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

3422

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. SCARBOROUGH, DINOWITZ, CLARK, EDDINGTON, N. RIVERA, ROSENTHAL, PHEFFER, GREENE -- Multi-Sponsored by -- M. of A. BOYLAND, MAISEL, McENENY, REILLY, SCHIMEL, TITONE -- read once and referred 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:

Section 1. Section 413 of the social services law is amended by adding a new subdivision 1-a to read as follows:

1-A. (A) EVERY PERSON AND OFFICIAL REQUIRED TO REPORT CHILD ABUSE OR MALTREATMENT, PURSUANT TO SUBDIVISION ONE OF THIS SECTION, SHALL, PRIOR TO ASSUMPTION OF THE POSITION WHICH REQUIRES SUCH REPORTING, COMPLETE TWO HOURS OF COURSEWORK OR TRAINING REGARDING THE IDENTIFICATION AND REPORTING OF CHILD ABUSE AND MALTREATMENT; PROVIDED THAT EVERY PERSON AND OFFICIAL HOLDING SUCH A POSITION ON OR BEFORE THE EFFECTIVE DATE OF THIS PARAGRAPH SHALL COMPLETE SUCH COURSEWORK OR TRAINING WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS SUBDIVISION.

(B) EVERY DISTRICT ATTORNEY, ASSISTANT DISTRICT ATTORNEY, POLICE OFFICER, PEACE OFFICER, INVESTIGATOR EMPLOYED IN THE OFFICE OF THE DISTRICT ATTORNEY, PEDIATRICIAN, PHYSICIAN WHO IS EMPLOYED IN AN EMERGENCY ROOM, REGISTERED NURSE AND REGISTERED PHYSICIAN ASSISTANT WHO IS EMPLOYED BY A PEDIATRICIAN OR IN AN EMERGENCY ROOM, TEACHER, CHILD CARE WORKER, FOSTER CARE WORKER, MEDICAL EXAMINER, CORONER, PREVENTIVE SERVICES WORKER, CHILD PROTECTIVE SERVICES WORKER, SOCIAL WORKER WHOSE EMPLOYMENT INVOLVES REGULAR INTERACTION WITH CHILDREN, SUBSTANCE ABUSE AND ALCOHOLISM COUNSELOR WHOSE EMPLOYMENT INVOLVES REGULAR INTERACTION WITH CHILDREN, AND MENTAL HEALTH PROFESSIONAL WHOSE EMPLOYMENT INVOLVES REGULAR

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

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INTERACTION WITH CHILDREN REQUIRED TO REPORT CHILD ABUSE OR MALTREATMENT, PURSUANT TO SUBDIVISION ONE OF THIS SECTION, SHALL, NOT LESS THAN ONCE EVERY TWO YEARS, COMPLETE TWO AND ONE-HALF HOURS OF COURSEWORK OR TRAINING REGARDING THE IDENTIFICATION AND REPORTING OF CHILD ABUSE AND MALTREATMENT. SUCH CONTINUING COURSEWORK OR TRAINING SHALL, TO THE GREATEST EXTENT POSSIBLE, INCLUDE ADVANCED TRAINING WHICH BUILDS ON THE INITIAL OR EARLIER COURSEWORK REQUIRED IN THIS SUBDIVISION.

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

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

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

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

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

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

2. Notwithstanding any other provision of law, the commissioner shall prescribe regulations requiring that all persons applying[, on or after January first, nineteen hundred ninety-one,] for a certificate or license to be a teacher shall, in addition to all the other certification or licensure requirements, have completed two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment, AND SHALL THEREAFTER COMPLETE TWO AND ONE-HALF ADDITIONAL HOURS OF SUCH COURSEWORK OR TRAINING AT LEAST ONCE EVERY PERIOD OF TWO YEARS. SUCH COURSEWORK OR TRAINING SHALL BE PROVIDED PURSUANT TO SECTION SIXTY-FIVE HUNDRED TWO-A OF THIS CHAPTER AS IF THE TEACHER WAS AN APPLICANT FOR OR HOLDER OF A LICENSE TO PRACTICE A PROFESSION PURSUANT TO TITLE EIGHT OF THIS CHAPTER. The coursework or training shall be obtained from an institution or provider which has been approved by the department to provide such coursework or training. The coursework or training shall include information regarding the physical and behavioral indicators of child abuse and maltreatment and the statutory reporting requirements set out in sections four hundred thirteen through four hundred twenty of the social services law, including but not limited to, when and how a report must be made, what other actions the reporter is mandated or authorized to take, the legal protections afforded reporters, and the consequences for failing to report. Each applicant shall provide the department with documentation showing that he or she has completed the required training.

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

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

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

S 6501. Admission to a profession (licensing). Admission to practice of a profession in this state is accomplished by a license being issued to a qualified applicant by the education department. To qualify for a

license an applicant shall meet the requirements prescribed in the article for the particular profession and shall meet the requirements prescribed in section 3-503 of the general obligations law AND, WHERE APPLICABLE, THE REQUIREMENTS OF SECTION SIXTY-FIVE HUNDRED TWO-A OF THIS SUBARTICLE.

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

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

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

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

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

3. THE DEPARTMENT MAY DEVELOP A TRAINING CURRICULUM REGARDING THE IDENTIFICATION AND REPORTING OF CHILD ABUSE AND MALTREATMENT WHICH SHALL BE USED TO PROVIDE THE COURSEWORK AND TRAINING REQUIRED BY THIS SECTION, PROVIDED, HOWEVER, THAT IF THE DEPARTMENT SHALL FAIL TO DEVELOP SUCH A TRAINING CURRICULUM, THEN THE REQUIRED CURRICULUM FOR THE COURSEWORK AND TRAINING REQUIRED BY THIS SECTION SHALL BE THE TRAINING CURRICULUM RELATING THERETO DEVELOPED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES. EVERY TRAINING CURRICULUM DEVELOPED BY THE DEPARTMENT PURSUANT TO THIS SUBDIVISION SHALL BE SUBJECT TO THE APPROVAL OF THE OFFICE OF CHILDREN AND FAMILY SERVICES. THE DEPARTMENT SHALL REQUIRE EVERY INSTITUTION AND PROVIDER OF COURSEWORK OR TRAINING PURSUANT TO THIS SECTION TO UTILIZE AN APPROVED CURRICULUM. SUCH COURSEWORK AND TRAINING MAY BE DEVELOPED SO THAT IT CAN BE OFFERED THROUGH VARIOUS MEANS INCLUDING, BUT NOT LIMITED TO, INTERNET BASED COURSES AND TELECONFERENCES.

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

a. Establish standards for preprofessional and professional education, experience and licensing examinations as required to implement the article for each profession. Notwithstanding any other provision of law, the commissioner shall establish standards requiring that all persons applying[, on or after January first, nineteen hundred ninety-one,] initially, or for the renewal of, a license, registration or limited permit to be a physician, chiropractor, dentist, registered nurse, podiatrist, optometrist, psychiatrist, psychologist, licensed master social worker, licensed clinical social worker, licensed creative arts therapist, licensed marriage and family therapist, licensed mental health counselor, licensed psychoanalyst, [or] dental hygienist OR ANY OTHER PROFESSION WHICH IS REQUIRED TO REPORT CASES OF SUSPECTED CHILD ABUSE AND MALTREATMENT, PURSUANT TO SECTION FOUR HUNDRED THIRTEEN OF THE SOCIAL SERVICES LAW, shall, in addition to all the other licensure, certification or permit requirements, have completed two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment, AND IF THEY ARE LISTED IN PARAGRAPH (B) OF SUBDIVISION ONE-A OF SECTION FOUR HUNDRED THIRTEEN OF THE SOCIAL SERVICES LAW, SHALL THEREAFTER COMPLETE TWO AND ONE-HALF ADDITIONAL HOURS OF SUCH COURSEWORK OR TRAINING AT LEAST ONCE EVERY PERIOD OF TWO YEARS IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIXTY-FIVE HUNDRED TWO-A OF THIS ARTICLE. The coursework or training shall be obtained from an institution or provider which has been approved by the department to provide such coursework or training. The coursework or training shall include information regarding the physical and behavioral indicators of child abuse and maltreatment and the statutory reporting requirements set out in sections four hundred thirteen through four hundred twenty of the social services law, including but not limited to, when and how a report must be made, what other actions the reporter is mandated or authorized to take, the legal protections afforded reporters, and the consequences for failing to report. Such coursework or training may also include information regarding the physical and behavioral indicators of the abuse of individuals with mental retardation and other developmental disabilities and voluntary reporting of abused or neglected adults to the office of mental retardation and developmental disabilities or the local adult protective services unit. Each applicant shall provide the department with documentation showing that he or she has completed the required training. The department shall provide an exemption from the child abuse and maltreatment training requirements to any applicant who requests such an exemption and who shows, to the department's satisfaction, that there would be no need because of the nature of his or her practice for him or her to complete such training;

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

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

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

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

(j) (1) Development, maintenance and dissemination of written policies and procedures pursuant to title six of article six of the social services law and applicable provisions of article ten of the family court act, regarding the mandatory reporting of child abuse or neglect, reporting procedures and obligations of persons required to report, provisions for taking a child into protective custody, mandatory reporting of deaths, immunity from liability, penalties for failure to report and obligations for the provision of services and procedures necessary to safeguard the life or health of the child; (2) establishment and implementation on an ongoing basis, of a training program for all current and new police officers regarding the policies and procedures established pursuant to this paragraph AND THE IDENTIFICATION AND INVESTIGATION OF CHILD ABUSE AND MALTREATMENT AND ANY PROTOCOLS THAT EXIST REGARDING INVESTIGATING SUSPECTED INCIDENTS OF CHILD ABUSE AND MALTREATMENT JOINTLY WITH LOCAL DEPARTMENTS OF SOCIAL SERVICES; and (3) establishment of a training program for police officers whose main responsibilities are juveniles and the laws pertaining thereto, which training program shall be successfully completed before such officers are accredited pursuant to section eight hundred forty-six-h of this chapter.

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

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

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