

NEW YORK STATE
 DEPARTMENT OF SOCIAL SERVICES
 40 NORTH PEARL STREET, ALBANY, NEW YORK 12243



[An Informational Letter informs local districts of potential developments in the Social Services field, or of actual or potential developments in collateral fields of interest.]

CESAR A. PERALES
 Commissioner

INFORMATIONAL LETTER

TRANSMITTAL NO.: 83 INF-19
 [Family and Children Services]

TO: Commissioners of Social Services

SUBJECT: Immunity from Liability for Child Protective Services Staff

DATE: November 25, 1983

SUGGESTED DISTRIBUTION: All Child Protective Services Staff

CONTACT PERSON: Any questions concerning this release should be directed to Betty Flynn, Sr. Social Services Program Specialist at 1-800-342-3715 ext. 4-3166

I. Purposes

The purpose of this letter is to inform local social services districts of the enactment of Chapter 176 of the Laws of 1983 which amended Section 419 of the Social Services Law to expand the circumstances under which civil and criminal immunity could be granted to child protective service workers.

II. Background

Chapter 176 grants immunity from civil or criminal liability to "any person, official, or institution participating in good faith in the providing of a service pursuant to section four

FILING REFERENCES

Previous INFs/ADMs	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous References
	Part 432	Article 6 Title 6, SSL		

DSS-329 (REV. 8/82)

hundred twenty-four of this title". Section 424 of the Social Services Law outlines the duties of the child protective service concerning reports of abuse or maltreatment.

In addition, this amendment to section 419 of the Social Services Law states the conditions under which good faith may be presumed in any criminal or civil proceeding involving such person, official or institution providing a child protective service pursuant to Section 424. These conditions are that "such person, official or institution was acting in the discharge of their duties and within the scope of their employment, and that such liability did not result from the willful act or gross negligence of such person, official or institution". A copy of this legislation is attached for your information.

III. Implications

Since this legislative amendment specifically refers to services which are provided pursuant to the duties of the child protective service, including the receiving of reports of abuse or maltreatment, only staff assigned to the local child protective service can be granted immunity from liability in providing a service to child protective services cases. Section 423 of the Social Services Law states that the child protective service shall perform those functions assigned by Title 6 of Article 6 of the Social Services Law and defines the local child protective service as:

The sole public agency responsible for receiving and investigating or arranging with the appropriate society for the prevention of cruelty to children to investigate all reports of child abuse or maltreatment made pursuant to this title for the purpose of providing protective services to prevent further abuses or maltreatment to children and to provide or arrange for and monitor the provision of those services necessary to safeguard and ensure the child's well-being and development and to preserve and stabilize family life wherever appropriate.

In addition, Section 424.6 of the Social Services Law provides that each child protective service shall, upon receipt of a report of child abuse or maltreatment, commence or cause the appropriate Society for the Prevention of Cruelty to Children to commence within twenty-four hours, an appropriate investigation of the information contained in the report. Recognizing that this legislation has yet to be subjected to judicial scrutiny, Societies for the Prevention of Cruelty to Children, which investigate reports pursuant to a contract with a local social services district, may also be considered to be providing a service pursuant to section 424 of the Social Services Law and thereby granted immunity from liability by Chapter 176.

However, immunity from liability based upon a presumption of good faith is a defense in a civil or criminal proceeding only if a mandated reporter or a member of a child protective services staff was "acting in the discharge of their duties and within the scope of their employment, and that such liability did not result from the willful act or gross negligence of such person, official or institution."

"Acting in the discharge of their duties and within the scope of their employment" implies that one's actions are within the legal authority of the child protective provisions of the Social Service Law and Departmental regulations and within one's job responsibilities. "Willful act" is one done intentionally, knowingly and purposely, without a justifiable excuse. A willful act is voluntary and not accidental.

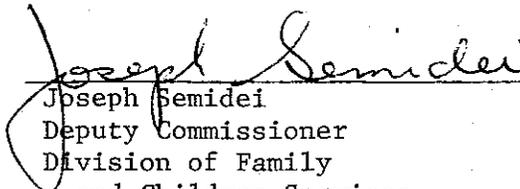
Black's Law Dictionary, for example, defines gross negligence as "The intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another". It further defines gross negligence as, "... indifference to present legal duty and ... utter forgetfulness of legal obligations so far as other persons may be affected".

Thus, immunity might not be available to a child protective services staff member if he/she intentionally failed to comply with the requirements of Section 424 of the Social Services concerning the duties of a child protective service. An example of this would be failure to notify the subjects of the report in writing, of the existence of the report and their rights pursuant to this Title in regard to amendment or expungement of reports, pursuant to Section 424.6 of the Social Services Law.

Chapter 176 does not preclude the initiation of criminal or civil proceedings against child protective services staff. However, it does provide such staff with a legal defense of the presumption of good faith in the performance of their duties. As a result, it would be necessary to prove that the child protective services staff was not acting in the discharge of their duties and within the scope of their employment or that such liability was the result of a willful act or gross negligence before such staff could be held liable for the commission of an act related to the provision of child protective services in a civil or criminal proceeding.

IV. Recommended Action

Distribution of this letter to all child protective services staff.



Joseph Semidei
Deputy Commissioner
Division of Family
and Children Services

Attachment

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry should be supported by a valid receipt or invoice to ensure transparency and accountability. This practice is essential for both internal audits and external reporting.



Furthermore, it is crucial to review these records regularly to identify any discrepancies or anomalies. This proactive approach allows for the timely correction of errors and helps in detecting potential fraud or mismanagement. Consistent record-keeping is a cornerstone of sound financial management.

In addition, the document highlights the need for clear communication and collaboration between all departments involved in the financial process. Regular meetings and reports can help in staying updated on the current financial status and ensuring that everyone is working towards the same goals.

It is also important to invest in training and development for the staff responsible for financial management. Keeping them updated on the latest accounting practices and software tools can significantly improve the efficiency and accuracy of the financial records.

Finally, the document concludes by stating that a strong financial foundation is vital for the long-term success of any organization. By adhering to these principles, businesses can ensure their financial health and sustainability in a competitive market.



Handwritten notes at the bottom left of the page, including the name 'John Doe' and some illegible scribbles.



STATE OF NEW YORK

S. 1596--B

A. 2083--B
Cal. No. 303

1983-1984 Regular Sessions

SENATE--ASSEMBLY

January 24, 1983

IN SENATE -- Introduced by Sen. JOHNSON -- read twice and ordered printed, and when printed to be committed to the Committee on Child Care -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. BIANCHI, SALAND -- read once and referred to the Committee on Children and Families -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading -- again amended on third reading, ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the social services law, in relation to immunity from liability for child protective services

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

1 Section 1. Section four hundred nineteen of the social services law,
2 as added by chapter one thousand thirty-nine of the laws of nineteen
3 hundred seventy-three, is amended to read as follows:
4 § 419. Immunity from liability. Any person, official, or institution
5 participating in good faith in the providing of a service pursuant to
6 section four hundred twenty-four of this title, the making of a report,
7 the taking of photographs, or the removal or keeping of a child pursuant
8 to this title shall have immunity from any liability, civil or criminal,
9 that might otherwise result by reason of such actions. For the purpose
10 of any proceeding, civil or criminal, the good faith of any such person,
11 official or institution required to report cases of child abuse or mal-
12 treatment or providing a service pursuant to section four hundred
13 twenty-four of this title shall be presumed, provided such person, offi-

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

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- 1 cial or institution was acting in the discharge of their duties and
- 2 within the scope of their employment, and that such liability did not
- 3 result from the willfull act or gross negligence of such person, offi-
- 4 cial or institution.
- 5 § 2. This act shall take effect immediately.

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY
5708 S. UNIVERSITY AVENUE
CHICAGO, ILLINOIS 60637

