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

4540

2009-2010 Regular Sessions

I N A S S E M B L Y

February 4, 2009

Introduced by M. of A. MAYERSOHN, SCHIMMINGER, CANESTRARI -- Multi-Sponsored by -- M. of A. COLTON, DESTITO, DIAZ, FARRELL, GALEF, McENENY, WEPRIN -- read once and referred to the Committee on Children and Families

AN ACT to amend the family court act, in relation to modifying the existing exemption from what constitutes prima facie evidence of child neglect where a parent or guardian voluntarily participates in a recognized rehabilitative program

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

Section 1. Subparagraph (B) of paragraph (i) of subdivision (f) of section 1012 of the family court act, as amended by chapter 984 of the laws of 1981, is amended to read as follows:

(B) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, including the infliction of excessive corporal punishment; or by misusing a drug or drugs; or by misusing alcoholic beverages to the extent that he loses self-control of his actions; or by any other acts of a similarly serious nature requiring the aid of the court; provided, however, that where the respondent [is] HAS voluntarily [and regularly participating] PARTICIPATED in AND SUCCESSFULLY COMPLETED a RECOGNIZED rehabilitative program AND HAS BEEN VERIFIABLY REHABILITATED FOR AN UNINTERRUPTED PERIOD OF ONE YEAR IMMEDIATELY PRIOR TO THE HEARING DATE, evidence that the respondent has repeatedly misused a drug or drugs or alcoholic beverages to the extent that he loses self-control of his actions shall not establish that the child is a neglected child in the absence of evidence establishing that the child's physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as set forth in THIS paragraph [(i) of this subdivision]; or

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

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S 2. Paragraph (iii) of subdivision (a) of section 1046 of the family court act, as amended by chapter 984 of the laws of 1981, is amended to read as follows:

(iii) proof that a person repeatedly misuses a drug or drugs or alcoholic beverages, to the extent that it has or would ordinarily have the effect of producing in the user thereof a substantial state of stupor, unconsciousness, intoxication, hallucination, disorientation, or incompetence, or a substantial impairment of judgment, or a substantial manifestation of irrationality, shall be prima facie evidence that a child of or who is the legal responsibility of such person is a neglected child except that such drug or alcoholic beverage misuse shall not be prima facie evidence of neglect when such person [is] HAS voluntarily [and regularly participating] PARTICIPATED in AND SUCCESSFULLY COMPLETED a recognized rehabilitative program AND HAS BEEN VERIFIABLY REHABILITATED FOR AN UNINTERRUPTED PERIOD OF ONE YEAR IMMEDIATELY PRIOR TO THE HEARING DATE; and

S 3. This act shall take effect on the ninetieth day after it shall have become a law.