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I N  S E N A T E

March 9, 2012

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health and Developmental Disabilities

AN ACT to amend the mental hygiene law, in relation to the definition of autism

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

Section 1. Section 1.03 of the mental hygiene law is amended by adding a new subdivision 56 to read as follows:

56. "AUTISM" MEANS A PERVASIVE DEVELOPMENTAL DISORDER THAT MEETS ANY OF THE FOLLOWING CRITERIA:

(A) AUTISTIC DISORDER, WHICH IS:

(I) THE DIAGNOSES OF AT LEAST SIX OF THE FOLLOWING SYMPTOMS, WITH AT LEAST TWO SYMPTOMS COMING FROM CLAUSE ONE OF THIS SUBPARAGRAPH, ONE SYMPTOM COMING FROM CLAUSE TWO OF THIS SUBPARAGRAPH, AND ONE SYMPTOM COMING FROM CLAUSE THREE OF THIS SUBPARAGRAPH.

(1) QUALITATIVE IMPAIRMENT IN SOCIAL INTERACTION, AS MANIFESTED BY AT LEAST TWO OF THE FOLLOWING:

(A) MARKED IMPAIRMENT IN THE USE OF MULTIPLE, NONVERBAL BEHAVIORS SUCH AS EYE-TO-EYE GAZE, FACIAL EXPRESSION, BODY POSTURES, AND GESTURES, TO REGULATE SOCIAL INTERACTION.

(B) FAILURE TO DEVELOP PEER RELATIONSHIPS APPROPRIATE TO DEVELOPMENTAL LEVEL.

(C) A LACK OF SPONTANEOUS SEEKING TO SHARE ENJOYMENT, INTERESTS, OR ACHIEVEMENTS WITH OTHER PEOPLE (E.G., BY A LACK OF SHOWING, BRINGING, OR POINTING OUT OBJECTS OF INTEREST).

(D) LACK OF SOCIAL OR EMOTIONAL RECIPROCITY.

(2) QUALITATIVE IMPAIRMENTS IN COMMUNICATION AS MANIFESTED BY AT LEAST ONE OF THE FOLLOWING:

(A) DELAY IN, OR TOTAL LACK OF, THE DEVELOPMENT OF SPOKEN LANGUAGE (NOT ACCOMPANIED BY AN ATTEMPT TO COMPENSATE THROUGH ALTERNATIVE MODES OF COMMUNICATION SUCH AS GESTURE OR MIME).

(B) IN INDIVIDUALS WITH ADEQUATE SPEECH, MARKED IMPAIRMENT IN THE ABILITY TO INITIATE OR SUSTAIN A CONVERSATION WITH OTHERS.

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

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(C) STEREOTYPED AND REPETITIVE USE OF LANGUAGE OR IDIOSYNCRATIC LANGUAGE.

(D) LACK OF VARIED, SPONTANEOUS MAKE-BELIEVE PLAY OR SOCIAL IMITATIVE PLAY APPROPRIATE TO DEVELOPMENTAL LEVEL.

(3) RESTRICTED REPETITIVE AND STEREOTYPED PATTERNS OF BEHAVIOR, INTERESTS, AND ACTIVITIES, AS MANIFESTED BY AT LEAST ONE OF THE FOLLOWING:

(A) ENCOMPASSING PREOCCUPATION WITH ONE OR MORE STEREOTYPED AND RESTRICTED PATTERNS OF INTEREST THAT IS ABNORMAL EITHER IN INTENSITY OR FOCUS.

(B) APPARENTLY INFLEXIBLE ADHERENCE TO SPECIFIC, NONFUNCTIONAL ROUTINES OR RITUALS.

(C) STEREOTYPED AND REPETITIVE MOTOR MANNERS (E.G., HAND OR FINGER FLAPPING OR TWISTING, OR COMPLEX WHOLE-BODY MOVEMENTS).

(D) PERSISTENT PREOCCUPATION WITH PARTS OF OBJECTS.

(II) DELAYS OR ABNORMAL FUNCTIONING IN AT LEAST ONE OF THE FOLLOWING AREAS, WITH ONSET PRIOR TO THREE YEARS OF AGE:

(1) SOCIAL INTERACTION,

(2) LANGUAGE AS USED IN SOCIAL COMMUNICATION, OR

(3) SYMBOLIC OR IMAGINATIVE PLAY.

(III) THE DISTURBANCE IS NOT BETTER ACCOUNTED FOR BY RETT'S DISORDER OR CHILDHOOD DISINTEGRATIVE DISORDER.

(B) ASPERGER'S DISORDER, WHICH IS:

(I) QUALITATIVE IMPAIRMENT IN SOCIAL INTERACTION, AS MANIFESTED BY AT LEAST TWO OF THE FOLLOWING:

(1) MARKED IMPAIRMENT IN THE USE OF MULTIPLE NONVERBAL BEHAVIORS SUCH AS EYE-TO-EYE GAZE, FACIAL EXPRESSION, BODY POSTURES, AND GESTURES TO REGULATE SOCIAL INTERACTION.

(2) FAILURE TO DEVELOP PEER RELATIONSHIPS APPROPRIATE TO DEVELOPMENTAL LEVEL.

(3) A LACK OF SPONTANEOUS SEEKING TO SHARE ENJOYMENT, INTERESTS, OR ACHIEVEMENTS WITH OTHER PEOPLE (E.G., BY A LACK OF SHOWING, BRINGING, OR POINTING OUT OBJECTS OF INTEREST TO OTHER PEOPLE).

(4) LACK OF SOCIAL OR EMOTIONAL RECIPROCITY.

(II) RESTRICTED REPETITIVE AND STEREOTYPED PATTERNS OF BEHAVIOR, INTERESTS AND ACTIVITIES, AS MANIFESTED BY AT LEAST ONE OF THE FOLLOWING:

(1) ENCOMPASSING PREOCCUPATION WITH ONE OR MORE STEREOTYPED AND RESTRICTED PATTERNS OF INTEREST THAT IS ABNORMAL EITHER IN INTENSITY OR FOCUS.

(2) APPARENTLY INFLEXIBLE ADHERENCE TO SPECIFIC, NONFUNCTIONAL ROUTINES OR RITUALS.

(3) STEREOTYPED AND REPETITIVE MOTOR MANNERISMS (E.G., HAND OR FINGER FLAPPING OR TWISTING, OR COMPLEX WHOLE-BODY MOVEMENTS).

(4) PERSISTENT PREOCCUPATION WITH PARTS OF OBJECTS.

(III) THE DISTURBANCE CAUSES CLINICALLY SIGNIFICANT IMPAIRMENT IN SOCIAL, OCCUPATIONAL, OR OTHER IMPORTANT AREAS OF FUNCTIONING.

(IV) THERE IS NO CLINICALLY SIGNIFICANT GENERAL DELAY IN LANGUAGE (E.G., SINGLE WORDS USED BY AGE TWO, COMMUNICATIVE PHRASES USED BY AGE THREE).

(V) THERE IS NO CLINICALLY SIGNIFICANT DELAY IN COGNITIVE DEVELOPMENT OR IN THE DEVELOPMENT OF AGE-APPROPRIATE SELF-HELP SKILLS, ADAPTIVE BEHAVIOR (OTHER THAN IN SOCIAL INTERACTION), AND CURIOSITY ABOUT THE ENVIRONMENT IN CHILDHOOD.

(VI) CRITERIA ARE NOT MET FOR ANOTHER SPECIFIC PERVASIVE DEVELOPMENTAL DISORDER OR SCHIZOPHRENIA.

(C) PERVASIVE DEVELOPMENTAL DISORDER NOT OTHERWISE SPECIFIED (INCLUDING ATYPICAL AUTISM), WHICH IS WHEN THERE IS A SEVERE AND PERVASIVE IMPAIRMENT IN THE DEVELOPMENT OF RECIPROCAL SOCIAL INTERACTION ASSOCIATED WITH IMPAIRMENT IN EITHER VERBAL OR NONVERBAL COMMUNICATION SKILLS OR WITH THE PRESENCE OF STEREOTYPED BEHAVIOR, INTERESTS, AND ACTIVITIES, BUT THE CRITERIA ARE NOT MET FOR A SPECIFIC PERVASIVE DEVELOPMENTAL DISORDER, SCHIZOPHRENIA, SCHIZOTYPAL PERSONALITY DISORDER, OR AVOIDANT PERSONALITY DISORDER. FOR EXAMPLE, THIS CATEGORY INCLUDES "ATYPICAL AUTISM" - PRESENTATIONS THAT DO NOT MEET THE CRITERIA FOR AUTISTIC DISORDER BECAUSE OF LATE AGE AT ONSET, ATYPICAL SYMPTOMATOLOGY, OR SUBTHRESHOLD SYMPTOMATOLOGY, OR ALL OF THESE.

(D) RETT'S DISORDER, WHICH IS:

(I) THE DIAGNOSIS OF ALL OF THE FOLLOWING:

(1) APPARENTLY NORMAL PRENATAL AND PERINATAL DEVELOPMENT.

(2) APPARENTLY NORMAL PSYCHOMOTOR DEVELOPMENT THROUGH THE FIRST FIVE MONTHS AFTER BIRTH.

(3) NORMAL HEAD CIRCUMFERENCE AT BIRTH.

(II) ONSET OF ALL OF THE FOLLOWING AFTER THE PERIOD OF NORMAL DEVELOPMENT:

(1) DECELERATION OF HEAD GROWTH BETWEEN AGES FIVE MONTHS AND FORTY-EIGHT MONTHS.

(2) LOSS OF PREVIOUSLY ACQUIRED PURPOSEFUL HAND SKILLS BETWEEN AGES FIVE MONTHS AND THIRTY MONTHS WITH THE SUBSEQUENT DEVELOPMENT OF STEREOTYPED HAND MOVEMENTS (E.G., HAND-WRINGING OR HAND WASHING).

(3) LOSS OF SOCIAL ENGAGEMENT EARLY IN THE COURSE ( ALTHOUGH OFTEN SOCIAL INTERACTION DEVELOPS LATER).

(4) APPEARANCE OF POORLY COORDINATED GAIT OR TRUNK MOVEMENTS.

(5) SEVERELY IMPAIRED EXPRESSIVE AND RECEPTIVE LANGUAGE DEVELOPMENT WITH SEVERE PSYCHOMOTOR RETARDATION.

(E) CHILDHOOD DISINTEGRATIVE DISORDER, WHICH IS:

(I) APPARENTLY NORMAL DEVELOPMENT FOR AT LEAST THE FIRST TWO YEARS AFTER BIRTH AS MANIFESTED BY THE PRESENCE OF AGE-APPROPRIATE VERBAL AND NONVERBAL COMMUNICATION, SOCIAL RELATIONSHIPS, PLAY, AND ADAPTIVE BEHAVIOR.

(II) CLINICALLY SIGNIFICANT LOSS OF PREVIOUSLY ACQUIRED SKILLS (BEFORE AGE TEN YEARS) IN AT LEAST TWO OF THE FOLLOWING AREAS:

(1) EXPRESSIVE OR RECEPTIVE LANGUAGE.

(2) SOCIAL SKILLS OR ADAPTIVE BEHAVIOR.

(3) BOWEL OR BLADDER CONTROL.

(4) PLAY.

(5) MOTOR SKILLS.

(III) ABNORMALITIES OF FUNCTIONING IN AT LEAST TWO OF THE FOLLOWING AREAS:

(1) QUALITATIVE IMPAIRMENT IN SOCIAL INTERACTION (E.G., IMPAIRMENT IN NONVERBAL BEHAVIORS, FAILURE TO DEVELOP PEER RELATIONSHIPS, LACK OF SOCIAL OR EMOTIONAL RECIPROCITY).

(2) QUALITATIVE IMPAIRMENTS IN COMMUNICATION (E.G., DELAY OR LACK OF SPOKEN LANGUAGE, INABILITY TO INITIATE OR SUSTAIN A CONVERSATION, STEREOTYPED AND REPETITIVE USE OF LANGUAGE, LACK OF VARIED MAKE-BELIEVE PLAY).

(3) RESTRICTED, REPETITIVE, AND STEREOTYPED PATTERNS OF BEHAVIOR, INTEREST, AND ACTIVITIES, INCLUDING MOTOR STEREOTYPES AND MANNERISMS.

(IV) THE DISTURBANCE IS NOT BETTER ACCOUNTED FOR BY ANOTHER SPECIFIC PERVASIVE DEVELOPMENTAL DISORDER OR BY SCHIZOPHRENIA.

S 2. This act shall take effect immediately.