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2011-2012 Regular Sessions

I N A S S E M B L Y

January 11, 2011

Introduced by M. of A. TEDISCO -- Multi-Sponsored by -- M. of A.
BURLING, BUTLER, CALHOUN, CONTE, CROUCH, FITZPATRICK, KOLB, SAYWARD --
read once and referred to the Committee on Children and Families

AN ACT to amend the social services law and the family court act, in
relation to the definition of a maltreated and neglected child

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

1 Section 1. Subdivision 2 of section 412 of the social services law, as
2 amended by chapter 323 of the laws of 2008, is amended to read as
3 follows:

4 2. A "maltreated child" includes:

5 (a) a child under eighteen years of age not in "residential care" as
6 defined in subdivision four of section four hundred twelve-a of this
7 title:

8 (i) defined as a neglected child by the family court act, or

9 (ii) who has had serious physical injury inflicted upon him or her by
10 other than accidental means; or

11 (b) a child who is a neglected child in residential care as defined in
12 subdivision two of section four hundred twelve-a of this title;

13 (C) A CHILD OF A PARENT OR PARENTS WHO ABUSE A DRUG OR DRUGS OR ALCO-
14 HOL TO THE EXTENT THAT THEY ARE INCAPABLE OF PROVIDING MINIMAL CARE TO
15 THE CHILD OR, IF SUCH ABUSE OCCURRED DURING THE PREGNANCY, RESULTING IN
16 THE BIRTH OF A DRUG-DEPENDENT CHILD;

17 S 2. Subparagraph (B) of paragraph (i) of subdivision (f) of section
18 1012 of the family court act, as amended by chapter 984 of the laws of
19 1981, is amended to read as follows:

20 (B) in providing the child with proper supervision or guardianship, by
21 unreasonably inflicting or allowing to be inflicted harm, or a substan-
22 tial risk thereof, including the infliction of excessive corporal
23 punishment; or by misusing a drug or drugs; or by misusing alcoholic
24 beverages to the extent that he loses self-control of his actions;

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

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1 INCLUDING THE MISUSE OF A DRUG OR DRUGS OR ALCOHOL DURING THE PREGNANCY
2 OF THE MOTHER, RESULTING IN THE BIRTH OF A DRUG-DEPENDENT CHILD; or by
3 any other acts of a similarly serious nature requiring the aid of the
4 court; provided, however, that where the respondent is voluntarily and
5 regularly participating in a rehabilitative program, evidence that the
6 respondent has repeatedly misused a drug or drugs or alcoholic beverages
7 to the extent that he loses self-control of his actions shall not estab-
8 lish that the child is a neglected child in the absence of evidence
9 establishing that the child's physical, mental or emotional condition
10 has been impaired or is in imminent danger of becoming impaired as set
11 forth in THIS paragraph [(i) of this subdivision]; or
12 S 3. This act shall take effect on the first of November next succeed-
13 ing the date on which it shall have become a law.