

STATE OF NEW YORK

4362--B

2025-2026 Regular Sessions

IN ASSEMBLY

February 4, 2025

Introduced by M. of A. ROSENTHAL -- read once and referred to the Committee on Children and Families -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Children and Families in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law, in relation to duty owed by certain agencies to children in the legal custody of the agencies; and to amend the court of claims act, in relation to extending jurisdiction to certain claims for injuries to a child in the legal custody of the state

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

1 Section 1. The social services law is amended by adding a new section
2 419-a to read as follows:

3 § 419-a. Liability. 1. Notwithstanding their performance of govern-
4 mental functions, public agencies or entities that are authorized agen-
5 cies or entities under this chapter, including without limitation,
6 cities, counties, towns, villages and other municipalities, shall owe a
7 nondelegable special duty to a child under the age of eighteen in the
8 authorized agency's or entity's legal custody to provide for the child's
9 safety and to exercise reasonable care in the prevention of foreseeable
10 harm to the child. Such public agencies or entities that breach this
11 duty shall be liable to the child for negligence in the placement of the
12 child or in the supervision of the child in a temporary home or residen-
13 tial facility, proximately causing injury to the child. The liability of
14 public agencies or entities under this section shall be in the same
15 manner and to the same extent as private entities, without entitlement
16 to governmental immunity.

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

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1 2. The nondelegable special duty to a child in custody provided under
2 this section shall encompass liability to the public agency or entity
3 for the negligent acts or omissions of employees or agents of a not-for-
4 profit contract agency or entity performing the public agency's or enti-
5 ty's duties of placement or supervision for the child.

6 3. A person who has a physical, psychological, or other injury or
7 condition suffered as a result of acts or omissions which would violate
8 or not be in compliance with any requirement or duty arising under this
9 article or title three of article seven of this chapter, shall have a
10 statutory private right of action for compensatory damages.

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

13 14. To hear and determine a claim against the state for negligence
14 causing injuries to a child in the legal custody of the state, including
15 juvenile detention, mental health placement, or any other manner of
16 custody by the state, caused by any person in the placement or super-
17 vision of the child, or in the supervision of the facility in which the
18 child is placed.

19 § 3. Severability. The provisions of this act shall be severable, and
20 if any clause, sentence, paragraph, subdivision or part of this act
21 shall be adjudged by any court of competent jurisdiction to be invalid,
22 such judgment shall not affect, impair, or invalidate the remainder
23 thereof, but shall be confined in its operation to the clause, sentence,
24 paragraph, subdivision or part thereof directly involved in the contro-
25 versy in which such judgment shall have been rendered.

26 § 4. This act shall take effect immediately and its provisions shall
27 be applicable to civil claims or causes of action filed before, on, or
28 after, the effective date of this act, and shall apply retroactively to
29 claims accruing prior to such effective date.