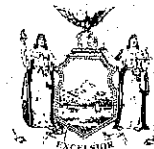


NEW YORK STATE
 DEPARTMENT OF SOCIAL SERVICES
 40 NORTH PEARL STREET, ALBANY, NEW YORK 12243



CESAR A. PERALES
 Commissioner

[An Administrative Directive is a written communication to local Social Services Districts providing directions to be followed in the administration of public assistance and care programs.]

ADMINISTRATIVE DIRECTIVE

TRANSMITTAL NO.: 85 ADM-15
 [Family & Children Services]

TO: Commissioners of Social Services

SUBJECT: Access to Child Abuse and Maltreatment Reports and Records by Probation Services when Conducting a Custody Investigation. DATE: March 19, 1985

SUGGESTED DISTRIBUTION: Director of Services
 Child Protective Services Supervisors
 Social Services Attorneys

CONTACT PERSON: Questions regarding this release should be directed to Mr. Paul Thompson at 1-800-342-3715, extension 4-9433.

I. Purpose

The purpose of this directive is to inform local districts of the provisions of Chapter 554 of the Laws of 1984 which gives probation services access to NYS Child Abuse and Maltreatment Register (SCR) and local register information and reports when conducting an investigation relating to a custody or habeas corpus proceeding and to direct districts regarding responding to requests for such information made by probation services.

II. Background

Subdivision 4 of the Section 422 of the Social Services Law lists those persons and organizations allowed access to CPS information and under what circumstances. This statute has been amended numerous times. Chapter 544 gives the local probation service access to CPS information when said service "is conducting an investigation pursuant to section six hundred fifty-three of the family court act where there is reason to suspect the child may have been abused or maltreated and that such information is necessary for the making of a determination or recommendation to the court." The amended law was enacted as a result of concern that

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
		Part 432	SSL § 422.4 SSL § 422 10 FCA § 651 FCA § 653		

DSS-296 (REV 32)

probation services did not independently have access to CPS information which might prove useful in a custody or habeas corpus determination. Habeas corpus is a court order requiring a child be brought before the court to determine issues related to the charge and custody of the child.

III. Program Implications

A probation service when carrying out the functions referred to in Sections 651 and 653 of the Family Court Act is added to the list of individuals and entities authorized in Section 422.4 of the Social Services Law to obtain access to records and reports of the SCR and reports of the Local Child Protective Unit of the local district. The access of probation services to such information is conditional upon the fact that these child protective services records and reports must be necessary for the making of a determination to the court concerning habeas corpus or custody issues and that there is reason to suspect that the child in question may have been abused or maltreated.

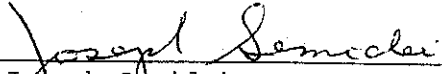
IV. Required Action

Where access to local CPS records is sought, the local district shall require the probation service to provide the district with a written request on a case specific basis for such information. This written request should state the probation service is conducting an investigation in accordance with Section 653 of the Family Court Act and there is reason to suspect the child in question may have been abused or maltreated. In addition, the request should contain the case name for which access to CPS information is being sought. Chapter 554, which adds a new subparagraph (k) to Section 422.4, only creates a new avenue to access by the probation service for those specific proceedings referred to in Section 651 of the Family Court Act. It does not authorize disclosure in all cases involving the probation service. For example, it does not include adoptions, therefore, before disclosure is made the local district must verify that the request by the probation service is restricted to a custody or habeas corpus determination.

When receiving a written request, the local district shall provide the probation service on a case specific basis any report made pursuant to Section 422 of the Social Services Law as well as any other information in the possession of the local district. One exception to the physical transfer of copies of CPS information relates to photographs. Original photographs taken concerning such reports are a permanent and vital part of the CPS record and the local district should avoid transferring physical custody of them to the probation service. In the alternative, such photographs should be made available to the probation service for viewing on-site at the local district. If information is provided on a case which is later unfounded, the local district shall notify, in writing, the local probation department regarding the need to expunge such information.

V. Effective Date

The law became effective 9/1/84.



Joseph Semidei
Deputy Commissioner
Division of Family and
Children Services

