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

1633

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 ASSEMBLY, DO ENACT AS FOLLOWS:

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

2. A "maltreated child" includes:

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

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

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

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

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

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

(B) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, including the infliction of excessive corporal punishment; or by misusing a drug or drugs; or by misusing alcoholic 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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INCLUDING THE MISUSE OF A DRUG OR DRUGS OR ALCOHOL DURING THE PREGNANCY OF THE MOTHER, RESULTING IN THE BIRTH OF A DRUG-DEPENDENT CHILD; or by any other acts of a similarly serious nature requiring the aid of the court; provided, however, that where the respondent is voluntarily and regularly participating in a rehabilitative program, evidence that the respondent has repeatedly misused a drug or drugs or alcoholic beverages to the extent that he loses self-control of his actions shall not establish that the child is a neglected child in the absence of evidence establishing that the child's physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as set forth in THIS paragraph [(i) of this subdivision]; or

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.