

3964

2015-2016 Regular Sessions

I N   A S S E M B L Y

January 28, 2015

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Introduced by M. of A. TITUS, SCARBOROUGH -- read once and referred to  
the Committee on Children and Families

AN ACT to amend the social services law, in relation to taking a child  
into protective custody on the basis of an allegation of a parent or  
guardian with Munchausen syndrome by proxy

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

1     Section 1. Subdivision 1 of section 417 of the social services law is  
2     amended by adding two new paragraphs (c) and (d) to read as follows:  
3     (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, NO  
4     CHILD SHALL BE TAKEN INTO PROTECTIVE CUSTODY PURSUANT TO THIS SECTION  
5     WHEN THE BASIS THEREOF IS AN ALLEGATION THAT A CUSTODIAL PARENT OR GUAR-  
6     DIAN HAS MUNCHAUSEN SYNDROME BY PROXY, UNLESS AND UNTIL A FAMILY COURT  
7     SHALL HAVE HELD A HEARING, WITH AN OPPORTUNITY FOR SUCH PARENT OR GUARD-  
8     IAN TO BE HEARD, AND SHALL HAVE FOUND REASONABLE CAUSE TO BELIEVE SUCH  
9     ALLEGATIONS ARE TRUE. THE PARENT OR GUARDIAN ALLEGED TO SUFFER FROM  
10    MUNCHAUSEN SYNDROME BY PROXY SHALL, AT ANY SUCH HEARING, BE ALLOWED TO  
11    PRESENT EVIDENCE, INCLUDING EXPERT TESTIMONY, THAT HE OR SHE DOES NOT  
12    SUFFER FROM SUCH SYNDROME.  
13    (D) IN ANY HEARING HELD PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION,  
14    IF THE CHILD'S PEDIATRICIAN, PRIMARY CARE PHYSICIAN OR SPECIALIST  
15    CHARGED WITH TREATING SUCH CHILD DISPUTES THE ALLEGATION OF MUNCHAUSEN  
16    SYNDROME BY PROXY MADE AGAINST THE CHILD'S PARENT OR GUARDIAN, AND IF  
17    SUCH PHYSICIAN TESTIFIES, WHETHER BY AFFIDAVIT OR BEFORE THE COURT, THAT  
18    THE CHILD'S MEDICAL TREATMENT IN QUESTION OR THE CHILD'S COURSE OF  
19    TREATMENT IN GENERAL IS OR WAS NECESSARY FOR THE HEALTH AND WELL-BEING  
20    OF SUCH CHILD, THEN THE FAMILY COURT SHALL FIND THAT THE ALLEGATION OF  
21    MUNCHAUSEN SYNDROME BY PROXY HAS BEEN REBUTTED, AND SHALL NOT ENTER A  
22    FINDING OF ABUSE OR NEGLECT BASED UPON MUNCHAUSEN SYNDROME BY PROXY  
23    AGAINST THE CHILD'S PARENT OR GUARDIAN, AND SHALL NOT ORDER THAT THE

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

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1 CHILD BE TAKEN INTO PROTECTIVE CUSTODY FOR REASONS OF MUNCHAUSEN  
2 SYNDROME BY PROXY.  
3 S 2. This act shall take effect immediately, provided that such  
4 provisions shall apply to any child in protective custody on or after  
5 such effective date.