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

7245

2009-2010 Regular Sessions

I N A S S E M B L Y

March 26, 2009

Introduced by M. of A. V. LOPEZ -- read once and referred to the Committee on Judiciary

AN ACT to amend the executive law and the family court act, in relation to reducing the trauma of child witnesses

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

Section 1. Section 642-a of the executive law, as added by chapter 263 of the laws of 1986, the section heading and subdivision 1 as amended by chapter 574 of the laws of 2008, is amended to read as follows:

S 642-a. Fair treatment of child victims [as] AND CHILD witnesses.

To the extent permitted by law, criminal justice agencies, crime victim-related agencies, social services agencies and the courts shall comply with the following guidelines in their treatment of child victims AND WITNESSES:

1. INTERVIEWS WITH A CHILD VICTIM OR WITNESS SHALL BE SO CONDUCTED AS TO MINIMIZE TRAUMA.

2. To minimize the number of times a child victim OR WITNESS is called upon to recite the events of the case and to foster a feeling of trust and confidence in the child [victim], whenever practicable and where one exists, a multi-disciplinary team as established pursuant to subdivision six of section four hundred twenty-three of the social services law and/or a child advocacy center shall be used for the investigation and prosecution of child abuse cases involving abuse of a child, as described in paragraph (i), (ii) or (iii) of subdivision (e) of section one thousand twelve of the family court act, sexual abuse of a child or the death of a child. AS EARLY AS FEASIBLE IN CASES OF SUSPECTED CHILD ABUSE AND NEGLECT, INTERVIEWS OF THE CHILD SHOULD BE AUDIO- OR VIDEO-TAPED.

[2.] 3. Whenever practicable, the same prosecutor should handle all aspects of a case involving an alleged child victim.

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

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[3.] 4. To minimize the time during which a child victim must endure the stress of his OR HER involvement in the proceedings, the court should take appropriate action to ensure a speedy trial in all proceedings involving an alleged child victim. In ruling on any motion or request for a delay or continuance of a proceeding involving [an alleged] A child victim OR CHILD WITNESS, the court should consider and give weight to any potential adverse impact the delay or continuance may have on the well-being of the child.

[4.] 5. The judge presiding should be sensitive to the PHYSIOLOGICAL, psychological and emotional stress a child witness may undergo when testifying.

[5.] 6. In accordance with the provisions of article sixty-five of the criminal procedure law, when appropriate, a child witness as defined in subdivision one of section 65.00 of such law should be permitted to testify via live, two-way closed-circuit television.

[6.] 7. In accordance with the provisions of section 190.32 of the criminal procedure law, a person supportive of the "child witness" or "special witness" as defined in such section should be permitted to be present and accessible to a child witness at all times during his OR HER testimony, although the person supportive of the child witness should not be permitted to influence the child's testimony.

[7.] 8. A child witness should be permitted in the discretion of the court to use anatomically correct dolls and drawings during his OR HER testimony.

S 2. Section 165 of the family court act is amended by adding a new subdivision (c) to read as follows:

(C) IN ALL PROCEEDINGS, EXCEPT PROCEEDINGS PURSUANT TO ARTICLE THREE OF THIS ACT, IN WHICH A CHILD IS A WITNESS, THE CHILD'S TESTIMONY MAY BE TAKEN BY THE USE OF CLOSED-CIRCUIT TELEVISION IN THE DISCRETION OF THE TRIAL COURT.

S 3. This act shall take effect on the same date and in the same manner as section 3 of chapter 574 of the laws of 2008, takes effect.