



Legislation Text

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Res. No. 1057

Resolution Calling upon the New York State Legislature to pass, and the Governor to sign legislation to automatically expunge the records of individuals whose child abuse or neglect case was dismissed in family court from the Statewide Central Registry of Child Abuse and Maltreatment.

By Council Members Ayala, Levin, Chin, Gibson, Ampry-Samuel, Lander and the Public Advocate (Mr. Williams)

Whereas, The New York Social Services Law establishes in the New York State Office of Children and Family Services (OCFS) a Statewide Central Register of Child Abuse and Maltreatment (SCR) to maintain a centralized database of child abuse and neglect investigation records; and

Whereas, In 2018, the New York City Administration for Children’s Services (ACS) received a total of 53,676 SCR reports including over 20,000 that were “indicated,” which are determined by Child Protective Specialists (CPS) upon finding some credible evidence following an investigation to support the claim that a child has been abused or neglected; and

Whereas, Current law requires indicated reports of child abuse and neglect to be retained in the SCR database records for up to 28 years or until 10 years after the 18th birthday of the youngest child named in the report unless the report is amended or sealed upon request; and

Whereas, Indicated cases of maltreatment would be conditionally reduced to eight years in the SCR under recent New York State legislation; and

Whereas, A8060A/S6427A, by Assemblymember Ellen Jaffee and Senator Velmanette Montgomery, which recently passed both the New York State Assembly and Senate, would if signed, shorten the length of time that an individual’s name is retained in the SCR database records where reports were indicated for maltreatment from 10 to eight years, only allow authorized employers to access such records for four years,

change the standard of proof required to determine whether a report should be indicated for abuse or maltreatment from “some credible evidence” to “a fair preponderance of evidence” and also expand an individual's rights as it relates to requesting an amendment to an indicated report; and

Whereas, “Unfounded” reports, which are determined by CPS upon finding no credible evidence following an investigation to support the claim that a child has been abused or neglected, are retained in the SCR database records for 10 years from the date of the report unless the subject of the report has been granted early expungement upon request; and

Whereas, According to the New York Times, in 2018, the State ordered investigations into 166,000 reports of child abuse or neglect, added a total of 47,541 cases to the SCR database and processed more than 316,000 SCR database checks for authorized employers; and

Whereas, Authorized agencies are legally mandated to screen an applicant or employee prior to employment, certification or licensure using the SCR Online Clearance System to confirm whether an applicant or employee has at least one substantiated allegation in an indicated report that has been determined to be relevant to their employment; and

Whereas, Authorized agencies include residential programs licensed, certified, or operated by OCFS, the New York State Education department, the New York State Office of Mental Health, the New York State Office for People with Developmental Disabilities, the New York State Office of Alcoholism and Substance Abuse Services, some adult homes and summer camps licensed by the New York State Department of Health, operators and staff of child day care programs, applicants to be foster or adoptive parents and persons age 18 or older who reside in the homes of prospective foster and adoptive parents; and

Whereas, The process for expungement of records from the SCR database can be difficult for individuals to navigate and achieve even if the case was dismissed in court and OCFS, at its discretion and in limited circumstances, may grant such a request; and

Whereas, Having a record of child abuse or maltreatment can be especially burdensome for low-income

and Black, Latinx and Asian communities whose children represented nearly 90% of those in foster care combined in 2017 and who are disproportionately impacted by child welfare policies and practices that yield negative consequences and poor outcomes for families; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass, and the Governor to sign legislation to automatically expunge the records of individuals whose child abuse or neglect case was dismissed in family court from the Statewide Central Registry of Child Abuse and Maltreatment.

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