



NEW YORK  
CITY BAR

**REPORT ON LEGISLATION BY  
THE CHILDREN AND THE LAW COMMITTEE AND  
THE COUNCIL ON CHILDREN**

**A.7879-A  
S.7326-A**

**M. of A. Hevesi  
Sen. Brisport**

AN ACT to amend the social services law, in relation to the administration of the statewide central register of child abuse and maltreatment

**THIS BILL IS APPROVED**

The Children and the Law Committee and the Council on Children of the New York City Bar Association (City Bar) strongly supports A.7879-A / S.7326-A, which aims to dissuade individuals from making false or malicious State Central Registry reports. The Children and the Law Committee, which includes among its members judges of the Family Court, attorneys for children, attorneys for parents, and attorneys for the Administration for Children's Services and its contracted agencies, addresses legal issues that impact the quality of life for children and families. The Council on Children is comprised of representatives of all the City Bar committees dealing with children, education, family, family court, juvenile justice, and the needs of lesbian, gay, bisexual and transgender youth, and includes among its members representatives of the child welfare, juvenile justice and foster care communities, including attorneys representing parents and children.

Under current state law, anyone may call the child maltreatment hotline, for any reason, and *anonymously* lodge a report of abuse or neglect. Because members of the public (who are not mandated reporters) are not required to provide any identifying information, this results in many false and malicious reports of child maltreatment. The Anti-Harassment in Reporting Bill (also known as the Confidential Reporting Bill) would benefit children and families by ending the anonymous reporting of alleged child maltreatment. The Bill would require all reporters to identify themselves - with the identifying information provided only to the investigating child protective specialists - thereby deterring false and malicious reporting. This would lead to a decrease in the severe harm and trauma that false reports of child maltreatment cause children and families.

**About the Association**

*The mission of the New York City Bar Association, which was founded in 1870 and has approximately 24,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.*

## I. REASONS FOR SUPPORT

### a. The Majority of Calls to Child Abuse Hotlines Result in No Findings of Child Maltreatment, and Many are Made for the Purpose of Harassment

In 2019, Child Protective Services investigated over 160,000 reports received through the New York State Central Registry (“SCR”) Hotline.<sup>1</sup> While many callers are well intentioned, a significant percentage of callers make false reports, for the purpose of harassment. A major reason there are so many false and malicious reports is that under current state law, anyone may call the child maltreatment hotline, make a report of suspected abuse or neglect, and do so without identifying themselves.

The vast majority of investigated child abuse hotline calls do not result in child protective agencies taking action against the individual.<sup>2</sup> The National Child Abuse and Neglect Data System (NCANDS) estimated that, in 2019, although approximately 4.4 million allegations of child abuse or neglect were reported to child protective service agencies nationwide, only about 656,000 investigations resulted in findings of child maltreatment.<sup>3</sup>

Most people who call the state hotline to report suspected abuse or neglect are professionals who are mandated by law to report suspected cases of abuse or neglect.<sup>4</sup> These professionals, who are known as mandated reporters, are required by law to give their names and contact information. However, under current state law, when a non-professional makes a report of alleged abuse to the hotline, he or she remains anonymous. The caller is not required to provide their name or contact information and their identity is not disclosed.<sup>5</sup>

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<sup>1</sup> CHILD.’S BUREAU, U.S. DEP’T HEALTH & HUM. SERVS., CHILD MALTREATMENT 2019, 12 (2021), <https://www.acf.hhs.gov/sites/default/files/documents/cb/cm2019.pdf>. (New York State reported that in 2019, they received 163,917 “Total Referrals”, with a “Referral” defined as an allegation of abuse or neglect received by a CPS agency. New York State does not collect data about calls not registered as reports). (Unless otherwise indicated, all websites last visited May 2, 2022.)

<sup>2</sup> See Dale Margolin Cecka, *Abolish Anonymous Reporting to Child Abuse Hotlines*, 64 CATH. U. L. REV. 51, 64 (2014) (citing NIS-4 statistic that nationally reports on only 27.4 per 1,000 children resulted in dispositions, despite the definition of disposition including investigations that were not substantiated for maltreatment).

<sup>3</sup> CHILD.’S BUREAU, U.S. DEP’T HEALTH & HUM. SERVS., CHILD MALTREATMENT 2019, xiv, 7, 18 (2021), <https://www.acf.hhs.gov/sites/default/files/documents/cb/cm2019.pdf>. NCANDS reported that the 4.4 million referrals alleging child maltreatment included approximately 7.9 million children. *Id.* at xiv, 20. Additionally, nearly 2.85 million investigated allegations of child abuse or neglect uncovered no evidence of child maltreatment, were closed without any determinations, and/or were determined to be unsubstantiated. *Id.* at xiv, 17–18, 30. The NCANDS reported that 16.7% of children who were subjects of reports were classified as “victims” of maltreatment and the remaining 83.7% of children were “not determined to be victims or received an alternative response.”

<sup>4</sup> *Id.* at xi (“For 2019, professionals submitted 68.6 percent of reports alleging child abuse and neglect. The term professional means that the person has contact with the alleged child maltreatment victim as part of his or her job.”).

<sup>5</sup> See *Prevent and Report Child Abuse*, N.Y. STATE OFF. CHILD. & FAM. SERVS., [https://ocfs.ny.gov/main/prevent\\_child\\_abuse.asp](https://ocfs.ny.gov/main/prevent_child_abuse.asp) (last accessed November 21, 2021) (“Calls to the hotline are anonymous; callers’ identities are protected from disclosure.”) (Webpage on file with authors.); NYC Administration for Children’s Services, *How to Make a Report* (“Anyone can make a report (and may do so anonymously), when they suspect child abuse or neglect.”), <https://www1.nyc.gov/site/acs/child-welfare/how-to-make-report.page> See also *Selapack v. Iroquois Cent. Sch. Dist.*, 794 N.Y.S.2d 547, 548 (4th Dep’t 2005) (Section

## **b. False Reports of Child Maltreatment Harm Children and Families, Particularly Families of Color**

As practitioners in New York City’s Family Courts and Supreme Courts, we know firsthand that false reports of child abuse and neglect, and the resulting investigations, cause varied and long-lasting harms to children and their families. As noted by University of Pennsylvania Professor Dorothy Roberts, the “disruptive” nature of “child maltreatment allegations and investigations, most of which are unsubstantiated[,] produce absolutely no help to families.” Child protective service agencies too often act as family regulators, “destroying [B]lack, brown and [I]ndigenous families in the name of child protection.”<sup>6</sup>

False allegations of child abuse or neglect have a particularly detrimental impact on families of color, who have a history of overrepresentation and disparate treatment within family court and child protective service systems.<sup>7</sup> Families of color are more likely to be reported to and investigated by child protective services,<sup>8</sup> and have higher rates of family separation and foster care placement once involved with the child protective system.<sup>9</sup> According to former New York City Administration for Children’s Services Commissioner David Hansell, in 2019, 41.4% of reports to the SCR involved children in families who identified as Black and/or African American, and 45.4% of reports involved children from Latinx/Hispanic families, although those children comprise, respectively, about 23% and 36% of the NYC child population.<sup>10</sup> Conversely, white

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422 of N.Y. Social Services Law does not allow “for the disclosure of the name of the person reporting the suspected abuse where there is an allegation that such person acted with willful misconduct or gross negligence”).

<sup>6</sup> Dorothy Roberts, Opinion, *Abolishing Policing Also Means Abolishing Family Regulation*, THE IMPRINT: YOUTH & FAM. NEWS (June 16, 2020), <https://chronicleofsocialchange.org/child-welfare-2/abolishing-policing-also-means-abolishing-family-regulation/>.

<sup>7</sup> See generally DOROTHY ROBERTS, SHATTERED BONDS: THE COLOR OF CHILD WELFARE (2002) [hereinafter ROBERTS (2002)]; John D. Fluke, Ying-Ying T. Yuan, John Hedderson, & Patrick A. Curtis, *Disproportionate Representation of Race and Ethnicity in Child Maltreatment: Investigation and Victimization*, 25 CHILD. & YOUTH SERVS. REV. 359, 362, 372 (2003); Arthur Horton, Jr. & Jerry Watson, *African American Disproportionate Overrepresentation in the Illinois Welfare System*, 22 RACE, GENDER & CLASS, 65, 65, 70 (2015); Jeryl L. Mumpower & Gary H. McClelland, *A Signal Detection Theory Analysis of Racial and Ethnic Disproportionality in the Referral and Substantiation Processes of the U.S. Child Welfare Services System*, 9 JUDGMENT & DECISION MAKING 114 (2014); Dorothy E. Roberts, *The Racial Geography of Child Welfare: Toward a New Research Paradigm*, 86 CHILD WELFARE 125, 125–27 (2008); Dorothy E. Roberts, *Child Welfare’s Paradox*, 49 WM. & MARY L. REV. 881, 883 (2007). See also Louise Feld, Victoria Glock-Molloy, & Rachel Stanton, *When Litigants Cry Wolf: False Reports of Child Maltreatment in Custody Litigation and How to Address Them*, 24 N.Y.U. J. LEG. & PUB. POLICY 111 (2021).

<sup>8</sup> ROBERTS (2002), *supra* note 7 at 7; Fluke, Yuan, Hedderson, & Curtis, *supra* note 7, at 371; Horton & Watson, *supra* note 7, at 66–67 (explaining how in 2007, African American children compose 19% of Illinois population but 34% of reports to the Department of Children and Family Services, protective services, and maltreatment).

<sup>9</sup> Horton & Watson, *supra* note 7, at 66–67 (discussing how Black children represented the majority of children in foster care in 2007 and end up staying in foster care longer than their counterparts); Nicholas Kahn & Mary Eschelbach Hansen, *Measuring Racial Disparities in Foster Care Placement: A Case Study of Texas*, 76 CHILD & YOUTH SERVS. REV. 213 (2017); CHILD.’S BUREAU, FOSTER CARE STATISTICS 2018, at 1, 9–11 (2018), <https://www.childwelfare.gov/pubPDFs/foster.pdf>, CHILD.’S BUREAU, THE AFCARS REPORT 1, 2–5 (2020), <https://www.acf.hhs.gov/sites/default/files/documents/cb/afcarsreport27.pdf>.

<sup>10</sup> See DAVID A. HANSELL, NYC ADMIN. CHILD. SERVS., TESTIMONY TO THE NEW YORK CITY COUNCIL COMMITTEE ON GEN. WELFARE, 6 (Oct. 28, 2020). See also ANGELA BUTEL, DATA BRIEF: CHILD WELFARE INVESTIGATIONS AND

children comprise 26.5% of that population, but are the subject of only 8% of SCR reports accepted for investigation, and Asian/Pacific Islander children constitute 14.1% of that population but comprise only 5.3% of reports.<sup>11</sup>

**c. The Anti-Harassment in Reporting Bill Will Limit False and Malicious Reports, While Protecting Reporters' Privacy**

Some believe anonymous reporting is necessary because, without a guarantee of anonymity, individuals will hesitate to make a report, fearing it will lead to acts of retaliation and/or damage of familial, neighborly, or community relationships.<sup>12</sup> However, because identifying information will continue to remain confidential to everyone, except for the investigating child protective specialists, protection of the reporters' privacy and safety is expected.

The Anti-Harassment in Reporting Bill will help protect New Yorkers, particularly Black, brown and Indigenous families, from the trauma of unnecessary and invasive state intervention. Reporters who currently remain anonymous will have to identify themselves to the State Central Registry for Child Abuse and Maltreatment and will be subject to questioning by a child protective specialist as part of their investigation.

In addition to decreasing false and harassing reports, this Bill will help child protective investigators determine the validity and reliability of the thousands of reports they receive each year and will allow more thorough investigations and accurate determinations as to children's safety. Moreover, by decreasing the number of false reports that must be investigated, it will free valuable government resources, which may then be used to protect children who are actually victims of abuse and neglect.

We recognize that the false reporting of child abuse and neglect is a complex issue, and that the current system is far from infallible. Therefore, this Bill, on its own, will not eliminate false reports of child maltreatment. Thus, we encourage the legislature, and New York State's Child Protective Agencies, to also consider other measures aimed at preventing false reports, as

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NEW YORK CITY NEIGHBORHOODS 1–5 (2019), <https://static1.squarespace.com/static/53ee4f0be4b015b9c3690d84/t/5d12746c3cdaa000017dfc2a/1561490541660/DataBrief.pdf> (Ms. Butel found that “when controlling for child poverty rate,” neighborhoods “with more Black and Latino residents tended to have higher rates of investigation.” Racial bias in child welfare investigations and systemic factors, such as higher rates of poverty and greater state and institutional intervention among families of color, are acknowledged to be contributing factors to the disproportionate representation of families of color involved in the child welfare system. Ms. Butel reported that while there was a statistically significant relationship between higher rates of child poverty and higher rates of indicated cases, there was no statistically significant relationship between higher concentrations of Black and Latino residents and higher rates of indicated cases. Thus, despite higher rates of child welfare investigations in Black and Latino neighborhoods, a neighborhood's concentration of Black and Latino residents was not correlated with higher rates of cases in which ACS found some credible evidence of abuse or neglect.)

<sup>11</sup> *Id.* (HANSELL, *supra* note 10, at 5).

<sup>12</sup> *See, e.g.,* Darryl H. v. Coler, 801 F.2d 893 (7th Cir. 1986); E.Z. v. Coler, 603 F. Supp. 1546, 1560 (N.D. Ill. 1985) *aff'd sub nom* Darryl H. v. Coler, 801 F.2d 893 (7th Cir. 1986); Michael R. Beeman, *Investigating Child Abuse: The Fourth Amendment and Investigatory Home Visits*, 89 COLUM. L. REV. 1034, 1063 (1989); Margaret H. Meriwether, *Child Abuse Reporting Laws: Time for a Change*, 20 FAM. L.Q. 141, 164 (1986).

well as reporting mechanisms that support individuals who need to make legitimate reports of child maltreatment but fear retaliation. However, we strongly support the Anti-Harassment in Reporting Bill, as it represents an essential step towards reducing false reports to the SCR and, consequently, rectifying the harmful outcomes associated with such reports.

## **II. CONCLUSION**

It is critically important that the legislature pass the Anti-Harassment in Reporting Bill. If passed, this bill would improve our system for reporting and investigating child maltreatment, and would represent an important step toward reducing the disparate impact of the child welfare system on Black, brown and Indigenous families. By adding a requirement that members of the public identify themselves to the State Central Registry when making an official report of child abuse or neglect, this bill would allow child protective workers to investigate these reports more thoroughly, lead to a decrease in false reports of child maltreatment that are made for the purpose of harassment, and increase child welfare resources for children in need, thus promoting the welfare of children and families, particularly low income and minority children and families.

For these reasons, the City Bar supports the bill and urges its passage.

Children and the Law Committee  
Rachel Stanton, Co-Chair  
Melissa J. Friedman, Co-Chair

Council on Children  
Dawne Mitchell, Chair

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### **Contact**

Elizabeth Kocienda, Director of Advocacy | 212.382.4788 | ekocienda@nycbar.org  
Mary Margulis-Ohnuma, Policy Counsel | 212.382.6767 | mmargulis-ohnuma@nycbar.org