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

8528

2011-2012 Regular Sessions

I N A S S E M B L Y

July 13, 2011

Introduced by M. of A. SALADINO -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to requiring parents to conduct or cause to be conducted drug tests on their children entering grades nine through twelve, inclusive

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

Section 1. Short title. This act shall be known and may be cited as "Jonny's law".

S 2. Section 912-a of the education law, as amended by chapter 477 of the laws of 2004, is amended to red as follows:

S 912-a. Urine analysis; drug detection. 1. (A) The school authorities of each school district within the state may cause all children attending grades seven through twelve, inclusive, in the public and private schools located within such districts, to be separately and carefully examined in order to ascertain whether any such children are making use of dangerous drugs.

[2.] (B) Such examination may be made only upon the written request or consent of a parent of, or person in parental relation to, a child. Such examination shall be conducted without notice to the child and shall include the supervised taking of a urine sample which shall be analyzed for such drugs and in accordance with such standards as shall be acceptable to the New York state office of alcoholism and substance abuse services, or its successor agency. The results of such examination shall be promptly forwarded to the school authorities. If it should be ascertained, upon such test or examination, that any child is making use of dangerous drugs, the school authorities shall report same to the social services department for the social services district wherein such school is located and to the parent of, or person in parental relation to, such child together with a statement to such parent or person in parental relation as to available programs and facilities to combat such danger-

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

LBD13202-01-1

ous drug usage. The local social services department shall be empowered, in an appropriate case, to take such action and offer such protective social services as are prescribed by title six of article six of the social services law.

[3.] (C) Except as required in this section, information resulting from an examination conducted pursuant to this section shall be kept confidential and shall not be used for law enforcement purposes but may be utilized only for statistical, epidemiological or research purposes.

[4.] (D) Any record or information compiled from such examination which identifies an individual student as a user of dangerous drugs shall be maintained separate and apart from such student's other educational records and in appropriate confidence and shall be destroyed upon such student's graduation or final severance from the secondary educational school system in this state.

2. (A) EACH PARENT OF A CHILD ENTERING INTO GRADES NINE THROUGH TWELVE IN A SCHOOL DISTRICT WITHIN THE STATE SHALL CONDUCT OR CAUSE TO BE CONDUCTED A DRUG TEST ON HIS OR HER CHILD OR CHILDREN WHO WILL BE ENTERING GRADE NINE, TEN, ELEVEN OR TWELVE IN ANY PUBLIC OR PRIVATE SCHOOL LOCATED WITHIN SUCH DISTRICT. SUCH DRUG TEST MAY BE CONDUCTED BY THE PARENT BY ADMINISTERING AN AT-HOME DRUG TESTING KIT OR THE PARENT MAY CAUSE THE TEST TO BE CONDUCTED AT A LOCATION OR BY AN INDIVIDUAL APPROVED BY THE COMMISSIONER.

(B) EACH PARENT SHALL BE REQUIRED TO SUBMIT A SIGNED STATEMENT OR AFFIDAVIT UPON THE STUDENT'S ENTRANCE IN GRADES NINE, TEN, ELEVEN AND TWELVE IN SUCH FORM AS TO BE PRESCRIBED BY THE COMMISSIONER, STATING THAT SUCH PARENT CONDUCTED OR CAUSED TO BE CONDUCTED A DRUG TEST ON THEIR CHILD AND THAT THE RESULTS OF SUCH TEST WERE OBSERVED BY SAID PARENT.

(C) THE DEPARTMENT SHALL BY RULE AND REGULATION ESTABLISH GUIDELINES FOR HELPING PARENTS COMPLY WITH THE REQUIREMENTS OF THIS SUBDIVISION.

(D) INFORMATION RESULTING FROM AN EXAMINATION CONDUCTED PURSUANT TO THIS SUBDIVISION SHALL BE KEPT CONFIDENTIAL AND SHALL NOT BE USED FOR LAW ENFORCEMENT PURPOSES BUT MAY BE UTILIZED ONLY FOR STATISTICAL, EPIDEMIOLOGICAL OR RESEARCH PURPOSES.

(E) ANY RECORD OR INFORMATION COMPILED FROM SUCH EXAMINATION WHICH IDENTIFIES AN INDIVIDUAL STUDENT AS A USER OF DANGEROUS DRUGS SHALL BE MAINTAINED SEPARATE AND APART FROM SUCH STUDENT'S OTHER EDUCATIONAL RECORDS AND IN APPROPRIATE CONFIDENCE AND SHALL BE DESTROYED UPON SUCH STUDENT'S GRADUATION OR FINAL SEVERANCE FROM THE SECONDARY EDUCATIONAL SCHOOL SYSTEM IN THIS STATE.

(F) FOR THE PURPOSES OF THIS SUBDIVISION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS: (I) "DRUG TEST" MEANS ANALYSIS OF A BODY COMPONENT SAMPLE APPROVED BY THE COMMISSIONER FOR THE PURPOSE OF MEASURING THE PRESENCE OR ABSENCE OF DRUGS OR THEIR METABOLITES IN THE SAMPLE TESTED.

(II) "AT-HOME DRUG TESTING KIT" MEANS A PORTABLE IMMUNOASSAY PROCEDURE OR AN EQUIVALENT, CLEARED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR COMMERCIAL DISTRIBUTION, TO IDENTIFY NEGATIVE AND PRESUMPTIVE POSITIVE SPECIMENS, WHICH MAY BE ADMINISTERED AT A LOCATION OUTSIDE OF A LABORATORY.

(III) "PARENT" INCLUDES A PERSON STANDING IN PARENTAL RELATION, THE CUSTODIAL PARENT OR A LEGAL GUARDIAN.

Notwithstanding any provision of this section to the contrary, no such examination shall be required where a student objects thereto on the grounds that such examinations conflict with their genuine and sincere religious beliefs.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.