

4644

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

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

AN ACT to amend the social services law, in relation to requiring persons and officials required to report suspected child abuse or maltreatment to complete certain ongoing training; to amend the education law, in relation to requiring school superintendents, teachers and certain other licensed professionals to complete training in the reporting of suspected cases of child abuse and maltreatment; and to amend the executive law and the public health law, in relation to child abuse prevention

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

1 Section 1. Section 413 of the social services law is amended by adding
2 a new subdivision 1-a to read as follows:
3 1-A. (A) EVERY PERSON AND OFFICIAL REQUIRED TO REPORT CHILD ABUSE OR
4 MALTREATMENT, PURSUANT TO SUBDIVISION ONE OF THIS SECTION, SHALL, PRIOR
5 TO ASSUMPTION OF THE POSITION WHICH REQUIRES SUCH REPORTING, COMPLETE
6 TWO HOURS OF COURSEWORK OR TRAINING REGARDING THE IDENTIFICATION AND
7 REPORTING OF CHILD ABUSE AND MALTREATMENT; PROVIDED THAT EVERY PERSON
8 AND OFFICIAL HOLDING SUCH A POSITION ON OR BEFORE THE EFFECTIVE DATE OF
9 THIS PARAGRAPH SHALL COMPLETE SUCH COURSEWORK OR TRAINING WITHIN ONE
10 YEAR OF THE EFFECTIVE DATE OF THIS SUBDIVISION.
11 (B) EVERY DISTRICT ATTORNEY, ASSISTANT DISTRICT ATTORNEY, POLICE OFFI-
12 CER, PEACE OFFICER, INVESTIGATOR EMPLOYED IN THE OFFICE OF THE DISTRICT
13 ATTORNEY, PEDIATRICIAN, PHYSICIAN WHO IS EMPLOYED IN AN EMERGENCY ROOM,
14 REGISTERED NURSE AND REGISTERED PHYSICIAN ASSISTANT WHO IS EMPLOYED BY A
15 PEDIATRICIAN OR IN AN EMERGENCY ROOM, TEACHER, CHILD CARE WORKER, FOSTER
16 CARE WORKER, MEDICAL EXAMINER, CORONER, PREVENTIVE SERVICES WORKER,
17 CHILD PROTECTIVE SERVICES WORKER, SOCIAL WORKER WHOSE EMPLOYMENT
18 INVOLVES REGULAR INTERACTION WITH CHILDREN, SUBSTANCE ABUSE AND ALCOHOL-
19 ISM COUNSELOR WHOSE EMPLOYMENT INVOLVES REGULAR INTERACTION WITH CHIL-
20 DREN, AND MENTAL HEALTH PROFESSIONAL WHOSE EMPLOYMENT INVOLVES REGULAR
21 INTERACTION WITH CHILDREN REQUIRED TO REPORT CHILD ABUSE OR MALTREAT-
22 MENT, PURSUANT TO SUBDIVISION ONE OF THIS SECTION, SHALL, NOT LESS THAN

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

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1 ONCE EVERY TWO YEARS, COMPLETE TWO AND ONE-HALF HOURS OF COURSEWORK OR
2 TRAINING REGARDING THE IDENTIFICATION AND REPORTING OF CHILD ABUSE AND
3 MALTREATMENT. SUCH CONTINUING COURSEWORK OR TRAINING SHALL, TO THE
4 GREATEST EXTENT POSSIBLE, INCLUDE ADVANCED TRAINING WHICH BUILDS ON THE
5 INITIAL OR EARLIER COURSEWORK REQUIRED IN THIS SUBDIVISION.

6 (C) EXCEPT AS OTHERWISE PROVIDED BY THE EDUCATION LAW, THE OFFICE OF
7 CHILDREN AND FAMILY SERVICES SHALL APPROVE AND/OR ESTABLISH THE COURSE-
8 WORK AND TRAINING REQUIRED TO IMPLEMENT THE PROVISIONS OF THIS SUBDIVI-
9 SION. SUCH COURSEWORK AND TRAINING MAY BE DEVELOPED SO THAT IT CAN BE
10 OFFERED THROUGH VARIOUS MEANS INCLUDING, BUT NOT LIMITED TO, INTERNET
11 BASED COURSES AND TELECONFERENCES.

12 S 2. Subdivision 4 of section 3003 of the education law, as amended by
13 chapter 737 of the laws of 1992, is amended to read as follows:

14 4. Notwithstanding any other provision of law, the commissioner shall
15 require that any person applying[, on or after January first, nineteen
16 hundred ninety-one,] for a superintendent's certificate shall, in addi-
17 tion to all the other requirements, have completed two hours of course-
18 work or training regarding the identification and reporting of child
19 abuse and maltreatment, AND SHALL THEREAFTER COMPLETE TWO AND ONE-HALF
20 ADDITIONAL HOURS OF SUCH COURSEWORK OR TRAINING AT LEAST ONCE EVERY
21 PERIOD OF TWO YEARS. SUCH COURSEWORK OR TRAINING SHALL BE PROVIDED
22 PURSUANT TO SECTION SIXTY-FIVE HUNDRED TWO-A OF THIS CHAPTER AS IF THE
23 SUPERINTENDENT WAS AN APPLICANT FOR OR HOLDER OF A LICENSE TO PRACTICE A
24 PROFESSION PURSUANT TO TITLE EIGHT OF THIS CHAPTER. The coursework or
25 training shall be obtained from an institution or provider which has
26 been approved by the department to provide such coursework or training.
27 The coursework or training shall include information regarding the phys-
28 ical and behavioral indicators of child abuse and maltreatment and the
29 statutory reporting requirements set out in sections four hundred thir-
30 teen through four hundred twenty of the social services law, including
31 but not limited to, when and how a report must be made, what other
32 actions the reporter is mandated or authorized to take, the legal
33 protections afforded reporters, and the consequences for failing to
34 report. Each applicant shall provide the department with documentation
35 showing that he or she has completed the required training.

36 S 3. Section 3209-a of the education law, as added by chapter 504 of
37 the laws of 1988, is amended to read as follows:

38 S 3209-a. Child abuse prevention. Each school district of the state
39 shall: (1) develop, maintain and disseminate written policies and proce-
40 dures pursuant to title six of article six of the social services law
41 and applicable provisions of article ten of the family court act,
42 regarding the mandatory reporting of child abuse or neglect, reporting
43 procedures and obligations of persons required to report, provisions for
44 taking a child into protective custody, mandatory reporting of deaths,
45 immunity from liability, penalties for failure to report and obligations
46 for the provision of services and procedures necessary to safeguard the
47 life or health of the child; and (2) establish, and implement on an
48 ongoing basis, a training program for all current and new school offi-
49 cials regarding the policies and procedures established pursuant to this
50 section AND THE SIGNS AND SYMPTOMS THAT SCHOOL OFFICIALS MAY BE LIKELY
51 TO ENCOUNTER WHICH MAY INDICATE THE PRESENCE OF CHILD ABUSE OR MALTREAT-
52 MENT.

53 S 4. Subdivision 2 of section 3004 of the education law, as amended by
54 chapter 737 of the laws of 1992, is amended to read as follows:

55 2. Notwithstanding any other provision of law, the commissioner shall
56 prescribe regulations requiring that all persons applying[, on or after

1 January first, nineteen hundred ninety-one,] for a certificate or
2 license to be a teacher shall, in addition to all the other certif-
3 ication or licensure requirements, have completed two hours of course-
4 work or training regarding the identification and reporting of child
5 abuse and maltreatment, AND SHALL THEREAFTER COMPLETE TWO AND ONE-HALF
6 ADDITIONAL HOURS OF SUCH COURSEWORK OR TRAINING AT LEAST ONCE EVERY
7 PERIOD OF TWO YEARS. SUCH COURSEWORK OR TRAINING SHALL BE PROVIDED
8 PURSUANT TO SECTION SIXTY-FIVE HUNDRED TWO-A OF THIS CHAPTER AS IF THE
9 TEACHER WAS AN APPLICANT FOR OR HOLDER OF A LICENSE TO PRACTICE A
10 PROFESSION PURSUANT TO TITLE EIGHT OF THIS CHAPTER. The coursework or
11 training shall be obtained from an institution or provider which has
12 been approved by the department to provide such coursework or training.
13 The coursework or training shall include information regarding the phys-
14 ical and behavioral indicators of child abuse and maltreatment and the
15 statutory reporting requirements set out in sections four hundred thir-
16 teen through four hundred twenty of the social services law, including
17 but not limited to, when and how a report must be made, what other
18 actions the reporter is mandated or authorized to take, the legal
19 protections afforded reporters, and the consequences for failing to
20 report. Each applicant shall provide the department with documentation
21 showing that he or she has completed the required training.

22 S 5. The closing paragraph of section 3007 of the education law, as
23 amended by chapter 544 of the laws of 1988, is amended to read as
24 follows:

25 Such endorsement confers on the holder of such diploma or certificate
26 the privileges conferred by law on the holder of the diploma of a state
27 teachers college or state college for teachers or state certificate
28 issued in this state. Notwithstanding any other provision of law, the
29 commissioner shall require that any person seeking endorsement of a
30 foreign certificate or diploma[, on or after January first, nineteen
31 hundred ninety-one,] shall have completed two hours of coursework or
32 training regarding the identification and reporting of child abuse and
33 maltreatment, AND SHALL THEREAFTER COMPLETE TWO AND ONE-HALF ADDITIONAL
34 HOURS OF SUCH COURSEWORK OR TRAINING AT LEAST ONCE EVERY PERIOD OF TWO
35 YEARS. SUCH COURSEWORK OR TRAINING SHALL BE PROVIDED PURSUANT TO SECTION
36 SIXTY-FIVE HUNDRED TWO-A OF THIS CHAPTER AS IF THE TEACHER WAS AN APPLI-
37 CANT FOR OR HOLDER OF A LICENSE TO PRACTICE A PROFESSION PURSUANT TO
38 TITLE EIGHT OF THIS CHAPTER. The coursework or training shall be
39 obtained from an institution or provider which has been approved by the
40 department to provide such [course work] COURSEWORK or training. The
41 coursework or training shall include information regarding the physical
42 and behavioral indicators of child abuse and maltreatment and the statu-
43 tory reporting requirements set out in sections four hundred thirteen
44 through four hundred twenty of the social services law, including but
45 not limited to, when and how a report must be made, what other actions
46 the reporter is mandated or authorized to take, the legal protections
47 afforded reporters, and the consequences for failing to report. Each
48 applicant shall provide the department with documentation showing that
49 he or she has completed the required training.

50 S 6. Section 6501 of the education law, as amended by chapter 81 of
51 the laws of 1995, is amended to read as follows:

52 S 6501. Admission to a profession (licensing). Admission to practice
53 of a profession in this state is accomplished by a license being issued
54 to a qualified applicant by the education department. To qualify for a
55 license an applicant shall meet the requirements prescribed in the arti-
56 cle for the particular profession and shall meet the requirements

1 prescribed in section 3-503 of the general obligations law AND, WHERE
2 APPLICABLE, THE REQUIREMENTS OF SECTION SIXTY-FIVE HUNDRED TWO-A OF THIS
3 SUBARTICLE.

4 S 7. Subdivision 1 of section 6502 of the education law, as amended by
5 chapter 599 of the laws of 1996, is amended to read as follows:

6 1. A license shall be valid during the life of the holder unless
7 revoked, annulled or suspended by the board of regents or in the case of
8 physicians, physicians practicing under a limited permit, physician's
9 assistants, specialist's assistants and medical residents, the licensee
10 is stricken from the roster of such licensees by the board of regents on
11 the order of the state board for professional medical conduct in the
12 department of health. A licensee must register with the department and
13 meet the requirements prescribed in section 3-503 of the general obli-
14 gations law AND, WHERE APPLICABLE, THE REQUIREMENTS OF SECTION
15 SIXTY-FIVE HUNDRED TWO-A OF THIS SUBARTICLE to practice in this state.

16 S 8. The education law is amended by adding a new section 6502-a to
17 read as follows:

18 S 6502-A. MANDATED REPORTING OF SUSPECTED CHILD ABUSE OR MALTREATMENT
19 TRAINING. 1. EACH APPLICANT FOR A LICENSE TO PRACTICE A PROFESSION
20 PURSUANT TO THIS TITLE, THE PRACTICE OF WHICH REQUIRES THE LICENSEE TO
21 REPORT SUSPECTED CASES OF CHILD ABUSE AND MALTREATMENT PURSUANT TO
22 SECTION FOUR HUNDRED THIRTEEN OF THE SOCIAL SERVICES LAW, SHALL, PRIOR
23 TO BEING LICENSED TO PRACTICE SUCH PROFESSION, COMPLETE TWO HOURS OF
24 COURSEWORK OR TRAINING REGARDING THE IDENTIFICATION AND REPORTING OF
25 CHILD ABUSE AND MALTREATMENT. EVERY PERSON LICENSED TO PRACTICE A
26 PROFESSION PURSUANT TO THIS TITLE PRIOR TO THE EFFECTIVE DATE OF THIS
27 SECTION, THE PRACTICE OF WHICH REQUIRES THE LICENSEE TO REPORT SUSPECTED
28 CASES OF CHILD ABUSE AND MALTREATMENT PURSUANT TO SECTION FOUR HUNDRED
29 THIRTEEN OF THE SOCIAL SERVICES LAW, SHALL COMPLETE SUCH COURSEWORK OR
30 TRAINING WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS SECTION.

31 2. EACH PERSON REQUIRED TO COMPLETE COURSEWORK OR TRAINING PURSUANT TO
32 SUBDIVISION ONE OF THIS SECTION, WHO IS EMPLOYED OR SERVES IN A POSITION
33 LISTED IN PARAGRAPH (B) OF SUBDIVISION ONE-A OF SECTION FOUR HUNDRED
34 THIRTEEN OF THE SOCIAL SERVICES LAW, SHALL THEREAFTER COMPLETE AN ADDI-
35 TIONAL TWO AND ONE-HALF HOURS OF COURSEWORK OR TRAINING REGARDING THE
36 IDENTIFICATION AND REPORTING OF CHILD ABUSE AND MALTREATMENT AT LEAST
37 ONCE EVERY PERIOD OF TWO YEARS. SUCH CONTINUING COURSEWORK OR TRAINING
38 SHALL, TO THE GREATEST EXTENT POSSIBLE, INCLUDE ADVANCED TRAINING WHICH
39 BUILDS ON THE INITIAL OR EARLIER COURSEWORK REQUIRED IN THIS SUBDIVI-
40 SION.

41 3. THE DEPARTMENT MAY DEVELOP A TRAINING CURRICULUM REGARDING THE
42 IDENTIFICATION AND REPORTING OF CHILD ABUSE AND MALTREATMENT WHICH SHALL
43 BE USED TO PROVIDE THE COURSEWORK AND TRAINING REQUIRED BY THIS SECTION,
44 PROVIDED, HOWEVER, THAT IF THE DEPARTMENT SHALL FAIL TO DEVELOP SUCH A
45 TRAINING CURRICULUM, THEN THE REQUIRED CURRICULUM FOR THE COURSEWORK AND
46 TRAINING REQUIRED BY THIS SECTION SHALL BE THE TRAINING CURRICULUM
47 RELATING THERETO DEVELOPED BY THE OFFICE OF CHILDREN AND FAMILY
48 SERVICES. EVERY TRAINING CURRICULUM DEVELOPED BY THE DEPARTMENT PURSUANT
49 TO THIS SUBDIVISION SHALL BE SUBJECT TO THE APPROVAL OF THE OFFICE OF
50 CHILDREN AND FAMILY SERVICES. THE DEPARTMENT SHALL REQUIRE EVERY INSTI-
51 TUTION AND PROVIDER OF COURSEWORK OR TRAINING PURSUANT TO THIS SECTION
52 TO UTILIZE AN APPROVED CURRICULUM. SUCH COURSEWORK AND TRAINING MAY BE
53 DEVELOPED SO THAT IT CAN BE OFFERED THROUGH VARIOUS MEANS INCLUDING, BUT
54 NOT LIMITED TO, INTERNET BASED COURSES AND TELECONFERENCES.

1 S 9. Paragraph a of subdivision 3 of section 6507 of the education
2 law, as amended by chapter 356 of the laws of 2006, is amended to read
3 as follows:

4 a. Establish standards for preprofessional and professional education,
5 experience and licensing examinations as required to implement the arti-
6 cle for each profession. Notwithstanding any other provision of law, the
7 commissioner shall establish standards requiring that all persons apply-
8 ing[, on or after January first, nineteen hundred ninety-one,] initial-
9 ly, or for the renewal of, a license, registration or limited permit to
10 be a physician, chiropractor, dentist, registered nurse, podiatrist,
11 optometrist, psychiatrist, psychologist, licensed master social worker,
12 licensed clinical social worker, licensed creative arts therapist,
13 licensed marriage and family therapist, licensed mental health counse-
14 lor, licensed psychoanalyst, [or] dental hygienist OR ANY OTHER PROFES-
15 SION WHICH IS REQUIRED TO REPORT CASES OF SUSPECTED CHILD ABUSE AND
16 MALTREATMENT, PURSUANT TO SECTION FOUR HUNDRED THIRTEEN OF THE SOCIAL
17 SERVICES LAW, shall, in addition to all the other licensure, certifi-
18 cation or permit requirements, have completed two hours of coursework
19 or training regarding the identification and reporting of child abuse
20 and maltreatment, AND IF THEY ARE LISTED IN PARAGRAPH (B) OF SUBDIVISION
21 ONE-A OF SECTION FOUR HUNDRED THIRTEEN OF THE SOCIAL SERVICES LAW, SHALL
22 THEREAFTER COMPLETE TWO AND ONE-HALF ADDITIONAL HOURS OF SUCH COURSEWORK
23 OR TRAINING AT LEAST ONCE EVERY PERIOD OF TWO YEARS IN ACCORDANCE WITH
24 THE PROVISIONS OF SECTION SIXTY-FIVE HUNDRED TWO-A OF THIS ARTICLE. The
25 coursework or training shall be obtained from an institution or provider
26 which has been approved by the department to provide such coursework or
27 training. The coursework or training shall include information regarding
28 the physical and behavioral indicators of child abuse and maltreatment
29 and the statutory reporting requirements set out in sections four
30 hundred thirteen through four hundred twenty of the social services law,
31 including but not limited to, when and how a report must be made, what
32 other actions the reporter is mandated or authorized to take, the legal
33 protections afforded reporters, and the consequences for failing to
34 report. Such coursework or training may also include information regard-
35 ing the physical and behavioral indicators of the abuse of individuals
36 with mental retardation and other developmental disabilities and volun-
37 tary reporting of abused or neglected adults to the office of mental
38 retardation and developmental disabilities or the local adult protective
39 services unit. Each applicant shall provide the department with documen-
40 tation showing that he or she has completed the required training. The
41 department shall provide an exemption from the child abuse and maltreat-
42 ment training requirements to any applicant who requests such an
43 exemption and who shows, to the department's satisfaction, that there
44 would be no need because of the nature of his or her practice for him or
45 her to complete such training;

46 S 10. Section 214-a of the executive law, as added by chapter 504 of
47 the laws of 1988, is amended to read as follows:

48 S 214-a. Child abuse prevention. The superintendent shall, for all
49 members of the state police: (1) develop, maintain and disseminate writ-
50 ten policies and procedures pursuant to title six of article six of the
51 social services law and applicable provisions of article ten of the
52 family court act, regarding the mandatory reporting of child abuse or
53 neglect, reporting procedures and obligations of persons required to
54 report, provisions for taking a child into protective custody, mandatory
55 reporting of deaths, immunity from liability, penalties for failure to
56 report and obligations for the provision of services and procedures

1 necessary to safeguard the life or health of the child; [and] (2) estab-
2 lish, and implement on an ongoing basis, a training program for all
3 current and new employees regarding the policies and procedures estab-
4 lished pursuant to this section; AND (3) ESTABLISH, AND IMPLEMENT ON AN
5 ONGOING BASIS, A TRAINING PROGRAM FOR ALL CURRENT AND NEW EMPLOYEES WHO
6 ARE LIKELY TO COME INTO CONTACT WITH CHILDREN IN THE COURSE OF THEIR
7 PROFESSIONAL DUTIES, REGARDING THE IDENTIFICATION AND INVESTIGATION OF
8 CHILD ABUSE AND MALTREATMENT AND ANY PROTOCOLS THAT EXIST REGARDING
9 INVESTIGATING SUSPECTED INCIDENTS OF CHILD ABUSE AND MALTREATMENT JOINT-
10 LY WITH LOCAL DEPARTMENTS OF SOCIAL SERVICES.

11 S 11. Paragraph (j) of subdivision 1 of section 840 of the executive
12 law, as amended by chapter 617 of the laws of 1990, is amended to read
13 as follows:

14 (j) (1) Development, maintenance and dissemination of written policies
15 and procedures pursuant to title six of article six of the social
16 services law and applicable provisions of article ten of the family
17 court act, regarding the mandatory reporting of child abuse or neglect,
18 reporting procedures and obligations of persons required to report,
19 provisions for taking a child into protective custody, mandatory report-
20 ing of deaths, immunity from liability, penalties for failure to report
21 and obligations for the provision of services and procedures necessary
22 to safeguard the life or health of the child; (2) establishment and
23 implementation on an ongoing basis, of a training program for all
24 current and new police officers regarding the policies and procedures
25 established pursuant to this paragraph AND THE IDENTIFICATION AND INVES-
26 TIGATION OF CHILD ABUSE AND MALTREATMENT AND ANY PROTOCOLS THAT EXIST
27 REGARDING INVESTIGATING SUSPECTED INCIDENTS OF CHILD ABUSE AND MALTREAT-
28 MENT JOINTLY WITH LOCAL DEPARTMENTS OF SOCIAL SERVICES; and (3) estab-
29 lishment of a training program for police officers whose main responsi-
30 bilities are juveniles and the laws pertaining thereto, which training
31 program shall be successfully completed before such officers are accred-
32 ited pursuant to section eight hundred forty-six-h of this chapter.

33 S 12. Section 2805-n of the public health law, as added by chapter 504
34 of the laws of 1988, is amended to read as follows:

35 S 2805-n. Child abuse prevention. All hospitals shall: (i) develop,
36 maintain and disseminate written policies and procedures pursuant to
37 title six of article six of the social services law and applicable
38 provisions of article ten of the family court act, regarding the manda-
39 tory reporting of child abuse or neglect, reporting procedures and obli-
40 gations of persons required to report, provisions for taking a child
41 into protective custody, mandatory reporting of deaths, immunity from
42 liability, penalties for failure to report and obligations for the
43 provision of services and procedures necessary to safeguard the life or
44 health of the child; [and] (ii) establish, and implement on an ongoing
45 basis, a training program for all current and new employees regarding
46 the policies and procedures established pursuant to this section; AND
47 (III) ESTABLISH AND IMPLEMENT, ON AN ONGOING BASIS, A TRAINING PROGRAM
48 FOR ALL CURRENT AND NEW EMPLOYEES WHO REGULARLY ASSESS INJURIES IN CHIL-
49 DREN REGARDING THE IDENTIFICATION OF CHILD ABUSE AND MALTREATMENT.

50 S 13. This act shall take effect on the one hundred twentieth day
51 after it shall have become a law, provided that the promulgation, amend-
52 ment and/or repeal of any rule or regulation necessary to implement the
53 provisions of this act on its effective date is authorized and directed
54 to be completed on or before such date.