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

362

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. MONTGOMERY -- read twice and ordered printed, and when printed to be committed to the Committee on Social Services

AN ACT to amend the social services law, in relation to reports of educational neglect by school districts

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

Section 1. Subdivision 8 of section 34-a of the social services law, as added by chapter 543 of the laws of 2006, is amended to read as follows:

8. The commissioner of the office of children and family services shall, in conjunction with the commissioner of education, develop model practices and procedures for local social services districts and school districts regarding the reporting and investigation of educational neglect. SUCH POLICIES SHALL REQUIRE THAT A HEARING BY THE COMMITTEE ON SPECIAL EDUCATION, OR SUCH OTHER APPROPRIATE HEARING BODY, SHALL BE CONDUCTED AND CONCLUDED PRIOR TO THE FILING OF ANY REPORT WITH THE LOCAL SOCIAL SERVICES DISTRICT ALLEGING EDUCATIONAL NEGLECT. Such model practices and procedures shall be available to social services districts and school districts and shall be posted on the office of children and family services website and the state department of education website by September first, two thousand seven. Each social services district shall, in conjunction with local school districts within its district, submit written policies and procedures regarding the reporting of educational neglect by each school district within such social services district and the investigation of educational neglect allegations by child protective services. Such policies and procedures shall be submitted to the office of children and family services for review by January first, two thousand eight and the office shall approve or disapprove such local policies and procedures, based upon the model practices and

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

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procedures established in conjunction with the state department of education, within sixty days of submission.

S 2. Paragraph (c) of subdivision 5 of section 422 of the social services law, as added by chapter 555 of the laws of 2000, is amended to read as follows:

(c) Notwithstanding any other provision of law, the office of children and family services may, in its discretion, grant a request to expunge an unfounded report where: (i) the source of the report was convicted of a violation of subdivision three of section 240.55 of the penal law in regard to such report; or (ii) the subject of the report presents clear and convincing evidence that affirmatively refutes the allegation of abuse or maltreatment; provided however, that the absence of credible evidence supporting the allegation of abuse or maltreatment shall not be the sole basis to expunge the report, EXCEPT THAT WHERE THE MALTREATMENT ALLEGED WAS BASED UPON A CLAIM OF EDUCATIONAL NEGLECT AND SUCH REPORT WAS DETERMINED TO BE UNFOUNDED THE OFFICE SHALL EXPUNGE THE REPORT BASED SOLELY UPON SUCH FINDING. Nothing in this paragraph shall require the office of children and family services to hold an administrative hearing in deciding whether to expunge a report. Such office shall make its determination upon reviewing the written evidence submitted by the subject of the report and any records or information obtained from the state or local agency which investigated the allegations of abuse or maltreatment.

S 3. This act shall take effect immediately.