

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.: 85 INF-13  
 [Family & Children Services]

TO: Commissioners of Social Services  
 Welfare Attorneys

SUBJECT: Corroboration of Child's Out-of-Court  
 Statements in Child Protective Proceedings  
 (Chapter 724 of the Laws of 1985)

DATE: November 29, 1985

SUGGESTED DISTRIBUTION: All Child Protective Services Staff  
 Social Services Attorneys

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CONTACT PERSON: Any questions concerning this release should be directed to Patricia Chmielewski, Bureau of Policy Planning, Division of Services, phone 1-800-342-3715, extension 4-4347.

I. PURPOSE

The purpose of this release is to inform social services districts and welfare attorneys of the enactment of Chapter 724 of the Laws of 1985. That Chapter amends Section 1046(a)(vi) of the Family Court Act to provide that a child's testimony in child protective proceedings in Family Court is not necessary as corroboration of the child's out-of-court statements concerning child abuse or neglect. Chapter 724 also specifies that any other evidence tending to establish the reliability of the child's out-of-court statements will be sufficient corroboration of the child's statements to make a fact finding of abuse or neglect.

FILING REFERENCES

Previous INFs/ADMs	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous References
		Chapter 724 of Laws of 1985 Section 1046(a) of Family Court Act		

## II. BACKGROUND

Section 1046 of the Family Court Act specifies various evidentiary standards for child protective hearings held under Article 10 of the Family Court Act. Section 1046(a)(vi) provides that prior statements made out of court by the child regarding allegations of abuse or neglect are admissible as evidence. However, such statements alone are not sufficient to reach a finding of abuse or neglect. Some corroboration of the child's out-of-court statements is necessary to justify a finding of abuse or neglect. In the past, there has been some confusion about whether the child's testimony specifically is necessary as corroboration. Requiring a child to testify in court can expose the child to emotional trauma in certain circumstances.

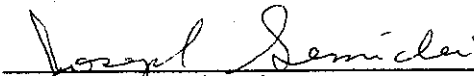
Chapter 724 seeks to address this problem by amending Section 1046(a)(vi) to specify that the child's testimony is not necessary to corroborate his/her out-of-court statements and to permit other evidence tending to support the reliability of a child's out-of-court statement to be sufficient corroboration. Examples of other evidence which could be used to corroborate the child's out-of-court statement include, but are not limited to: an admission on the part of the respondent; a witness' statement; a medical report; or a physician's statement. This law became effective on August 1, 1985 and applies to all actions and proceedings pending or commenced on or after this date.

## III. IMPLICATIONS

Chapter 724 will serve to facilitate the adjudication of abuse or neglect in certain child protective proceedings by eliminating the need to expose the child to unnecessary psychological distress of testifying at the court proceeding. Any other admissible evidence, specified in Section 1046 of the Family Court Act, which tends to support the child's out-of-court statement will be sufficient corroboration of the child's statements in the child protective proceeding. It must be emphasized that the other evidence must otherwise be admissible in order to enable the petitioner to satisfactorily corroborate the child's statements.

IV. RECOMMENDATIONS

In child protective proceedings, consideration should be given to sparing the child from having to testify in court where he/she has made a previous out-of-court statement and where there exists other admissible evidence which is likely to corroborate the child's previous statements.

  
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Joseph Semidei  
Deputy Commissioner  
Division of Family  
and Children Services

