

Memorandum

AN ACT to amend the social services law, in relation to the differential response programs for child protection assessments or investigations; and to amend chapter 452 of the laws of 2007 amending the social services law relating to establishing differential response programs for child protection assessments of investigations, in relation to making such provisions permanent

Purpose of Bill:

This bill would make permanent legislation permitting social services districts, with authorization from the Office of Children and Family Services (OCFS), to utilize a differential response program for appropriate reports of abuse and maltreatment, and would make New York City eligible to participate in such program.

Summary of Provisions:

Section 1 of the bill would amend Social Services Law (SSL) § 427-a to allow New York City to participate in the differential response program, by removing the current limitation allowing only social services districts outside a city with a population of two million or more to participate in the program. This section also would amend section § 427-a to revise the one-time evaluation reporting requirement, by requiring that OCFS report on the differential response program on an ongoing basis in its annual report.

Section 2 of the bill would make SSL § 427-a permanent by eliminating the program's expiration date of June 1, 2011.

Section 3 of the bill would provide for a June 1, 2011 effective date, but would deem the bill to have been in full force and effect on that date if enacted after June 1, 2011.

Existing Law:

SSL § 424 requires the child protective service (CPS) of each social services district to investigate reports of child abuse and maltreatment that have been referred to the district by the Statewide Central Register of Abuse and Maltreatment (SCR). The investigation must determine whether the allegations of abuse or maltreatment are supported by some credible evidence, which leads to a finding by the district that the report is either indicated or unfounded.

SSL § 427-a, enacted by Chapter 452 of the Laws of 2007, permits social services districts outside New York City to implement a family differential response (FAR) program for reports of child abuse and maltreatment with authorization from OCFS. SSL § 427-a establishes criteria to be used by social services districts in determining whether a report shall be referred to

the FAR program, and prohibits reports containing certain serious allegations of abuse and maltreatment from being referred to the FAR program. OCFS was required to evaluate and report on the implementation of the FAR pilot program by January 1, 2011, including making a recommendation on continuing the program, and legislative authorization for the FAR program is set to expire on June 1, 2011.

Legislative History:

This is a new bill.

Statement in Support:

SSL § 427-a authorized OCFS to accept and approve a social services district's application to use FAR on a portion of its CPS reports. FAR is an alternative CPS response. In appropriate cases in which there are no immediate safety concerns or high risk safety indicators, FAR permits a social service district to conduct an assessment of the family's needs and strengths rather than investigate the validity of the allegations in a child abuse and maltreatment report. The expectation of FAR is that families will be more likely to seek necessary help when a less adversarial, less threatening, approach is taken.

Child abuse and maltreatment reports vary significantly, particularly in terms of alleged seriousness and the potential for immediate danger. A traditional CPS response involves, among other things, an investigation of the allegations made in the report and a determination of whether the allegations are supported by some credible evidence. For reports of alleged abuse or maltreatment that appear to create immediate safety concerns or extremely high risk of serious harm, the traditional CPS approach is necessary and appropriate. For reports involving families with children where immediate safety concerns and high risk safety indicators do not exist, the likelihood of engaging families to seek any necessary help increases when a less adversarial, less threatening, approach is taken. FAR allows social services district to choose to use such an approach.

OCFS requires that all participating workers and supervisors receive a prescribed FAR training and coaching regimen, currently delivered by the American Humane Association, the designated National Quality Improvement Center on Differential Response in Child Protective Services. In addition, since FAR is another form of a child protective response, all participating staff members are required to receive the usual CPS training that all CPS staff receive, as required by the SSL and OCFS regulations.

After approximately a year of planning and designing the program, six social services districts chose to use FAR beginning in late 2008 and early 2009. Since that time, 13 more social services districts have voluntarily begun to use this approach for a portion of their CPS maltreatment reports. A number of the current FAR districts are looking to expand their use of FAR and other districts have expressed interest in initiating FAR this year. OCFS submitted its required evaluation and report on the implementation of FAR to the Governor and Legislature on February 1, 2011. Children in families served by FAR were found to be as safe as children served by the traditional CPS approach in relation to new reports of child abuse or maltreatment.

Moreover, significantly fewer Family Court petitions were filed against FAR families when compared with the control group. Additionally, parents served by FAR in five initial pilot counties reported being quite positive about the intervention. For example, one parent explained that the caseworker was instrumental in helping the family to stabilize. Case workers from twelve participating counties were also surveyed. Significantly more FAR caseworkers than traditional CPS workers reported providing referrals to neighborhood organizations and self-help groups in order to help families meet their basic needs

These results demonstrate that FAR has increased access to appropriate services, especially for the basic family needs of food, housing, and utilities. FAR has broadened the involvement of the community in meeting family service needs by more often referring to non-traditional service providers and self-help groups. Thus, FAR results in families being served more holistically with referrals to additional community supports that can help lessen stressors and promote family and child well-being.

The preliminary results from New York regarding safety and increased services are consistent with longer-term experimental studies of CPS differential response systems in other states (Tony Loman, Ph.D, Director of the Institute of Applied Research, St. Louis, MO., "Differential Response and Family Poverty – Evidence from Evaluations," Presentation 11/09). Moreover, in a rigorous five-year study conducted in Minnesota, which involved random assignment of families to FAR or to a traditional CPS response, it was found that FAR cost less than a traditional CPS response over time. The average cost for a FAR family over a multi-year period was \$3,688, while the average cost for a family receiving the traditional CPS response was \$4,967. The cost for serving families with the investigative approach was 35% higher (<http://www.americanhumane.org/assets/docs/protecting-children/PC-AR-study-family-response-MN.pdf>). Accordingly, making the FAR program permanent in New York and allowing New York City to participate in the program has the potential to both improve services to children and families and to reduce child welfare services costs.

Finally, because the bill would make this program permanent, it also makes provision for regular inclusion of OCFS' reporting on differential response programs in its annual report.

Budget Implications:

Effective December 2010, federal law requires, as a condition of receiving federal funding, that the Child Abuse Prevention and Treatment Act (CAPTA) State plan contain an assurance in the form of a certification by the Governor of the state that: "the State has in effect and is enforcing a State Law, or has in effect and is operating a statewide program, relating to child abuse and neglect that includes...triage procedures, including the use of differential response, for the appropriate referrals of a child not at risk of imminent harm to a community organization or voluntary preventive service" 42 U.S.C. § 5106a(b)(2)(A)(v). Extension of FAR and the inclusion of NYC would enable the State to meet this requirement, and prevent to loss of approximately \$1.4 million received by the State under this federal program.

Moreover, OCFS will consider the availability of funds to provide caseworker training and related programmatic administrative needs as part of its approval process for new districts.

Based on the experience of other states that have implemented a differential response for CPS reports, New York may realize savings over the long term. For example, in a five-year study, Minnesota, which has practiced a differential response program more extensively, observed a 35% decrease in programmatic costs resulting primarily from reduced out-of-home placements and decreased recurrence of problematic cases. For the State, such savings would be realized in the state share of CPS costs.

In addition, continuation of the FAR program would likely provide relief to counties that elect to participate in the program. Social services districts are responsible for investigating reports of child abuse and maltreatment referred to the district by the SCR. The FAR program gives districts the flexibility to use an alternate response to low-risk maltreatment reports with authority and oversight from OCFS if they choose. The legislation, therefore, expands the CPS options of social services districts without mandating participation. As noted above, other states that have implemented a differential response for CPS reports have realized significant savings. In New York, reduced foster care usage by FAR participant families would be realized by local districts that fund foster care services beyond the base level provided by the State.

Effective Date:

This bill would take effect on June 1, 2011, but would be deemed to have been in full force and effect if enacted after June 1, 2011.

DEPARTMENTAL BILL 38

S. _____
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

SOCISELA *Office of Children and
Family Services 1*
(Makes the differential response
programs permanent)

Soc Serv. diff re pro

AN ACT

to amend the social services law, in
relation to the differential
response programs for child
protection assessments or investi-
gations; and to amend chapter 452 of
the laws of 2007 amending the social
services law relating to establish-
ing differential response programs
for child protection assessments or
investigations, in relation to
making such provisions permanent

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal

s20 Adams	s44 Farley	s58 Kennedy	s18 Montgomery	s23 Savino
s15 Addabbo	s02 Flanagan	s34 Klein	s54 Nozzolio	s28 Serrano
s55 Alesi	s08 Fuschillo	s26 Krueger	s53 O'Mara	s51 Seward
s11 Avella	s59 Gallivan	s27 Kruger	s37 Oppenheimer	s09 Skelos
s40 Ball	s12 Gianaris	s24 Lanza	s21 Parker	s14 Smith
s42 Bonacic	s22 Golden	s39 Larkin	s13 Peralta	s25 Squadron
s46 Breslin	s47 Griffo	s01 LaValle	s30 Perkins	s16 Stavisky
s38 Carlucci	s60 Grisanti	s52 Libous	s61 Ranzenhofer	s35 Stewart- Cousins
s50 DeFrancisco	s06 Hannon	s45 Little	s48 Ritchie	
s32 Diaz	s36 Hassell-	s05 Marcellino	s33 Rivera	s49 Valesky
s17 Dilan	Thompson	s07 Martins	s56 Robach	s57 Young
s29 Duane	s10 Huntley	s62 Maziarz	s41 Saland	s03 Zeldin
s31 Espallat	s04 Johnson	s43 McDonald	s19 Sampson	

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a049 Abbate	a107 Crouch	a042 Jacobs	a102 Miller, J.	a067 Rosenthal
a092 Abinanti	a014 Curran	a095 Jaffee	a038 Miller, M.	a118 Russell
a105 Amedore	a063 Cusick	a057 Jeffries	a052 Millman	a012 Saladino
a084 Arroyo	a045 Cymbrowitz	a135 Johns	a103 Molinaro	a113 Sayward
a035 Aubry	a034 DenDekker	a112 Jordan	a015 Montesano	a029 Scarborough
a124 Barclay	a116 Destito	a099 Katz	a132 Morelle	a016 Schimel
a040 Barron	a081 Dinowitz	a074 Kavanagh	a039 Moyra	a140 Schimminger
a082 Benedetto	a114 Duprey	a065 Kellner	a003 Murray	a145 Schroeder
a073 Bing	a004 Englebright	a129 Kolb	a037 Nolan	a064 Silver
a122 Blankenbush	a071 Farrell	a025 Lancman	a128 Oaks	a036 Simotas
a055 Boyland	a123 Finch	a091 Latimer	a069 O'Donnell	a146 Smardz
a008 Boyle	a007 Fitzpatrick	a013 Levine	a051 Ortiz	a093 Spano
a026 Braunstein	a137 Friend	a050 Lentol	a136 Palmesano	a079 Stevenson
a044 Brennan	a143 Gabryszak	a125 Lifton	a088 Paulin	a011 Sweeney
a131 Bronson	a090 Galef	a072 Linares	a141 Peoples-	a110 Tedisco
a046 Brook-Krasny	a133 Gantt	a127 Lopez, P.	Stokes	a115 Tenney
a147 Burling	a077 Gibson	a053 Lopez, V.	a058 Perry	a002 Thiale
a117 Butler	a149 Giglio	a001 Losquadro	a023 Pheffer	a061 Titone
a101 Cahill	a066 Glick	a126 Lupardo	a087 Pretlow	a031 Titus
a096 Calhoun	a150 Goodell	a111 Magee	a021 Ra	a062 Tobacco
a043 Camara	a075 Gottfried	a120 Magnarelli	a097 Rabbitt	a054 Towns
a106 Canestrari	a005 Graf	a059 Maisel	a009 Raia	a041 Weinstein
a089 Castelli	a098 Gunther	a060 Malliotakis	a006 Ramos	a020 Weisenberg
a086 Castro	a130 Hanna	a030 Markey	a134 Reilich	a024 Weprin
a138 Ceretto	a139 Hawley	a027 Mayersohn	a109 Reilly	a070 Wright
a033 Clark	a148 Hayes	a019 McDonough	a078 Rivera, J.	a094 Zebrowski
a047 Colton	a083 Heastie	a104 McEneny	a080 Rivera, N.	a100
a010 Conte	a028 Hevesi	a017 McKevitt	a076 Rivera, P.	
a032 Cook	a048 Hikind	a108 McLaughlin	a119 Roberts	
a142 Corwin	a018 Hooper	a022 Meng	a056 Robinson	
a085 Crespo	a144 Hoyt	a121 Miller, D.	a068 Rodriguez	

1) Single House Bill (introduced and printed separately in either or both
houses). Uni-Bill (introduced simultaneously in both houses and printed as one
bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed
copies of bill and 4 copies of memorandum in support (single house); or 4 signed
copies of bill and 8 copies of memorandum in support (uni-bill).

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

1 Section 1. Subdivisions 1 and 8 of section 427-a of the social
2 services law, as added by chapter 452 of the laws of 2007, are amended
3 to read as follows:

4 1. Any social services district [located outside of a city with a
5 population of more than two million] may, upon the authorization of the
6 office of children and family services, establish a program that imple-
7 ments differential responses to reports of child abuse and maltreatment.
8 Such programs [would] shall create a family assessment and services
9 track as an alternative means of addressing certain matters [currently]
10 otherwise investigated as allegations of child abuse or maltreatment
11 pursuant to this title. Notwithstanding any other provision of law to
12 the contrary, the provisions of this section [will] shall apply only to
13 those cases involving allegations of abuse or maltreatment in family
14 settings expressly included in the family assessment and services track
15 of the differential response program, and only in those social services
16 districts authorized by the office of children and family services to
17 implement a differential response program. Such cases shall not be
18 subject to the requirements otherwise applicable to cases reported to
19 the statewide central register of child abuse and maltreatment pursuant
20 to this title, except as set forth in this section.

21 8. The office of children and family services shall [complete a]
22 report [evaluating the implementation of any] on the differential
23 response programs established pursuant to this section as part of the
24 annual report required pursuant to section four hundred twenty-six of
25 this title. [The report shall assess the effectiveness of the programs
26 in promoting broader community involvement in meeting service needs,
27 expanding and expediting access to appropriate services, improving the
28 cooperation of families, reducing subsequent abuse and maltreatment

1 reports, and promoting child safety. Such report shall also recommend
2 whether or not to continue the provisions of this section and shall be
3 submitted to the governor and the legislature no later than the first
4 day of January, two thousand eleven.]

5 § 2. Section 3 of chapter 452 of the laws of 2007, amending the social
6 services law relating to establishing differential response programs for
7 child protection assessments or investigations, is amended to read as
8 follows:

9 § 3. This act shall take effect immediately [and shall expire June 1,
10 2011 when upon such date the provisions of this act shall be deemed
11 repealed].

12 § 3. This act shall take effect on June 1, 2011; provided, however, if
13 this act shall become a law after such date it shall take effect imme-
14 diately and shall be deemed to have been in full force and effect on and
15 after June 1, 2011.