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

April 2, 2010

Introduced by M. of A. TEDISCO -- Multi-Sponsored by -- M. of A. CONTE, FITZPATRICK, KOLB, SPANO -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to information concerning minor school children enrolling in and transferring to schools

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

Section 1. The opening paragraph and paragraph a of subdivision 2 of section 3212 of the education law, the opening paragraph as amended by chapter 919 of the laws of 1974 and paragraph a as amended by chapter 690 of the laws of 1994, are amended to read as follows:

Every person in parental relation to another individual [included] OR A MINOR REQUIRED TO ATTEND UPON INSTRUCTION by the provisions of THIS part [one of this article]:

a. Shall submit at the time such individual IS NEWLY REGISTERED IN A SCHOOL DISTRICT IN WHICH THEY WERE NEVER PREVIOUSLY REGISTERED begins to attend upon instruction evidence of (I) age as required for the issuance of an employment certificate AND (II) THE NATURE OF THE PARENTAL RELATIONSHIP AS DEFINED IN SUBDIVISION ONE OF THIS SECTION, or show that such evidence cannot be produced. [When such evidence cannot be produced, or when circumstances exist which reasonably indicate that such individual may be a missing child, the superintendent of schools or his or her authorized representative shall report and make inquiry to the statewide central register for missing children pursuant to section eight hundred thirty-seven-e of the executive law. If such child appears to match a child registered with the statewide central register for missing children, or one registered with the national crime information center register, the superintendent or his or her authorized representative shall immediately contact the local law enforcement authority. No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this paragraph.]

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

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S 2. Section 3212 of the education law is amended by adding a new subdivision 5-a to read as follows:

5-A. DUTIES OF THE SUPERINTENDENT. WHENEVER A PERSON IN PARENTAL RELATION TO A MINOR CANNOT PRODUCE THE EVIDENCE REQUIRED, PURSUANT TO PARAGRAPH A OF SUBDIVISION TWO OF THIS SECTION, OR REFUSES TO PROVIDE THE INFORMATION REQUESTED PURSUANT TO SECTION THIRTY-TWO HUNDRED TWELVE-B OF THIS PART OR WHEN SUCH PERSON FAILS TO SHOW THAT SUCH EVIDENCE CANNOT BE PRODUCED, OR WHEN CIRCUMSTANCES EXIST WHICH REASONABLY INDICATE THAT SUCH INDIVIDUAL MAY BE A MISSING CHILD, THE SUPERINTENDENT OF SCHOOLS OR HIS AUTHORIZED REPRESENTATIVE SHALL MAKE INQUIRY TO THE STATEWIDE CENTRAL REGISTER FOR MISSING CHILDREN PURSUANT TO SECTION EIGHT HUNDRED THIRTY-SEVEN-E OF THE EXECUTIVE LAW. IF SUCH CHILD APPEARS TO MATCH A CHILD REGISTERED WITH THE STATEWIDE CENTRAL REGISTER FOR MISSING CHILDREN, OR ONE REGISTERED WITH THE NATIONAL CRIME INFORMATION CENTER REGISTER, THE SUPERINTENDENT OR HIS AUTHORIZED REPRESENTATIVE SHALL IMMEDIATELY CONTACT THE LOCAL LAW ENFORCEMENT AUTHORITY. NO CIVIL OR CRIMINAL LIABILITY SHALL ARISE OR ATTACH TO ANY SCHOOL DISTRICT OR EMPLOYEE THEREOF FOR ANY ACT OR OMISSION TO ACT AS A RESULT OF, OR IN CONNECTION WITH, THE DUTIES OR ACTIVITIES AUTHORIZED OR DIRECTED BY THIS SUBDIVISION.

S 3. Section 3212-a of the education law, as added by chapter 473 of the laws of 1977, is amended to read as follows:

S 3212-a. Records [of telephone numbers]. 1. Each school shall maintain a record of the telephone number of each pupil enrolled in the school and each person in parental relation to such pupil including the residential and business telephone numbers of persons in parental relation to pupils unless such person or pupil chooses not to supply such numbers. The record of such telephone numbers shall, except as otherwise provided by law, be accessible solely for emergency purposes.

2. [The provisions of this section shall not be applicable in any school district in which the board of education has adopted a resolution providing that the record otherwise required hereby shall not be maintained.] RECORDS OF THE EVIDENCE OR THE EXPLANATION REQUIRED, PURSUANT TO PARAGRAPH A OF SUBDIVISION TWO OF SECTION THIRTY-TWO HUNDRED TWELVE OF THIS PART, SHALL BE RETAINED, IN ACCORDANCE WITH RULES AND REGULATIONS TO BE PROMULGATED BY THE COMMISSIONER, AT THE SCHOOL OF ATTENDANCE OR IN A CENTRAL DISTRICT REPOSITORY FOR SUCH RECORDS. THE RULES AND REGULATIONS SHALL INCORPORATE STANDARDS OF USE AND ACCESS WHICH ARE IN CONFORMITY WITH THE FAMILY EDUCATIONAL AND PRIVACY RIGHTS ACT (20 U.S.C. 1232G).

S 4. The education law is amended by adding a new section 3212-b to read as follows:

S 3212-B. TRANSFER OF PUPILS. 1. UPON FIRST TIME ENROLLMENT OF A MINOR IN A SCHOOL DISTRICT, A SCHOOL DISTRICT SHALL REQUEST OF THE PERSON IN PARENTAL RELATION TO SUCH MINOR THE NAME AND ADDRESS OF THE SCHOOL PREVIOUSLY ATTENDED BY SUCH MINOR. THE ENROLLING SCHOOL SHALL, WITHIN FIFTEEN CALENDAR DAYS, REQUEST IN WRITING THAT THE SCHOOL RECORDS OF SUCH MINOR BE SENT BY THE SCHOOL DISTRICT PREVIOUSLY ATTENDED TO THE SCHOOL DISTRICT IN WHICH THE MINOR IS BEING ENROLLED.

2. A SUPERINTENDENT OF SCHOOLS OR HIS AUTHORIZED REPRESENTATIVE SHALL FURNISH TO THE LOCAL LAW ENFORCEMENT AGENCY THE NAME OF, AND ANY OTHER PERTINENT INFORMATION REGARDING, ANY MINOR ENROLLED IN A SCHOOL IN HIS DISTRICT IF THE PERSON IN PARENTAL RELATION TO A MINOR, OR ANY OTHER PERSON, WITHDRAWS THE CHILD FROM SCHOOL AND THE SCHOOL DOES NOT RECEIVE AN OFFICIAL REQUEST FOR THE RECORDS OF SUCH MINOR WITHIN THIRTY CALENDAR

DAYS IF THE WITHDRAWAL OCCURS DURING THE SCHOOL YEAR, OR WITHIN NINETY CALENDAR DAYS IF THE WITHDRAWAL OCCURS AT THE END OF THE SCHOOL YEAR.

3. NO CIVIL OR CRIMINAL LIABILITY SHALL ARISE OR ATTACH TO ANY SCHOOL DISTRICT OR EMPLOYEE THEREOF FOR ANY ACT OR OMISSION TO ACT AS A RESULT OF, OR IN CONNECTION WITH, THE DUTIES OR ACTIVITIES AUTHORIZED OR DIRECTED BY THIS SECTION PROVIDED SUCH SCHOOL DISTRICT OR ACTING EMPLOYEE HAS MADE A DOCUMENTED EFFORT BY TELEPHONE OR OTHERWISE TO CONTACT SUCH PARENT OR GUARDIAN IN THE EVENT THAT A CHILD IS SO ABSENT.

S 5. This act shall take effect on the first of September next succeeding the date on which it shall have become a law.