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

February 5, 2010

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

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to article 1 of the constitution, in relation to child welfare

Section 1. Resolved (if the Senate concur), That article 1 of the constitution be amended by adding a new section 19 to read as follows:

S 19. IN ALL ACTIONS CONCERNING CHILDREN, WHETHER UNDERTAKEN BY PUBLIC OR PRIVATE SOCIAL WELFARE INSTITUTIONS, COURTS OF LAW, ADMINISTRATIVE AUTHORITIES OR THE LEGISLATURE, THE BEST INTERESTS OF THE CHILD SHALL BE A NECESSARY CONSIDERATION.

THE STATE SHALL TAKE APPROPRIATE MEASURES TO ENSURE THE CHILD IS PROTECTED AGAINST ALL FORMS OF DISCRIMINATION AS CONTAINED IN SECTION ELEVEN OF THIS ARTICLE.

THE STATE SHALL ENSURE THE CHILD SUCH PROTECTION AND CARE AS IS NECESSARY FOR THE CHILD'S WELL-BEING, TAKING INTO ACCOUNT THE RIGHTS AND DUTIES OF THE CHILD'S PARENTS, LEGAL GUARDIANS, OR OTHER INDIVIDUALS LEGALLY RESPONSIBLE FOR THE CHILD AND, TO THIS END, SHALL TAKE APPROPRIATE LEGISLATIVE AND ADMINISTRATIVE MEASURES.

THE STATE SHALL ENSURE THAT THE INSTITUTIONS, SERVICES AND FACILITIES RESPONSIBLE FOR THE CARE AND PROTECTION OF CHILDREN SHALL CONFORM WITH THE STANDARDS ESTABLISHED BY COMPETENT AUTHORITIES, PARTICULARLY IN THE AREAS OF SAFETY, HEALTH, NUMBER AND SUITABILITY OF THEIR STAFF, AND COMPETENT SUPERVISION.

THE STATE SHALL RECOGNIZE THE RIGHT OF THE CHILD TO EXPRESS HIS OR HER OPINION FREELY IN ALL MATTERS AFFECTING THE CHILD, THE VIEWS OF THE CHILD BEING GIVEN DUE WEIGHT IN ACCORDANCE WITH THE AGE AND MATURITY OF THE CHILD. FOR THIS PURPOSE THE CHILD SHALL IN PARTICULAR BE PROVIDED THE OPPORTUNITY TO BE HEARD IN ANY JUDICIAL AND ADMINISTRATIVE PROCEEDINGS AFFECTING THE CHILD, EITHER DIRECTLY OR THROUGH AN APPROPRIATE REPRESENTATIVE.

THE STATE SHALL TAKE ALL APPROPRIATE LEGISLATIVE, ADMINISTRATIVE, SOCIAL AND EDUCATIONAL MEASURES TO PROTECT THE CHILD FROM ALL FORMS OF PHYSICAL AND MENTAL ABUSE, NEGLECT OR NEGLIGENT TREATMENT, MALTREATMENT

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

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OR EXPLOITATION, INCLUDING SEXUAL ABUSE, WHILE IN THE CARE OF A PARENT, LEGAL GUARDIAN OR ANY PERSON WHO HAS THE CARE OF THE CHILD.

S 2. Resolved (if the Senate concur), That the foregoing amendment be referred to the first regular legislative session convening after the next succeeding general election of members of the assembly, and, in conformity with section 1 of article 19 of the constitution, be published for 3 months previous to the time of such election.