S T A T E O F N E W Y O R K

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I N A S S E M B L Y

January 16, 2013

Introduced by M. of A. PAULIN, AUBRY, CRESPO, ENGLEBRIGHT, GALEF, GUNTHER, MILLMAN, ROBERTS, SKARTADOS, TITONE, WEPRIN, ZEBROWSKI, ROBINSON, JAFFEE -- Multi-Sponsored by -- M. of A. SCHIMEL, SWEENEY -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Children and Families

AN ACT to amend the family court act and the social services law, in relation to severe or repeated child abuse in child protective and termination of parental rights proceedings

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

Section 1. Subdivision (e) of section 1051 of the family court act, as amended by chapter 7 of the laws of 1999, is amended to read as follows:

(e) If the court makes a finding of abuse, it shall specify the paragraph or paragraphs of subdivision (e) of section one thousand twelve of this act which it finds have been established. If the court makes a finding of abuse as defined in paragraph (iii) of subdivision (e) of section one thousand twelve of this act, it shall make a further finding of the specific sex offense as defined in article one hundred thirty of the penal law. In addition to a finding of abuse, the court may enter a finding of severe abuse or repeated abuse, as defined in [paragraphs] SUBPARAGRAPHS (I), (II) AND (III) OF PARAGRAPH (a) [and] OR SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (b) of subdivision eight of section three hundred eighty-four-b of the social services law, which shall be admissible in a proceeding to terminate parental rights pursuant to paragraph (e) of subdivision four of section three hundred eighty-four-b of the social services law. If the court makes such additional finding of severe abuse or repeated abuse, the court shall state the grounds for its determination, which shall be based upon clear and convincing evidence.

S 2. Subparagraph (ii) of paragraph (a) and subparagraph (i) of paragraph (b) of subdivision 8 of section 384-b of the social services law,

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

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subparagraph (ii) of paragraph (a) as added and subparagraph (i) of paragraph (b) as amended by chapter 7 of the laws of 1999, are amended to read as follows:

(ii) the child has been found to be an abused child, as defined in paragraph (iii) of subdivision (e) of section ten hundred twelve of the family court act, as a result of such parent's acts; provided, however, the respondent must have committed or knowingly allowed to be committed a felony sex offense as defined in sections 130.25, 130.30, 130.35, 130.40, 130.45, 130.50, 130.65, 130.67, 130.70, 130.75 [and], 130.80, 130.95 AND 130.96 of the penal law and, for the purposes of this section the corroboration requirements contained in the penal law shall not apply to proceedings under this section; or

(i) the child has been found to be an abused child, (A) as defined in paragraph (i) of subdivision (e) of section ten hundred twelve of the family court act, as a result of such parent's acts; or (B) as defined in paragraph (iii) of subdivision (e) of section ten hundred twelve of the family court act, as a result of such parent's acts; provided, however, the respondent must have committed or knowingly allowed to be committed a felony sex offense as defined in sections 130.25, 130.30, 130.35, 130.40, 130.45, 130.50, 130.65, 130.67, 130.70, 130.75 [and], 130.80, 130.95 AND 130.96 of the penal law; and

S 3. This act shall take effect immediately.