

NEW YORK STATE
 DEPARTMENT OF SOCIAL SERVICES
 10 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-14
 Family & Children Services

TO: Commissioners of Social Services

SUBJECT: Chapter 822 of the Laws of 1984
 (Subjects and Others Named in a Report of
 Child Abuse and Maltreatment)

DATE: March 12, 1985

SUGGESTED DISTRIBUTION:
 Directors of Social Services
 All Child Protective Services Staff

CONTACT PERSON: All inquiries regarding this release should be directed to Michelle Rafael, Bureau of Policy Planning, Division of Services, 40 North Pearl Street, (11-D), Albany, New York 12243 or by calling toll-free 1-800-342-3715, extension 4-4347.

I. Purpose

The purpose of this release is to advise social services districts and child protective services staff of the provisions of Chapter 822 of the Laws of 1984. This chapter amended Sections 412, 422 and 424 of the Social Services Law to distinguish between the persons allegedly responsible for child abuse or maltreatment and other persons named in the report; to delete the authority of the Department to seal child abuse and maltreatment reports; and to establish specific time frames in which requests to amend or expunge child abuse and maltreatment records must be made. This release also notifies social services districts that the Department has revised the required Notification Letters which inform subjects and other persons named in a report of child abuse or maltreatment of their respective rights.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
83-ADM-42		Part 432	Article 6 Title 6, SSL 412 422 424 424-a	192	

DSS-296 (REV 9/82)

II. Background

A. Subject of the Report

Prior to the enactment of Chapter 822 of the Laws of 1984, Section 412 of the Social Services Law defined a "subject of the report" as any child reported to the New York State Central Register of Child Abuse and Maltreatment (SCR) and his or her parent, guardian, other person legally responsible also named in the report or an operator of or employee or volunteer in a home or facility operated or supervised by an authorized agency, the Division for Youth, or an Office of the Department of Mental Hygiene or in a family day care home, a day care center or a day services program.

Section 424-a of the Social Services Law specifies the persons who must be screened by the SCR in order to determine whether such persons have been or are currently the subject of an indicated child abuse and maltreatment report. Because the former definition of "subject of the report" did not distinguish between those persons who cause a child to be abused or maltreated and other persons (including children) who are named in a report, questions arose as to whether an authorized agency, the Division for Youth or a licensed day care center which screened a person with the SCR should be informed that the person was named in a child abuse and maltreatment report if the person screened did not cause the abuse and maltreatment. Since the intent of SSL 424-a is to protect children from those persons responsible for causing child abuse or maltreatment, that intent would be belied by confirming that persons other than perpetrators were named in a report.

B. Sealing

Section 422.6 of the Social Services Law required the Department to seal child abuse and maltreatment records under certain circumstances. That is, for all indicated cases, records were to be sealed no later than ten years after the subject child's eighteenth birthday and at any time for "good cause shown". These sealing provisions did not clearly state the circumstances under which a record should be sealed or unsealed. The original legislative intent for sealing records has remained unclear over the last ten years and it was questionable as to how the retention of those sealed records would serve to protect children.

C. Expungement

Section 422.8 of the Social Services Law established a time period for requesting the Commissioner of Social Services to amend, seal or expunge an indicated report, based on when the report was received by the subject. The statute established no time requirement on the subject of a report to request a copy of the report.

As subjects could and did ask for a copy of the report at any time, no definite period could be established within which requests to amend, seal or expunge an indicated report had to be made. This resulted in holding expungement reviews/fair hearings long after a case was indicated. Problems resulted in dealing with these belated requests, such as caseworkers left agencies, witnesses moved, evidence was lost and memories faded. All of these problems made it difficult to determine whether a report should be amended, sealed or expunged.

In addition, Section 422.8 of the Social Services Law set a time limit of 30 days by which the Commissioner had to act upon a request to amend, seal or expunge the report. Over the past few years the numbers of requests for expungement has risen. Due to this increased volume it became necessary to extend the time period for holding the necessary reviews.

D. Notification Letters

Section 424.6 of the Social Services Law and 18NYCRR 432.3(j)(1) require those persons named in a report to be informed by the local district of the existence of a report, of whether the report is indicated, and of their rights in regard to having the report amended or expunged. Bulletin 192 and 83ADM42 contain the specific Notification Letters that local child protective services must disseminate in order to meet the requirements of Section 424.6 and 18NYCRR 432.3(j)(1).

The statutory changes enumerated below and forthcoming regulatory amendments now require that these Notification Letters be revised.

III. Program Implications

Chapter 822 of the Laws of 1984 amended the definition of "subject of the report" so that the term is defined in Section 412.4 of the Social Services Law as follows:

Any parent of, guardian of or other person legally responsible for a child reported to the SCR who is allegedly responsible for causing injury, abuse or maltreatment to such child or who allegedly allows such injury, abuse or maltreatment to be inflicted on such child, or an operator of or employee or volunteer in a home or facility operated or supervised by an authorized agency, the Division for Youth, or an Office of the Department of Mental Hygiene or in a family day care home, a day care center or a day services program who is allegedly responsible for causing injury, abuse or maltreatment to a child who is reported to the SCR or who allegedly allows such injury, abuse or maltreatment to be inflicted on such child.

Chapter 822 of the Laws of 1984 also added a definition of "other persons named in the report". This term is defined in Section 412.5 of such Law to include:

The child who is reported to the SCR and such child's parent, guardian, or other person legally responsible for the child who have not been named in the report as allegedly responsible for causing injury, abuse or maltreatment to the child or as allegedly allowing such injury, abuse or maltreatment to be inflicted on such child. This term does not include the subject of a report.

By creating this distinction, the capacity of the SCR to identify perpetrators has been enhanced. When authorized agencies, the Division for Youth,

or day care centers submit screening requests to the SCR in order that prospective foster or adoptive parents and prospective or current employees may be screened, only the names of individuals listed as subjects (perpetrators) of abuse and maltreatment reports will be released to the inquiring agency, Division or center. This will protect the rights of individuals who are not responsible for abusing or maltreating a child but who are named in a report.

It should be noted, however, that when a report is received which names a "subject" or "other person named in the report" and previous reports exist which name any of the same persons, the local child protective service and those mandated reporters authorized to receive information for the purpose of evaluating the condition or circumstances of the child before them, will be notified by the SCR that the records indicate a previous report concerning a subject or other person named in the subsequent report.

The specific rights accorded to subjects and other persons named in a report have undergone some changes. Both subjects and others named in the report must be notified of the following: the existence of the report in which they are named, the determination (indicated or unfounded) and the fact that a report has been expunged or amended. In addition, both subjects and others named in the report are entitled to request and receive a copy of the report(s) in which they are named. Only the subject has the right to request that the report be amended or expunged and to request a fair hearing.

Subjects and other adult persons named in a report will continue to be notified of unfounded determinations directly by the SCR.

As a result of the elimination of the authority to seal obsolete records or any other records, all obsolete records will be expunged by the SCR. This will be done no later than ten years after the reported child's eighteenth birthday. Any records previously sealed by the SCR will be expunged. Local district child protective services will be notified of those records expunged by the SCR, so they can determine which records they likewise must expunge.

All requests for the Commissioner to amend or expunge a report from the SCR must be made in writing by the subject within ninety days of being notified that the report is indicated. The Commissioner must act upon each such request within ninety days. If he does not amend or expunge the report within this required time frame, the subject has the right to a fair hearing. Due to the ninety day time limit for completion of reviews, the local district will be notified within ten days of a subject's request and will be asked to provide necessary documentation within thirty days of receiving such notice.

IV. Required Action

All subjects of a report of child abuse or maltreatment as well as other adult persons named in the report are to be notified in writing of the existence of the report. The subject of a report is to be notified of


his or her rights in regard to amendment or expungement pursuant to Section 424.6 of the Social Services Law. The notification letter to parents or guardians must utilize the specific language set forth in Appendix A-1 (Notice of Existence of Report). When a child is reported abused or maltreated in a non-familial setting (foster care, day care, day services), the notification letter to the parents or guardians must utilize the specific language set forth in Appendix A-2, and the notification letter to the subject must utilize the specific language set forth in Appendix A-3. Concomitantly, if the report is "indicated", subjects and other adult persons named in the report are to be notified of this determination and of the subject's right to request that the report be amended or expunged pursuant to section 422.8 of the Social Services Law and Departmental Regulation 432.3(j) (1). Appendix A-4, A-5 and A-6 contain the specific language that must be used in the notice of indication for subjects and other persons (familial reports of abuse and maltreatment), parents or guardians when a child is reported abused or maltreated in a non-familial setting (foster care, day care, day services), and subjects of the report (child in non-familial setting) respectively.

Copies of all notification letters are to be kept in the local register.

All local child protective records must be expunged no later than ten years after the reported child's eighteenth birthday. Local CPS must utilize the SCR report of the relevant records in order to perform the required expungements.

IV. Effective Date

Chapter 822 of the Laws of 1984 became effective December 2, 1984. The requirements of this release became effective on that date. A copy of the legislation is attached for your information. The regulations implementing these legislative changes will be forthcoming.



Joseph Semidei
Deputy Commissioner
Division of Family and
Children Services

Attachments

APPENDIX A1 Notice of Existence of Report

Dear

RE: NYS REGISTER #

This is to inform you that you are the subject or other person named in a report of suspected child abuse or maltreatment received by the New York State Child Abuse and Maltreatment Register (State Central Register) on _____. This report has been transmitted to your local child protective service for commencement of an investigation and evaluation of the report as required by the New York State Child Protective Services Act.

The Law allows your local Child Protective Service 90 days from the time of the receipt of the report to complete a full investigation of the allegations contained within the report as well as an evaluation of the care being provided to your child(ren). You will be notified in writing of the findings of the investigation. Where appropriate, services will be offered to assist you and your family.

If the report is determined to be "unfounded" meaning that there is no credible evidence (i.e., evidence worthy of belief), all information which would identify the subject(s) or other persons named in the report will be expunged (destroyed) from the State and local register. If the report is determined to be "indicated" (there is some credible evidence of abuse or maltreatment to the child(ren)), it will remain in the State Central Register.

This report is confidential and can only be released to certain authorized persons accorded rights to access by State Law. As the subject or other person named in the report, you have a right to request a copy of all information contained in the State Central Register. However, the Commissioner of the New York State Department of Social Services may withhold information identifying the person making the report or cooperating in the subsequent investigation where the Commissioner reasonably determines that the release of this information would be detrimental to that person's safety or interests.

After the investigation is completed and if the report is determined to be "indicated", if you are the subject of the report you have the right to request the Commissioner of the New York State Department of Social Services to amend (change) or expunge (destroy) the record if you believe that it is inaccurate. The subject of the report is the person(s) responsible for causing or allowing to be inflicted injury, abuse or maltreatment to the child(ren).

If you wish to receive a copy of the information contained in the State Central Register, please write to:

Appendix A1 (contd.)

New York State Department of Social Services
Child Abuse and Maltreatment Register
40 North Pearl Street
Albany, New York 12243

This written request should include your full name, the full name(s) of the child(ren) named in the report, your address, and the New York State Register number given in the upper right-hand corner of this letter.

CASEWORKER

COMMISSIONER

TELEPHONE NUMBER

DIRECTOR or SUPERVISOR of
CHILD PROTECTIVE SERVICES

APPENDIX A2 Notice of Existence of Report
(for parent or guardian of child in non-familial setting)

Dear

RE: NYS REGISTER#

This is to inform you that your child(ren), _____ has/have
Name(s) of child(ren)
been named in a report of suspected child abuse or maltreatment which has been received by the New York State Child Abuse and Maltreatment Register (State Central Register) on _____. The suspected child abuse or maltreatment is alleged to have occurred at the following setting: ___ day care, ___ day services, ___ foster care, ___ other.

Name:
Address:

Pursuant to section 412 and 415 of the Social Services Law, as the parent(s) or guardian(s) of the above named child(ren), your name(s) has/have been included on the report in addition to the name of the person alleged to be responsible for causing the abuse or maltreatment.

This report has been transmitted to the local Child Protective Service for commencement of an investigation and evaluation of the report as required by the New York State Child Protective Services Act. The Law allows the local Child Protective Service 90 days from the time of the receipt of the report to complete a full investigation of the allegations contained in the report as well as an evaluation of the care being provided to your child(ren) at the above setting. You will be notified in writing of the findings of the investigation.

If the report is determined to be "unfounded", meaning that there is no credible evidence (i.e., evidence worthy of belief), all information which would identify you, your child(ren) or the subject of the report will be expunged (destroyed) from the State and local register. If the report is determined to be "indicated" (there is some credible evidence that the child(ren) has/have been abused or maltreated), the information will remain in the State Central Register.

This report is confidential and can only be released to certain authorized persons accorded rights to access by State Law. As the parent or guardian, you have a right to request a copy of all information contained in the State Central Register. However, the Commissioner of the New York State Department of Social Services may withhold information identifying the person making the report or cooperating in the subsequent investigation where the Commissioner reasonably determines that the release of this information would be detrimental to that person's safety or interests.

Appendix A2 (contd.)

If you wish to receive a copy of the information contained in the State Central Register, please write to:

New York State Department of Social Services
Child Abuse and Maltreatment Register
40 North Pearl Street
Albany, New York 12243

This written request should include your full name, the full name(s) of the child(ren) named in the report, your address, and the New York State Register number given in the upper right-hand corner of this letter.

CASEWORKER

COMMISSIONER

TELEPHONE NUMBER

DIRECTOR or SUPERVISOR of
CHILD PROTECTIVE SERVICES

APPENDIX A3 Notice of Existence of Report
(for subject; child in non-familial setting)

Dear

RE: NYS REGISTER #

This is to inform you that you are the subject of a report of suspected child abuse or maltreatment received by the New York State Child Abuse and Maltreatment Register (State Central Register) on _____.
This report alleges that you are responsible for causing the suspected abuse or maltreatment of _____ at the following setting:
Name(s) of Child(ren)

___ day care, ___ day services, ___ foster care, ___ other.

Name:

Address:

This report has been transmitted to the local Child Protective Service for commencement of an investigation and evaluation of the report as required by the New York State Child Protective Services Act. The Law allows the local Child Protective Service 90 days from the time of the receipt of the report to complete a full investigation of the allegations contained within the report as well as an evaluation of the care being provided to the child(ren) named in the report at the above setting. You will be notified in writing of the findings of the investigation.

If the report is determined to be "unfounded", meaning that there is no credible evidence (i.e., evidence worthy of belief), all information which would identify you or other persons named in the report will be expunged (destroyed) from the State and local register. If the report is determined to be "indicated" (there is some credible evidence of abuse or maltreatment to the child(ren)), the information will remain in the State Central Register.

This report is confidential and can only be released to certain authorized persons accorded rights to access by State Law. As the subject of the report, you have a right to request a copy of all information contained in the State Central Register. However, the Commissioner of the New York State Department of Social Services may withhold information identifying the person making the report or cooperating in the subsequent investigation where the Commissioner reasonably determines that the release of this information would be detrimental to that person's safety or interests.

After the investigation is completed and if the report is determined to be "indicated", you also have the right to request the Commissioner of the New York State Department of Social Services to amend (change) or expunge (destroy) the information which is contained in the record if you believe that it is inaccurate.

Appendix A3 (Cont.d)

If you wish to receive a copy of the information contained in the State Central Register, please write to:

New York State Department of Social Services
Child Abuse and Maltreatment Register
40 North Pearl Street
Albany, New York 12243

This written request should include your full name, the full name(s) of the child(ren) named in the report, your address, and the New York State Register number given in the upper right-hand corner of this letter.

CASEWORKER

COMMISSIONER

TELEPHONE NUMBER

DIRECTOR or SUPERVISOR of
CHILD PROTECTIVE SERVICES

APPENDIX A4 Notice of Indication

Dear

RE: NYS REGISTER #

On _____, you were notified that you were the subject or other person named in a report of suspected child abuse or maltreatment received by the New York State Child Abuse and Maltreatment Register (State Central Register). At that time, you were informed of the investigation process conducted by the local child protective services and your rights in regard to this matter.

We must now inform you that this report has been "indicated." This means that some credible evidence has been found to support the determination that your child(ren) has/have been maltreated or abused. In addition to this letter, your local child protective services caseworker will discuss in more depth the reasons for this determination and your feelings concerning this matter. Services may also be offered to assist you and your family.

Since this report has been determined to be indicated, it will remain in the New York State Child Abuse and Maltreatment Register. As you were previously informed in your notification letter, you are entitled to request a copy of all information contained in the State Central Register. However, the Commissioner of the New York State Department of Social Services may withhold information identifying the person making the report or cooperating in the subsequent investigation where the Commissioner reasonably determines that the release of this information would be detrimental to that person's safety or interest.

Those persons named as subjects of a report, that is those persons responsible for causing or allowing to be inflicted injury, abuse or maltreatment to the child(ren), have the right to request the Commissioner of the New York State Department of Social Services to amend (change) or expunge (destroy) the record of the report. If you are named as "subject of a report" you have the right, after receiving a copy of all information contained in the State Central Register, to request this amendment or expungement if you believe that the information is inaccurate. This request must be made by you within 90 days of being notified that the report is indicated. The Commissioner must take action and notify you of that action within 90 days from your request. As a result of your request, a complete review of the record and the factors upon which an "indicated" determination was made will take place. Upon completion of this review, you will be notified by the New York State Department of Social Services in writing of the decision made in response to your request and the reasons for it. If you are not satisfied with the decision made by the Commissioner with respect to your request at that time, you may request a fair hearing to determine whether the record of the report should be amended or expunged.

If you have not yet requested a copy of the information contained within the State Central Register and desire such information, please do so before making a request to amend or expunge the record of the report. These requests should be made in writing to:

Appendix A4 (Cont.d)

New York State Department of Social Services
Child Abuse and Maltreatment Register
40 North Pearl Street
Albany, New York 12243

This written request should include your full name, the full name(s) of the child(ren) named in the report, your address, and the New York State Register number given in the upper right-hand corner of this letter.

CASEWORKER

COMMISSIONER

TELEPHONE NUMBER

DIRECTOR or SUPERVISOR of
CHILD PROTECTIVE SERVICES

APPENDIX A5 Notice of Indication
(for parent or guardian of child in non-familial setting)

Dear _____

RE: NYS REGISTER # _____

On _____, you were notified that your child(ren) had been named in a report of suspected child abuse or maltreatment which had been received by the New York State Child Abuse and Maltreatment Register (State Central Register) and that such abuse or maltreatment was alleged to have occurred at the following setting: ___ day care, ___ day services, ___ foster care, ___ other. At that time, you were informed of the investigation process which would be conducted by the local child protective services and your right to have access to information on this matter as the parent(s) or guardian(s) of your child(ren).

We must now inform you that this report has been determined to be "indicated." This means that some credible evidence has been found to support the determination that your child(ren) has/have been maltreated or abused. If necessary, your local child protective service will be developing a plan for corrective action to address this matter.

Since the report has been determined to be indicated, it will remain in the New York State Child Abuse and Maltreatment Register. As you were previously informed in your notification letter, you are entitled to request a copy of all information contained in the State Central Register. However, the Commissioner of the New York State Department of Social Services may withhold information identifying the person making the report or cooperating in the subsequent investigation where the Commissioner reasonably determines that the release of this information would be detrimental to that person's safety or interest.

If you have not yet requested a copy of the information contained within the State Central Register and desire such information, a request should be made in writing to:

New York State Department of Social Services
Child Abuse and Maltreatment Register
40 North Pearl Street
Albany, New York 12243

This written request should include your full name, the full name(s) of the child(ren) named in the report, your address, and the New York State Register number given in the upper right-hand corner of this letter.

Appendix A5 (Cont.d)

CASEWORKER

COMMISSIONER

TELEPHONE NUMBER

DIRECTOR or SUPERVISOR of
CHILD PROTECTIVE SERVICES

APPENDIX A6 Notice of Indication
(for subject; child in non-familial setting)

Dear

RE: NYS REGISTER # _____

On _____, you were notified that you were the subject of a report of suspected child abuse or maltreatment which had been received by the New York State Child Abuse and Maltreatment Register (State Central Register) and that such abuse or maltreatment was alleged to have occurred at the following setting: ___ day care, ___ day services, ___ foster care, ___ other. At that time, you were informed of the investigation process conducted by the local child protective services and your rights in regard to this matter.

We must now inform you that this report has been "indicated." This means that some credible evidence has been found to support the determination that the child(ren) named in the report has/have been abused or maltreated. In addition to this letter, your local child protective services caseworker will discuss in more depth the reasons for this determination and, if necessary, will develop a plan for corrective action to address this matter.

Since this report has been determined to be indicated, it will remain in the State Central Register. As you were previously informed in your notification letter, you are entitled to request a copy of all information contained in the State Central Register. However, the Commissioner of the New York State Department of Social Services may withhold information identifying the person making the report or cooperating in the subsequent investigation where the Commissioner reasonably determines that the release of this information would be detrimental to that person's safety or interest.

If after receiving a copy of all information contained in the State Central Register, you believe that it is inaccurate, you have the right to request the Commissioner of the New York State Department of Social Services to amend (change) or expunge (destroy) the record of the report. This request must be made by you within 90 days of being notified that the report is indicated. The Commissioner must take action and notify you of that action within 90 days from your request. As a result of your request, a complete review of the record and the factors upon which an "indicated" determination was made will take place. Upon completion of this review, you will be notified by the New York State Department of Social Services in writing of the decision made in response to your request and the reasons for it. If you are not satisfied with the decision made by the Commissioner with respect to your request at that time, you may request a fair hearing to determine whether the record of the report should be amended or expunged.

If you have not yet requested a copy of the information contained within the State Central Register and desire such information, please do so before making a request to amend or expunge the record of the report. These requests should be made in writing to:

Appendix A6 (Cont.d)

New York State Department of Social Services
Child Abuse and Maltreatment Register
40 North Pearl Street
Albany, New York 12243

This written request should include your full name, the full name(s) of the child(ren) named in the report, your address, and the New York State Register number given in the upper right-hand corner of this letter.

CASEWORKER

COMMISSIONER

TELEPHONE NUMBER

DIRECTOR or SUPERVISOR of
CHILD PROTECTIVE SERVICES

STATE OF NEW YORK

7493

IN SENATE

February 6, 1984

Introduced by Sen. GOODHUE -- (at request of the department of Social Services) -- read twice and ordered printed, and when printed to be committed to the Committee on Child Care

AN ACT to amend the social services law, in relation to child protective services

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

1 Section 1. Subdivision four of section four hundred twelve of the
2 social services law, as amended by chapter six hundred of the laws of
3 nineteen hundred eighty-two, is amended to read as follows:

4 4. "Subject of the report" means any [child reported to the central
5 register of child abuse or maltreatment and his or her] parent of,
6 guardian[,] of or other person legally responsible [also named in the
7 report] for a child reported to the central register of child abuse and
8 maltreatment who is allegedly responsible for causing injury, abuse or
9 maltreatment to such child or who allegedly allows such injury, abuse or
0 maltreatment to be inflicted on such child, or an operator of or em-
1 ployee or volunteer in a home or facility operated or supervised by an
2 authorized agency, the division for youth, or an office of the depart-
3 ment of mental hygiene or in a family day-care home, a day-care center
4 or a day-services program who is allegedly responsible for causing in-
5 jury, abuse or maltreatment to a child who is reported to the central
6 register of child abuse or maltreatment or who allegedly allows such in-
7 jury, abuse or maltreatment to be inflicted on such child;

8 § 2. Subdivisions five and six of section four hundred twelve of such
9 law are renumbered subdivisions six and seven and a new subdivision five
0 is added to read as follows:

1 5. "Other persons named in the report" shall mean and be limited to
2 the following persons who are named in a report of child abuse or mal-
3 treatment other than the subject of the report: the child who is
4 reported to the central register of child abuse and maltreatment; and
5 such child's parent, guardian or other person legally responsible for

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

LBD13123-02-4

1 the child who have not been named in the report as allegedly responsible
2 for causing injury, abuse or maltreatment to the child or as allegedly
3 allowing such injury, abuse or maltreatment to be inflicted on such
4 child;

5 3. Subdivisions two, four, five, six, seven, eight and nine of sec-
6 tion four hundred twenty-two of such law, subdivisions two, six, seven,
7 eight and nine as added by chapter ten hundred thirty-nine of the laws
8 of nineteen hundred seventy-three, subdivision four as amended by chap-
9 ter three hundred seven of the laws of nineteen hundred eighty-three and
10 subdivision five as amended by chapter five hundred eighty-five of the
11 laws of nineteen hundred eighty-one, are amended to read as follows:

12 2. The central register shall be capable of receiving oral and elec-
13 tronic reports of child abuse or maltreatment and of immediately iden-
14 tifying prior reports of child abuse or maltreatment and capable of
15 monitoring the provision of child protective service twenty-four hours a
16 day, seven days a week. To effectuate this purpose, but subject to the
17 provisions of the appropriate local plan for the [provision] provision
18 of child protective services, there shall be a single statewide tele-
19 phone number that all persons, whether mandated by the law or not, may
20 use to report cases of suspected child abuse or maltreatment and that
21 all persons so authorized by this title may use for determining the ex-
22 istence of prior reports in order to evaluate the condition or circum-
23 stances of the child before them. Such oral reports shall be immedi-
24 ately transmitted orally or electronically by the department to the ap-
25 propriate local child protective service. If the records indicate a
26 previous report concerning a subject of the report, other persons named
27 in the report or other pertinent information, the appropriate local
28 child protective service shall be immediately notified of the fact.

29 4. Reports made pursuant to this title as well as any other informa-
30 tion obtained, reports written or photographs taken concerning such
31 reports in the possession of the department or local departments shall
32 be confidential and shall only be made available to (a) a physician who
33 has before him a child whom he reasonably suspects may be abused or
34 maltreated; (b) a person authorized to place a child in protective
35 custody when such person has before him a child whom he reasonably
36 suspects may be abused or maltreated and such person requires the in-
37 formation in the record to determine whether to place the child in
38 protective custody; (c) a duly authorized agency having the responsibil-
39 ity for the care or supervision of a [subject of the report] child who
40 is reported to the central register of abuse or maltreatment; (d) any
41 person who is the subject of the report or other persons named in the
42 report; (e) a court, upon a finding that the information in the record
43 is necessary for the determination of an issue before the court; (f) a
44 grand jury, upon a finding that the information in the record is neces-
45 sary for the determination of charges before the grand jury; (g) any ap-
46 propriate state legislative committee responsible for child protective
47 legislation and any temporary state commission having the powers of a
48 legislative committee and having the power to review such legislation
49 and make recommendations thereon to the governor and legislature; (h)
50 any person engaged in a bona fide research purpose, provided, however,
51 that no information identifying the subjects of the report or other per-
52 sons named in the report shall be made available to the researcher un-
53 less it is absolutely essential to the research purpose and the depart-
54 ment gives prior approval; (i) authorized agencies and the division for
55 youth subject to the provisions of section four hundred twenty-four-a of

1 this chapter; and (j) the state commission on quality of care for the
2 mentally disabled in connection with an investigation being conducted by
3 the commission pursuant to article forty-five of the mental hygiene law.
4 After a child who is [the subject of a report] reported to the central
5 register of abuse or maltreatment reaches the age of eighteen years, ac-
6 cess to a child's record under paragraphs (a) and (b) of this subdivi-
7 sion shall be permitted only if a sibling or off-spring of such child is
8 before such person and is a suspected victim of child abuse or
9 maltreatment. In addition, a physician or the person in charge of an
10 institution, school, facility or agency making the report shall receive,
11 upon request, a summary of the findings of and action taken by the child
12 protective service in response to the report. The amount of detail such
13 summary shall contain will depend on the source of the report and shall
14 be established by regulations of the commissioner. However, no informa-
15 tion may be released unless the person or official's identity is con-
16 firmed by the department and the released information states whether the
17 report is "indicated" or "under investigation," whichever the case may
18 be. A person given access to the names or other information identifying
19 the subjects of the report or other persons named in the report, except
20 the subject of the report or other persons named in the report, shall
21 not divulge or make public such identifying information unless he is a
22 district attorney or other law enforcement official and the purpose is
23 to initiate court action.

24 5. Unless an investigation of a report conducted pursuant to this
25 title determines that there is some credible evidence of the alleged
26 abuse or maltreatment, all information identifying the subjects of the
27 report and other persons named in the report shall be expunged from the
28 central register and from the records of all local child protective ser-
vices forthwith.

29 6. In all other cases, the record of the report to the central regis-
30 ter shall be [sealed] expunged no later than ten years after the
31 [subject] reported child's eighteenth birthday; [Once sealed, a record
32 shall not otherwise be available unless the commissioner, upon notice to
33 the subjects of the report, gives his personal approval for an appropri-
34 ate reason.] In any case and at any time, the commissioner may amend[,
35 seal] or expunge any record upon good cause shown and notice to the sub-
36 jects of the report and other persons named in the report.

37 7. At any time, a subject of a report and other persons named in the
38 report may receive, upon request, a copy of all information contained in
39 the central register; provided, however, that the commissioner is
40 authorized to prohibit the release of data that would identify the per-
41 son who made the report or who cooperated in a subsequent investigation,
42 which he reasonably finds will be detrimental to the safety or interests
43 of such person.

44 8. At any time subsequent to the completion of the investigation but
45 in no event later than ninety days after [receipt of the report, a] the
46 subject of the report is notified that the report is indicated the sub-
47 ject [of a report] may request the commissioner to amend[, seal] or ex-
48 punge the record of the report. If the commissioner [refuses or does
49 not act within a reasonable time, but in no event later than thirty days
50 after] does not amend or expunge the report within ninety days of
51 receiving such request, the subject shall have the right to a fair hear-
52 ing to determine whether the record of the report in the central regis-
53 ter should be amended or expunged on the grounds that it is inaccurate
54 or it is being maintained in a manner inconsistent with this title. The
55

1 appropriate local child protective service shall be given notice of the
2 fair hearing. The burden of proof in such hearing shall be on the
3 department and appropriate local child protective service. In such
4 hearings, the fact that there was a family court finding of child abuse
5 or neglect shall be presumptive evidence that the report was
6 substantiated. The commissioner or his designated agent is hereby
7 authorized and empowered to make any appropriate order respecting the
8 amendment or expungement of the record to make it accurate or consistent
9 with the requirements of this title.

10 9. Written notice of any expungement or amendment of any record, made
11 pursuant to the provisions of this title, shall be served upon each sub-
12 ject of such record, other persons named in the report and the appropri-
13 ate local child protective service. The latter, upon receipt of such
14 notice, shall take the appropriate similar action in regard to the local
15 child abuse and maltreatment register and inform, for the same purpose,
16 any other agency which received such record pursuant to subdivisions
17 four and five of section four hundred twenty-four of this title.

18 § 4. Subdivision six of section four hundred twenty-four of such law,
19 as added by chapter ten hundred thirty-nine of the laws of nineteen hun-
20 dred seventy-three, is amended to read as follows:

21 6. upon receipt of such report, commence or cause the appropriate
22 society for the prevention of cruelty to children to commence, within
23 twenty-four hours, an appropriate investigation which shall include an
24 evaluation of the environment of the child named in the report and any
25 other children in the same home and a determination of the risk to such
26 children if they continue to remain in the existing home environment, as
27 well as a determination of the nature, extent, and cause of any condi-
28 tion enumerated in such report, the name, age and condition of other
29 children in the home, and, after seeing to the safety of the child or
30 children, forthwith notify the subjects of the report and other persons
31 named in the report in writing, of the existence of the report and their
32 respective rights pursuant to this title in regard to amendment or ex-
33 pungement;

34 § 5. This act shall take effect on the one hundred twentieth day after
35 it shall have become a law.