

Memorandum Urging Approval

COMMITTEE ON CHILDREN AND THE LAW

Children #19-GOV

December 13, 2019

S. 6427-A
A. 8060-A

By: Senator Montgomery

By: M. of A. Jaffee

Senate Committee: Rules

Assembly Committee: Rules

Effective Date: Immediately.

AN ACT to amend the social services law, in relation to the standard of proof for unfounded and indicated reports of abuse or maltreatment and the admissibility of reports of child abuse and maltreatment; and to amend the social services law and the family court act, in relation to the administration of the statewide central register of child abuse and maltreatment.

LAW AND SECTIONS REFERRED TO: Section 412 of the social services law.

THE COMMITTEE ON CHILDREN AND THE LAW SUPPORTS THIS LEGISLATION AND URGES ITS APPROVAL

We believe the current law is in need of amendment to better balance the safety of children with the rights of parents to a fair process and job opportunities they cannot seek or maintain with an indicated case.

New York State has been a pioneer in child protection and ensuring due process and access to justice. New York was one of the first states to establish a State Central Register (“SCR”) -- a statewide database of records of child abuse or neglect information. Many states now have SCR; however, unlike many states, in New York a parent can be excluded from certain categories of employment just based on allegations of abuse or neglect that may have never made it to court or been substantiated by a judge.

In New York, most SCR reports are about neglect and not abuse. The current SCR law disenfranchises numerous children and families from economic opportunity, and it is overwhelmingly skewed to disproportionately touch families of color. As currently applied, the current SCR law limits poor parents and parents of color from job opportunities. It perpetuates harm on communities overly contacted by the child welfare organizations and ultimately hurts the very children the system seeks to protect. Parents who have faced these allegations, no matter the SCR report, are listed on the SCR with an indicated case for up to ten years after their youngest child turns 18. In addition, the process for a parent to have their name removed from the SCR is very difficult.

This bill would remove unnecessary and unfair employment barriers for parents. It would automatically and conditionally seal indicated reports of neglect after eight years from an enumerated list of employment titles. After 12 years, indicated reports would be sealed for all employment. Moreover, it would require a process for parents to challenge their inclusion in the SCR by allowing them access to a court procedure and the ability to present evidence of rehabilitation, where applicable. Nevertheless, the bill would ensure that all reports continue to be available to child welfare and foster care agencies. Reports of abuse would continue to be accessible to these agencies, as the current statute provides, for 28 years.

Based on the forgoing, the NYSBA's Committee on Children and the Law **SUPPORTS THIS LEGISLATION AND URGES ITS APPROVAL** by the Governor.