

STATE OF NEW YORK

7580

2023-2024 Regular Sessions

IN SENATE

June 9, 2023

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the social services law, in relation to requiring all state and private agencies with mandatory reporters of incidents involving vulnerable people to retrain all staff on reporting to a 9-1-1 operator and the county district attorney's office

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

1 Section 1. Section 491 of the social services law, as amended by
2 section 1 of part B of chapter 501 of the laws of 2012, subdivision 4 as
3 amended by chapter 126 of the laws of 2014 and subdivision 5 as added by
4 chapter 422 of the laws of 2017, is amended to read as follows:

5 § 491. Duty to report incidents. 1. (a) Mandated reporters shall
6 report allegations of reportable incidents to a 9-1-1 operator, the
7 county district attorney's office and the vulnerable persons' central
8 register as established by section four hundred ninety-two of this arti-
9 cle and in accordance with the requirements set forth therein.

10 (b) Allegations of reportable incidents shall be reported immediately
11 to a 9-1-1 operator, the county district attorney's office and the
12 vulnerable persons' central register upon discovery. For purposes of
13 this article, "discovery" occurs when the mandated reporter witnesses a
14 suspected reportable incident or when another person, including the
15 vulnerable person, comes before the mandated reporter in the mandated
16 reporter's professional or official capacity and provides the mandated
17 reporter with reasonable cause to suspect that the vulnerable person has
18 been subjected to a reportable incident. A report to the register shall
19 include the name, title and contact information of every person known to
20 the mandated reporter to have the same information as the mandated
21 reporter concerning the reportable incident. [~~Nothing in this subdivi-~~
22 ~~sion shall be construed to prohibit a mandated reporter from contacting~~

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

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1 ~~or reporting to law enforcement or emergency services before or after~~
2 ~~reporting to the vulnerable persons' central register.]~~

3 (c) The substance or content of any psychological, psychiatric, thera-
4 peutic, clinical or medical reports, evaluations or like materials or
5 information pertaining to the treatment of a patient or client of a
6 mandatory reporter who reports a reportable incident of such patient or
7 client pursuant to this article, must be provided by such mandatory
8 reporter upon request of the justice center for the protection of people
9 with special needs if such records are essential for a full investi-
10 gation of such allegation, notwithstanding any applicable privilege
11 which would otherwise bar the disclosure of such materials and records
12 pursuant to article forty-five of the civil practice law and rules or
13 other provision of law except applicable federal law governing the
14 disclosure of patient and related medical records.

15 2. Any person or official required to report allegations of reportable
16 incidents pursuant to this section may take or cause to be taken color
17 photographs of visible trauma and the face of the vulnerable person
18 named in the report and upon the consent of a person authorized to
19 consent to medical care for the vulnerable person, shall, if medically
20 indicated, cause to be performed a radiological examination of the
21 vulnerable person. Any photographs or radiological examinations taken
22 shall be provided to the justice center for use only for the purposes of
23 an investigation of a reportable incident.

24 3. (a) Any human services professional required by this article to
25 report a case of suspected abuse or neglect to a 9-1-1 operator, the
26 county district attorney's office and the vulnerable persons' central
27 register who knowingly and willfully fails to do so shall be guilty of a
28 class [~~A misdemeanor~~] E felony.

29 (b) A mandated reporter who knowingly and willfully fails to report a
30 case of suspected abuse or neglect to a 9-1-1 operator, the county
31 district attorney's office and the vulnerable persons' central register
32 may be subject to termination, subject to any applicable collective
33 bargaining agreement. Any person or official required by this article to
34 report a case of suspected abuse or neglect to a 9-1-1 operator, the
35 county district attorney's office and the vulnerable persons' central
36 register who knowingly and willfully fails to do so shall be civilly
37 liable for the damages proximately caused by such failure.

38 4. A medical or other public or private institution, state agency,
39 school, facility or provider agency or its vendors or contractors shall
40 not take any retaliatory personnel action, as such term is defined in
41 paragraph (e) of subdivision one of section seven hundred forty of the
42 labor law, against an employee or agent or vendor or contractor because
43 such employee or agent or vendor or contractor believes that he or she
44 has reasonable cause to suspect that a vulnerable person has been
45 subjected to a reportable incident and that employee or agent or vendor
46 or contractor therefore makes a report in accordance with this section
47 and/or cooperated with the investigation of a reportable incident. A
48 court of competent jurisdiction may grant injunctive relief to any
49 person determined to have been subjected to such retaliation.

50 5. State oversight agencies shall ensure that all facilities or
51 provider agencies operated, licensed, or certified by such state over-
52 sight agencies have policies and procedures in place to identify and
53 report possible crimes against a service recipient by a custodian. State
54 oversight agencies shall provide guidance to facilities or provider
55 agencies operated, licensed, or certified by such state oversight agen-

1 cies that do not already have policies and procedures for the identifi-
2 cation and reporting of possible crimes.

3 6. All state and private agencies with mandatory reporters shall
4 retrain all staff on reporting to a 9-1-1 operator and the county
5 district attorney's office and all state and private websites, training
6 manuals, informational brochures or pamphlets directing reporting shall
7 state that such instances be reported to a 9-1-1 operator and the county
8 district attorney's office. All former posters and wallet cards and any
9 other information directing reporting of crimes and emergencies to the
10 justice center shall be removed and replaced by 9-1-1 reporting posters,
11 wallet cards and all other sources that shall be located conspicuously
12 in a timely manner.

13 § 2. This act shall take effect immediately.