

STATE OF NEW YORK

3878

2009-2010 Regular Sessions

IN SENATE

April 2, 2009

Introduced by Sen. MONTGOMERY -- (at request of the Office of Children and Family Services) -- read twice and ordered printed, and when printed to be committed to the Committee on Social Services

AN ACT to amend the social services law, in relation to information in child fatality reports

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

1 Section 1. Paragraphs (b) and (c) of subdivision 5 of section 20 of
2 the social services law, as amended by chapter 12 of the laws of 1996,
3 are amended to read as follows:

4 (b) Such report shall contain a factual section which will include (i)
5 the cause of death, whether from natural or other causes, (ii) identifi-
6 cation of child protective or other services provided or actions taken
7 regarding such child and his or her family, (iii) any extraordinary or
8 pertinent information concerning the circumstances of the child's death,
9 (iv) whether the child or the child's family had received assistance,
10 care or services from the social services district prior to such child's
11 death, and (v) any action or further investigation undertaken by the
12 [~~department~~] office of children and family services or by the local
13 social services district since the death of the child[~~, and (vi)~~]. It
14 shall also include, as appropriate, a findings section containing recom-
15 mendations for local or state administrative or policy changes.

16 Such report shall contain no information that would identify the name
17 of the deceased child, his or her siblings, the parent or other person
18 legally responsible for the child or any other members of the child's
19 household, but shall refer instead to the case, which may be denoted in
20 any fashion determined appropriate by the [~~department~~] office of chil-
21 dren and family services or a local social services district. In making
22 the factual section of a fatality report available, the office shall
23 determine whether disclosure of such factual section of the report
24 to the public pursuant to paragraph (c) of this subdivision[~~, the depart-~~

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

LBD07444-01-9

1 ~~ment may respond to a child specific request for such report if the~~
 2 ~~commissioner determines that such disclosure is not~~ will be contrary to
 3 the best interests of the deceased child's siblings or other children in
 4 the household, pursuant to subdivision five of section four hundred
 5 twenty-two-a of this chapter. Except as it may apply directly to the
 6 cause of the death of the child, nothing herein shall be deemed to
 7 authorize the release or disclosure to the public of the substance or
 8 content of any psychological, psychiatric, therapeutic, clinical or
 9 medical reports, evaluations or like materials or information pertaining
 10 to such child or the child's family.

11 (c) No later than six months from the date of the death of such child,
 12 the ~~[department]~~ office of children and family services shall forward
 13 its report to the social services district, chief county executive offi-
 14 cer, chairperson of the local legislative body of the county where the
 15 child's death occurred and the social services district which had care
 16 and custody or custody and guardianship of the child, if different. The
 17 ~~[department]~~ office of children and family services shall notify the
 18 temporary president of the senate and the speaker of the assembly as to
 19 the issuance of such reports and, in addition to the requirements of
 20 section seventeen of this chapter, shall submit an annual cumulative
 21 report to the governor and the legislature incorporating the data in the
 22 above reports and including appropriate findings and recommendations.
 23 Such reports concerning the death of a child and such cumulative reports
 24 shall immediately thereafter be made available to the public after such
 25 forwarding or submittal; provided, however, that if such office deter-
 26 mines that disclosure of the factual section of a report concerning the
 27 death of a child will be contrary to the best interests of the deceased
 28 child's siblings or other children in the household pursuant to para-
 29 graph (b) of this subdivision, then only the findings section of the
 30 report shall be released to the public.

31 § 2. This act shall take effect on the sixtieth day after it shall
 32 have become a law.

**NEW YORK STATE SENATE
 INTRODUCER'S MEMORANDUM IN SUPPORT
 submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S3878

SPONSOR: MONTGOMERY

TITLE OF BILL:

An act to amend the social services law, in relation to information in
 child fatality reports

PURPOSE OF THE BILL:

This bill seeks to balance the need of the public to know about local or
 state administrative or policy issues related to a child fatality with
 the need to protect the privacy of any surviving siblings or other chil-
 dren residing in the home of the deceased child.

SUMMARY OF PROVISIONS:

Section one of the bill would amend Social Services Law (SSL) § 20 (5) (b) and (c) to divide a child fatality report into two sections: a findings section and a factual section. The findings section of the fatality report would always be disclosable to the public. The factual section of the report would be released only if the Office of Children and Family Services (OCFS) determines that disclosure would not be contrary to the best interests of the deceased child's siblings or other children in the household.

Section two of the bill provides for an effective date of sixty days after enactment.

EXISTING LAW:

SSL § 20 generally sets forth the powers and duties of the Office of Temporary and Disability Assistance and OCFS.

SSL § 20(5) requires OCFS to investigate and report on the cause and circumstances surrounding the death of a child whose care and custody was transferred to an authorized agency; or the death of a child for whom any local department of social services has an open child protective services or preventive services case, or where a report was made to the Statewide Central Register of Child Abuse and Maltreatment involving the death of the child.

PRIOR LEGISLATIVE HISTORY:

This bill was part of a larger bill introduced as S.5142-A/A.8092-A of 2008, which passed in the Senate and was referred to the Assembly Children and Families Committee.

STATEMENT IN SUPPORT:

This bill would amend SSL § 20(5) regarding child fatality reports in order to better balance the goal of protecting any surviving siblings and children in the household with the public's need to know whether any systemic issues should be addressed to better protect children. Although current law provides that a fatality report must not contain details that identify the name of the deceased child, the child's parent or other persons responsible for the child, or other members of the child's household, the factual details in the report regarding the circumstances of the fatality often make it easy for the public to identify the family, particularly in the case of a well publicized fatality.

Currently, OCFS makes a determination whether disclosure of a child fatality report would be contrary to the best interests of the deceased child's siblings or other children in the household. If OCFS determines that disclosure of a report would be contrary to the best interests of the deceased child's siblings or other children in the household, OCFS does not release any portion of the report including any recommendations for administrative or policy changes.

This bill would revise SSL § 20 (5) to require that a child fatality report include both a findings section and a factual section. The findings section would include any recommendations for local or state administrative or policy changes and the factual section would include information about the specific fatality. OCFS would release the findings section of the report in response to a request for a report. However, OCFS would only release the factual section of a report if OCFS determines that such disclosure would not be contrary to the best interests

of the surviving children.

This proposal will give the public access to information in all cases about recommended local or state administrative or policy changes that will better protect children, even where the factual information about a particular child fatality cannot be released in order to protect the interests of surviving children in the household.

BUDGET IMPLICATIONS:

This bill has no fiscal implications.

EFFECTIVE DATE:

This bill would take effect 60 days after enactment.
