

STATE OF NEW YORK

4362--C

2025-2026 Regular Sessions

IN ASSEMBLY

February 4, 2025

Introduced by M. of A. ROSENTHAL, PAULIN, BURROUGHS, CRUZ, GALLAGHER, TAYLOR, RAGA -- 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 -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law, in relation to duty owed by cities and counties to children in the legal custody of such cities and counties

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, cities and counties shall owe a nondelegable special
5 duty to a child under the age of eighteen in the authorized city's or
6 county's legal custody to provide for the child's safety and to exercise
7 reasonable care in the prevention of reasonably foreseeable harm to the
8 child. Such cities and counties that breach this duty shall be liable to
9 the child for negligence in the placement of the child or in the super-
10 vision of the child in a temporary home or residential facility, prox-
11 imately causing injury to the child, as asserted in a suit or claim
12 described in subdivision four of this section. The liability of cities
13 and counties under this section shall be in the same manner and to the
14 same extent as private entities, without entitlement to governmental
15 immunity.

16 2. The nondelegable special duty to a child in custody provided under
17 this section shall encompass liability to the city or county for the

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

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1 negligent acts or omissions of employees or agents of a not-for-profit
2 contract agency or entity performing the city's or county's duties of
3 placement or supervision for the child.

4 3. The breach of this duty may be asserted in any suit or claim for
5 physical, psychological or other injury or condition suffered by such
6 person as a result of conduct which would constitute a sexual offense as
7 defined in article one hundred thirty of the penal law committed against
8 such person who was less than eighteen years of age, incest as defined
9 in section 255.27, 255.26 or 255.25 of the penal law committed against
10 such person who was less than eighteen years of age, or the use of such
11 person in a sexual performance as defined in section 263.05 of the penal
12 law. A person bringing such suit or claim shall have a statutory
13 private right of action for the physical, psychological, or other injury
14 or condition suffered and proximately caused by the breach of duty.

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

22 § 3. This act shall take effect immediately and its provisions shall
23 be applicable to civil claims or causes of action filed before, on, or
24 after, the effective date of this act, and shall apply retroactively to
25 claims accruing prior to such effective date.