§ 558. Access to records and facilities. (a) The justice center must be granted access at any and all times to any facility or provider agency as defined in subdivision four of section four hundred eighty-eight of the social services law, and, consistent with federal law, to all books, records, and data pertaining to any such facility or provider agency deemed necessary for carrying out the justice center's functions, powers and duties. The justice center or any employee of the justice center designated by the executive director may require from the officers or employees of such facility or provider agency or from the commissioners of the state oversight agencies as defined in subdivision four-a of such section four hundred eighty-eight of the social services law, any information deemed necessary for the purpose of carrying out the justice center's functions, powers and duties, including otherwise confidential information and such entities shall be required to provide such requested information. The executive director or any employee of the justice center designated by the executive director may require from any hospital, as defined under article twenty-eight of the public health law, any information, report or record necessary for the purpose of carrying out the functions, powers and duties of the justice center related to the investigation of deaths and complaints of abuse or neglect concerning vulnerable persons who have been treated at such hospitals, and from any adult care facility as defined in subdivision twenty-one of section two of the social services law, such information, report or record, including access to such facility necessary for the purpose of carrying out the functions, powers and duties of the justice center related to the investigation of deaths concerning patients of mental hygiene facilities who resided at such residential care facilities at the time of their death or were former residents of such residential care facilities and the justice center determines that such information, report or record is necessary for the completion of its investigation. Such hospitals and adult care facilities shall be required to provide such requested information, reports, records and access. The results of investigations involving such residents of adult care facilities shall be provided promptly to the commissioner of the department of health and shall be treated as a record or personal information within the meaning of section ninety-six of the public officers law and shall not be disclosed except in accordance with such

section ninety-six. Information, books, records or data which are confidential as provided by law shall be kept confidential by the justice center and any limitations on the release thereof imposed by law upon the party furnishing the information, books, records or data shall apply to the justice center except as may otherwise be provided by article eleven of the social services law.

* (b) (i) The governor shall designate an independent public or private agency, hereinafter "independent agency", to conduct and coordinate the protection and advocacy and client assistance programs, as established by federal law to provide federal oversight of the state's system of care for individuals with disabilities, as defined in federal laws and to assist such persons with accessing vocational rehabilitation services. For purposes of this subdivision, individuals with disabilities shall have the same meaning as provided by federal laws. The agency designated must have professional experience in empowering, protecting and advocating on behalf of individuals with disabilities. Such agency shall be independent of any agency that provides treatment, services or rehabilitation to individuals covered by such protection and advocacy and client assistance programs. To the extent permitted by federal law, the independent agency shall be governed by a board, a majority of the members of which shall be individuals with disabilities, parents, family members, guardians, advocates, or authorized representatives of individuals with disabilities.

(ii) The independent agency shall conduct and coordinate the protection and advocacy and client assistance programs, as established by federal law to provide oversight of the state's system of care for individuals with disabilities and to assist such individuals with accessing vocational and rehabilitation services, including but not limited to:

(A) Providing information, referrals and technical assistance to address the needs of individuals with disabilities;

(B) Pursuing legal, administrative and other appropriate remedies or approaches to ensure the protection of and advocacy for the rights of individuals with disabilities;

(C) Investigating incidents of abuse and neglect of individuals with disabilities if the incidents are reported to the independent agency or

if there is probable cause to believe that the incidents occurred; and

(D) Establishing a grievance procedure for clients or prospective clients of the system to ensure that individuals with disabilities have full access to services of the system.

(iii) Pursuant to the requirements of federal law, upon receipt of a complaint of an incident of abuse or neglect of an individual with a disability, or if there is probable cause to believe that such an incident occurred, the independent agency shall have prompt access, at reasonable times: to any facility or part thereof serving such individual that is operated, certified or licensed by any office or agency of the state; to all books, records and data pertaining to such a facility; to such individual with a disability in a location in which services, supports and other assistance are provided to such individual; to records of a facility or provider agency concerning such individual; and to any other records that are relevant to conducting an investigation. The independent agency also shall have access to records of the justice center as set forth in paragraph (f) of subdivision one and paragraph (y) of subdivision two of section four hundred ninety-six of the social services law.

(iv) All records and documents received by the independent agency shall be received subject to any confidentiality requirements applicable pursuant to state and federal law.

(v) The governor shall be authorized to re-designate the agency implementing the protection and advocacy program and client assistance programs only if there is good cause for the re-designation and in accordance with federal requirements.

(vi) The independent agency may assist in the development of residential councils at facilities and programs.

(vii) To the extent consistent with federal law, the independent agency shall make copies of any of its reports available to the governor, the temporary president of the senate and the speaker of the assembly.

(viii) The independent agency shall take affirmative steps to assure that its programs and services are geographically representative of the state and, to the extent practicable, ensure regional access, and reflect the diversity of the state with respect to race and ethnicity.

* NB Effective upon filing the Governor's final notice of

re-designation

(c) In the exercise of its functions, powers and duties, the executive director and any employee designated by him or her is authorized to issue and enforce a subpoena and a subpoena duces tecum, conduct hearings, administer oaths and examine persons under oath, in accordance with and pursuant to civil practice law and rules.

(d) In any case where a person in charge or control of such facility or an officer or employee thereof shall fail to comply with the provisions of subdivision (a) of this section, the justice center may apply to the supreme court for an order directed to such person requiring compliance therewith. Upon such application the court may issue such order as may be just and a failure to comply with the order of the court shall be a contempt of court and punishable as such.