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I N A S S E M B L Y

April 23, 2010

Introduced by M. of A. TEDISCO -- Multi-Sponsored by -- M. of A. BACALLES, BARRA, BURLING, BUTLER, CALHOUN, CONTE, CROUCH, FITZPATRICK, KOLB, SAYWARD -- read once and referred to the Committee on Children and Families

AN ACT to amend the social services law and the family court act, in relation to the definition of a maltreated and neglected child

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

1 Section 1. Subdivision 2 of section 412 of the social services law, as
2 amended by chapter 323 of the laws of 2008, is amended to read as
3 follows:

4 2. A "maltreated child" includes:

5 (a) a child under eighteen years of age not in "residential care" as
6 defined in subdivision four of section four hundred twelve-a of this
7 title:

8 (i) defined as a neglected child by the family court act, or

9 (ii) who has had serious physical injury inflicted upon him or her by
10 other than accidental means; or

11 (b) a child who is a neglected child in residential care as defined in
12 subdivision two of section four hundred twelve-a of this title;

13 (C) A CHILD OF A PARENT OR PARENTS WHO ABUSE A DRUG OR DRUGS OR ALCO-
14 HOL TO THE EXTENT THAT THEY ARE INCAPABLE OF PROVIDING MINIMAL CARE TO
15 THE CHILD OR, IF SUCH ABUSE OCCURRED DURING THE PREGNANCY, RESULTING IN
16 THE BIRTH OF A DRUG-DEPENDENT CHILD;

17 S 2. Subparagraph (B) of paragraph (i) of subdivision (f) of section
18 1012 of the family court act, as amended by chapter 984 of the laws of
19 1981, is amended to read as follows:

20 (B) in providing the child with proper supervision or guardianship, by
21 unreasonably inflicting or allowing to be inflicted harm, or a substan-
22 tial risk thereof, including the infliction of excessive corporal
23 punishment; or by misusing a drug or drugs; or by misusing alcoholic
24 beverages to the extent that he loses self-control of his actions;
25 INCLUDING THE MISUSE OF A DRUG OR DRUGS OR ALCOHOL DURING THE PREGNANCY
26 OF THE MOTHER, RESULTING IN THE BIRTH OF A DRUG-DEPENDENT CHILD; or by

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

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1 any other acts of a similarly serious nature requiring the aid of the
2 court; provided, however, that where the respondent is voluntarily and
3 regularly participating in a rehabilitative program, evidence that the
4 respondent has repeatedly misused a drug or drugs or alcoholic beverages
5 to the extent that he loses self-control of his actions shall not estab-
6 lish that the child is a neglected child in the absence of evidence
7 establishing that the child's physical, mental or emotional condition
8 has been impaired or is in imminent danger of becoming impaired as set
9 forth in THIS paragraph [(i) of this subdivision]; or
10 S 3. This act shall take effect on the first of November next succeed-
11 ing the date on which it shall have become a law.