

STATE OF NEW YORK

9042

IN SENATE

April 11, 2024

Introduced by Sen. MARTINEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the social services law, in relation to the unsealing of unfounded child abuse and maltreatment reports in certain circumstances

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

1 Section 1. Subparagraphs (iv) and (v) of paragraph (a) of subdivision
2 5 of section 422 of the social services law, subparagraph (iv) as
3 amended by chapter 555 of the laws of 2000 and subparagraph (v) as
4 amended by chapter 256 of the laws of 2014, are amended and a new
5 subparagraph (vi) is added to read as follows:

6 (iv) to the subject of the report; [~~and~~]

7 (v) to a district attorney, an assistant district attorney, an inves-
8 tigator employed in the office of a district attorney, or to a sworn
9 officer of the division of state police, of a city, county, town or
10 village police department or of a county sheriff's office (A) when such
11 official [~~verifies~~] affirms under oath that the report is necessary to
12 conduct an active investigation or prosecution of a violation of subdi-
13 vision four of section 240.50 of the penal law; or (B) upon a court
14 order finding that the information in such report is necessary for the
15 purpose of prosecuting a violation of the penal law or is otherwise
16 necessary for the furtherance of justice; and

17 (vi) to a grand jury, upon a court order finding it necessary for the
18 determination of charges being investigated by such grand jury or other-
19 wise necessary for the furtherance of justice.

20 § 2. Paragraph (b) of subdivision 5 of section 422 of the social
21 services law, as amended by section 7 of part D of chapter 501 of the
22 laws of 2012, is amended to read as follows:

23 (b) Persons given access to unfounded reports pursuant to subparagraph
24 (v) of paragraph (a) of this subdivision shall not redisclose such
25 reports except as necessary to conduct such appropriate investigation or
26 prosecution and shall request of the court that any copies of such
27 reports produced in any court proceeding be redacted to remove the names

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

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1 of the subjects and other persons named in the reports or that the court
2 issue an order protecting the names of the subjects and other persons
3 named in the reports from public disclosure. The local child protective
4 service or state agency shall not indicate the subsequent report solely
5 based upon the existence of the prior unfounded report or reports.
6 Notwithstanding section four hundred fifteen of this title, section one
7 thousand forty-six of the family court act, or, except as set forth
8 herein, any other provision of law to the contrary, an unfounded report
9 shall not be admissible in any judicial or administrative proceeding or
10 action; provided, however, an unfounded report may be introduced into
11 evidence: (i) by the subject of the report where such subject is a
12 respondent in a proceeding under article ten of the family court act or
13 is a plaintiff or petitioner in a civil action or proceeding alleging
14 the false reporting of child abuse or maltreatment; [~~or~~] (ii) in a crim-
15 inal court for the purpose of prosecuting a violation of [~~subdivision~~
16 ~~four of section 240.50 of~~] the penal law; or (iii) in a grand jury or
17 other judicial proceeding for the purpose of determining charges being
18 investigated by such grand jury. Legally sealed unfounded reports shall
19 be expunged ten years after the receipt of the report.
20 § 3. This act shall take effect on the ninetieth day after it shall
21 have become a law.