

Jonathan's Law

After earlier passage in both NYS legislative houses, Jonathan's Law was signed by Governor Eliot Spitzer on May 6th. This important bill, sponsored by Senator Tom Morahan (R-C, New City), ensures that parents and guardians have access to records pertaining to allegations and investigations of mistreatment of children in residential care facilities.

The legislation was introduced after the tragic death this past February of 13-year-old Jonathan Carey, an autistic teen who lived at the state-run O.D. Heck Development Center in Niskayuna. According to police, while in transit to a shopping mall Jonathan stopped breathing due to improper use of restraints by an aide and a delay in seeking medical attention. Jonathan's parents had sought details of previous incidents in another facility but were denied full access to information and records of his care and treatment. Jonathan's Law makes several important changes to NYS law to:

- ◆ Require residential hygiene facilities to provide parents and guardians with telephone notification within 24 hours of incidents affecting the health and safety of their children;
- ◆ Require such facilities to provide parents and guardians with a redacted incident report upon request;
- ◆ Require facility directors to meet with parents and guardians to discuss reported incidents;
- ◆ Require facility directors to provide parents and guardians with written reports of actions taken in response to the incidents; and
- ◆ Grant parents and guardians full access to records and documents pertaining to allegations and investigations into patient abuse or mistreatment, with redaction of patient and staff names

A task force, comprised of representatives from state agencies, private providers, parents, advocates and others, will also be established to examine existing laws regarding records access concerning individuals receiving care in facilities licensed or operated by the Office of Mental Health and the Office of Mental Retardation and Development Disabilities (OMRDD). In addition, the bill increases penalties on violations for facilities licensed by the OMRDD that fail to comply with applicable rules and regulations.