

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. MONTGOMERY -- read twice and ordered printed, and
when printed to be committed to the Committee on Social Services

AN ACT to amend the social services law, in relation to reports of
educational neglect by school districts

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 8 of section 34-a of the social services law,
2 as added by chapter 543 of the laws of 2006, is amended to read as
3 follows:
4 8. The commissioner of the office of children and family services
5 shall, in conjunction with the commissioner of education, develop model
6 practices and procedures for local social services districts and school
7 districts regarding the reporting and investigation of educational
8 neglect. SUCH POLICIES SHALL REQUIRE THAT A HEARING BY THE COMMITTEE ON
9 SPECIAL EDUCATION, OR SUCH OTHER APPROPRIATE HEARING BODY, SHALL BE
10 CONDUCTED AND CONCLUDED PRIOR TO THE FILING OF ANY REPORT WITH THE LOCAL
11 SOCIAL SERVICES DISTRICT ALLEGING EDUCATIONAL NEGLECT. Such model prac-
12 tices and procedures shall be available to social services districts and
13 school districts and shall be posted on the office of children and fami-
14 ly services website and the state department of education website by
15 September first, two thousand seven. Each social services district
16 shall, in conjunction with local school districts within its district,
17 submit written policies and procedures regarding the reporting of educa-
18 tional neglect by each school district within such social services
19 district and the investigation of educational neglect allegations by
20 child protective services. Such policies and procedures shall be submit-
21 ted to the office of children and family services for review by January
22 first, two thousand eight and the office shall approve or disapprove
23 such local policies and procedures, based upon the model practices and

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

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1 procedures established in conjunction with the state department of
2 education, within sixty days of submission.

3 S 2. Paragraph (c) of subdivision 5 of section 422 of the social
4 services law, as added by chapter 555 of the laws of 2000, is amended to
5 read as follows:

6 (c) Notwithstanding any other provision of law, the office of children
7 and family services may, in its discretion, grant a request to expunge
8 an unfounded report where: (i) the source of the report was convicted of
9 a violation of subdivision three of section 240.55 of the penal law in
10 regard to such report; or (ii) the subject of the report presents clear
11 and convincing evidence that affirmatively refutes the allegation of
12 abuse or maltreatment; provided however, that the absence of credible
13 evidence supporting the allegation of abuse or maltreatment shall not be
14 the sole basis to expunge the report, EXCEPT THAT WHERE THE MALTREATMENT
15 ALLEGED WAS BASED UPON A CLAIM OF EDUCATIONAL NEGLECT AND SUCH REPORT
16 WAS DETERMINED TO BE UNFOUNDED THE OFFICE SHALL EXPUNGE THE REPORT BASED
17 SOLELY UPON SUCH FINDING. Nothing in this paragraph shall require the
18 office of children and family services to hold an administrative hearing
19 in deciding whether to expunge a report. Such office shall make its
20 determination upon reviewing the written evidence submitted by the
21 subject of the report and any records or information obtained from the
22 state or local agency which investigated the allegations of abuse or
23 maltreatment.

24 S 3. This act shall take effect immediately.