

STATE OF NEW YORK

3655--B

2017-2018 Regular Sessions

IN SENATE

January 25, 2017

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Children and Families in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law, in relation to the development of standards for the use of aversive interventions for children in public and private schools and programs, including residential facilities; and to amend the mental hygiene law, in relation to a holistic autism spectrum disorder treatment center

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivisions 7, 8 and 9 of section 483-d of the social
2 services law are renumbered subdivisions 8, 9 and 10 and a new subdivi-
3 sion 7 is added to read as follows:

4 7. Aversive interventions. (a) No public funding shall support place-
5 ment of a child in any program or school that engages in the use of
6 aversive interventions on children in violation of this subdivision. A
7 school or program using aversive interventions in violation of this
8 subdivision shall be removed from any registry of approved schools or
9 programs after written notice by the member agency.

10 (b) Definitions. As used in this subdivision:

11 (i) "Aversive interventions" means an intervention known or intended
12 to induce pain or discomfort for the purpose of eliminating or reducing
13 maladaptive behaviors, and include but are not limited to:

14 (1) contingent application of noxious, painful, intrusive stimuli or
15 activities;

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

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1 (2) any form of noxious, painful, or intrusive taste, spray, or inha-
2 lant;

3 (3) withholding sleep, shelter, bedding, bathroom facilities or cloth-
4 ing;

5 (4) contingent food programs that include denial or delay of meals or
6 intentionally altering staple food or drink in order to make it
7 distasteful;

8 (5) movement limitation used as a punishment, including but not limit-
9 ed to use of helmets and mechanical restraint devices;

10 (6) electric shock therapy; and

11 (7) other similar stimuli, treatments, interventions, or actions.

12 The foregoing to the contrary notwithstanding, aversive interventions
13 do not include interventions such as voice control, limited to loud,
14 firm commands; time-limited ignoring of a specific behavior; token fines
15 as part of a token economy system; brief physical prompts to interrupt
16 or prevent a specific behavior; interventions medically necessary for
17 the treatment or protection of the student; or other similar inter-
18 ventions.

19 (ii) "Child" means an individual who is twenty-one years of age or
20 less, provided that a member agency may utilize an alternative defi-
21 nition of a child, including specifying a different age, for purposes of
22 compliance with this subdivision, so long as such definition is standard
23 and appropriate to its placement procedures.

24 (iii) "Member agency" means a state agency that is a member of the
25 out-of-state placement committee.

26 (iv) "Public funding" means funding for care, services, programs, and
27 services programs which are provided or approved directly or indirectly
28 by or under the jurisdiction of a member agency, exclusive of funding
29 for which federal requirements or directives override, supersede, or
30 require approval in a manner contrary to the requirements of this subdi-
31 vision, or for which, in the judgment of the member agency, compliance
32 with this subdivision would violate federal law or regulations.

33 (v) The terms "care," "services," and "services programs" have the
34 same meanings as in subdivision one of section four hundred eighty-
35 three-b of this article.

36 (vi) "School" means any residential or non-residential public or
37 private school located within or outside the state that provides
38 instruction to a child and that: (A) is subject to oversight,
39 inspection, regulation, approval or licensure or certification by any
40 member agency; or (B) receives public funding, including funding for the
41 placement of any child in such school. School as used herein includes a
42 public school, BOCES, charter school, preschool program, private school,
43 state-operated or state-supported school in this state, approved out-of-
44 state day or residential school, or registered nonpublic nursery,
45 kindergarten, elementary or secondary school in this state.

46 (vii) "Program" means any residential or non-residential public or
47 private program, other than a school, that provides care, services,
48 programs, and services programs to a child and that: (A) is subject to
49 oversight, inspection, regulation, approval or licensure or certif-
50 ication by any member agency; or (B) receives public funding, including
51 funding for the placement of any child in such school.

52 § 2. The mental hygiene law is amended by adding a new section 13.43
53 to read as follows:

54 § 13.43 Holistic autism spectrum disorder treatment center.

55 (a) There is hereby established within the children's hospital at SUNY
56 downstate medical center a holistic autism spectrum disorder treatment

1 center. The center shall focus on innovative and demonstrably effective
2 treatments that avoid any of the aversive interventions as described in
3 subdivision seven of section four hundred eighty-three-d of the social
4 services law, and that attempt, to the extent feasible, to minimize the
5 use of prescription drugs and focus on complementary and alternative
6 medicine.

7 (b) The center shall also attempt to integrate holistic treatment
8 techniques into existing communities with special emphasis on providing
9 access to affordable holistic care and treatment, organic and natural
10 food regimens, family respite opportunities, violence prevention best
11 practices, and educational course coordination.

12 (c) The holistic autism spectrum disorder treatment center shall serve
13 as the applied medicine focus of the autism spectrum disorders advisory
14 board as established in section 13.42 of this article.

15 (d) The autism spectrum disorders advisory board shall, within one
16 year of the effective date of this section, recommend to the chairs of
17 the senate and assembly health committees a minimum budget and funding
18 for the holistic spectrum disorder treatment center and oversee a
19 selection search for a chair of the center.

20 (e) The center shall also serve as a designated center of excellence
21 for research into holistic therapies for the treatment of the array of
22 autism spectrum disorders.

23 (f) In order to tap fully the benefits to the people of New York state
24 the holistic autism spectrum disorder treatment center will require
25 affiliation with and cooperation among all major centers of higher
26 learning, including medical colleges, and existing life science research
27 institutes in the state. The board of trustees of the state university
28 is encouraged to enter into appropriate legal agreements to enable this
29 cooperation to prosper.

30 § 3. Severability. If any portion of this act or the application ther-
31 eof to any person or circumstances shall be adjudged invalid by a court
32 of competent jurisdiction, such order or judgment shall be confined in
33 its operation to the controversy in which it was rendered, and shall not
34 affect or invalidate the remainder of any provision of this act or the
35 application of any part thereof to any other person or circumstances and
36 to this end each of the provisions of this act are hereby declared to be
37 separable.

38 § 4. This act shall take effect January 1, 2019; provided that, effec-
39 tive immediately, member agencies of the out-of-state placement commit-
40 tee are authorized and directed to promulgate any regulations necessary
41 to implement the provisions of this act on such effective date.