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Informational Letter

Transmittal:	11-OCFS-INF-06
To:	Commissioners of Social Services Directors of Domestic Violence Service Providers
Issuing Division/Office:	Strategic Planning and Policy Development
Date:	August 2, 2011
Subject:	Statutory Amendments Affecting Who May Be Considered a Victim of Domestic Violence
Suggested Distribution:	Directors of Social Services Domestic Violence Service Provider Staff
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Attachments:	No
Attachment Available Online:	N/A

Filing References

Previous ADMs/INFs	Releases Canceled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
94 ADM-11 95 ADM-02		18 NYCRR Parts 408.2(i), 452.2(g), 453.2(c), 454.2(a), 455.2(c) and 462.2(e)	§ 459-a of Social Services Law § 812-1 of Family Court Act § 530.11 of Criminal Procedure Law		

I. Purpose

The purpose of the Informational Letter (INF) is to notify local departments of social services (LDSSs) and domestic violence service providers of the amendments to section 459-a of Social Services Law (SSL), which expand the definition of who constitutes members of the same family or household. This expanded definition increases the scope of who may be considered a victim of domestic violence.

II. Background

Chapter 326 of the Laws of 2008 expanded the jurisdiction for family offense matters in the Family Court Act (FCA) § 812-1 and Criminal Procedure Law (CPL) § 530.11 by broadening the definition of who constitutes “members of the same family or household” to include individuals who are or were in an “intimate relationship,” regardless of whether or not they had ever lived together. This chapter expanded access to Family Court and civil orders of protection to persons who are or have been in an intimate relationship, even if they had never lived together, or were never related by blood or marriage, or never had a child in common. This definition includes heterosexual or same-sex dating couples, including adolescents and teens.

Chapter 405 of the Laws of 2010 added strangulation and criminal obstruction of breathing or blood circulation to the list of acts that may constitute family offenses in the FCA (§812-1) and CPL (§ 530.11). This law also added both offenses to several other sections of NYS law, such as Penal Law, Domestic Relations Law, Executive Law, Mental Health Law, Vehicle and Traffic Law, and other parts of the SSL. Prior to this 2010 amendment, strangulation was not considered a crime unless the victim sustained injuries, and even then it was considered only harassment. Chapter 405 made strangulation a misdemeanor, and strangulation with injury a felony, in addition to adding it to the list of specified crimes upon which an order of protection may be granted under the FCA and CPL.

More recently, Chapter 11 of the Laws of 2011, which became effective on April 13, 2011, amended the SSL (§459-a) with language that mirrors the expanded definition of who constitutes “members of the same family or household” found in the FCA and CPL as noted above. Although the term “intimate relationship” is not specifically defined, Chapter 326 of the Laws of 2008 and Chapter 11 of the Laws of 2011 provide

factors to help determine persons who may qualify under this term and, therefore, qualify for domestic violence services. Those factors that may be considered are:

- The nature or type of relationship, regardless of whether the relationship is sexual in nature;
- The frequency of interaction between the persons; and
- The duration of the relationship.

Chapter 11 of the Laws of 2011 explicitly excludes a casual acquaintance between two individuals in business or social contexts from the definition of “intimate relationship.”

In addition to the SSL’s definition of who constitutes “members of the same family or household” being amended to include persons in intimate relationships, Chapter 11 of the Laws of 2011 also amended section 459-a of the SSL to include the following as offenses that may constitute domestic violence: the acts of aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, strangulation, and criminal obstruction of breathing and blood circulation. These conforming changes make the SSL consistent with the family and criminal offenses currently included in the FCA (§ 812-1) and the CPL (§ 530.11).

These 2011 amendments to the SSL improve consistency between state laws defining the types of relationships in which domestic violence may occur. To the extent any pre-existing regulations are inconsistent with these amendments, the regulations are superseded.

III. Program Implications

LDSSs and domestic violence service providers should be aware of the changes to the SSL made as a result of Chapter 11 of the Laws of 2011 as described in this INF. The updated definitions must be used whenever LDSSs and domestic violence providers are making a determination as to eligibility of a person to receive domestic violence services.

/s/ Nancy Martinez

Issued By:

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