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:

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

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

(v) to a district attorney, an assistant district attorney, an investigator employed in the office of a district attorney, or to a sworn officer of the division of state police, of a city, county, town or village police department or of a county sheriff's office **(A)** when such official [~~verifies~~] **affirms under oath** that the report is necessary to conduct an active investigation or prosecution of a violation of subdivision four of section 240.50 of the penal law**; or (B) upon a court order finding that the information in such report is necessary for the purpose of prosecuting a violation of the penal law or is otherwise necessary for the furtherance of justice; and**

(vi) to a grand jury, upon a court order finding it necessary for the determination of charges being investigated by such grand jury or otherwise necessary for the furtherance of justice.

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

(b) Persons given access to unfounded reports pursuant to subparagraph (v) of paragraph (a) of this subdivision shall not redisclose such reports except as necessary to conduct such appropriate investigation or prosecution and shall request of the court that any copies of such 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.

LBD15211-02-4

of the subjects and other persons named in the reports or that the court issue an order protecting the names of the subjects and other persons named in the reports from public disclosure. The local child protective service or state agency shall not indicate the subsequent report solely based upon the existence of the prior unfounded report or reports. Notwithstanding section four hundred fifteen of this title, section one thousand forty-six of the family court act, or, except as set forth herein, any other provision of law to the contrary, an unfounded report shall not be admissible in any judicial or administrative proceeding or action; provided, however, an unfounded report may be introduced into evidence: (i) by the subject of the report where such subject is a respondent in a proceeding under article ten of the family court act or is a plaintiff or petitioner in a civil action or proceeding alleging the false reporting of child abuse or maltreatment; [~~**or**~~] (ii) in a criminal court for the purpose of prosecuting a violation of [~~**subdivision four of section 240.50 of**~~] the penal law**; or (iii) in a grand jury or other judicial proceeding for the purpose of determining charges being investigated by such grand jury**. Legally sealed unfounded reports shall be expunged ten years after the receipt of the report.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law.