker pursuant to subdivision one of this section is written in a manner which will be understood by the parent or guardian, including, but not limited to, ensuring that the notice and information is written in the preferred language of the parent or caretaker. In the event the preferred language of the parent or caretaker is unknown prior to the initial contact, a child preventive services representative may provide the information orally utilizing a translation service.

3. The child protective services representative shall sign and date the notice described in subdivision one of this section as evidence of having provided the notice at the first point of contact. The child protective services representative shall provide the parent or caretaker with a copy of the signed notice at the time.

4. If at the initial point of contact with the parent or caretaker the child protective services representative has reasonable cause to believe that exigent circumstances exist that present an imminent danger to the child's life or health and there is no time to seek a court order under section one thousand twenty-four of the family court act, the child protective services representative shall take all lawful measures necessary to protect the child's life or health prior to disseminating information regarding the parent or caretaker's rights during the investigation pursuant to subdivision one of this section.

§ 2. 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.