STATE OF NEW YORK

7372--B

Cal. No. 348

IN SENATE

January 10, 2018

Introduced by Sens. GALLIVAN, AMEDORE, CROCI, GOLDEN, HAMILTON, JACOBS, KRUEGER, O'MARA, PERALTA, RANZENHOFER, SAVINO, SERINO, TEDISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the education law, in relation to child abuse in an educational setting

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

Section 1. Subdivisions 2, 3, 4, 5 and 6 of section 1125 of the education law, subdivisions 2, 3, 4 and 6 as added by chapter 180 of the laws of 2000 and subdivision 5 as amended by section 1 of part E of chapter 501 of the laws of 2012, are amended and a new subdivision 10 is added to read as follows:

2. "Child" shall mean a person under the age of twenty-one years enrolled in a school [~~district in this state, other than a school district within a city having a population of one million or more~~].

3. "Employee" shall mean any person**: (i) who is** receiving compensation from a school [~~district~~] **or (ii) whose duties involve direct student contact and (a) who is receiving compensation from any person or entity that contracts with a school to provide transportation services to children,** or **(b) who is an** employee of a contracted service provider or worker placed within the school under a public assistance employment program, pursuant to title nine-B of article five of the social services law, and consistent with the provisions of such title for the provision of services to such [~~district~~] **school**, its students or employees, directly or through contract[~~, whereby such services performed by such person involve direct student contact~~].

4. "Volunteer" shall mean any person, other than an employee, who **has direct student contact and: (i)** provides services to a school [~~or school district which involve direct student contact~~]**, or (ii) provides**

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

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services to any person or entity that contracts with a school to provide transportation services to children.

5. "Educational setting" shall mean the building and grounds of a [~~public~~] school [~~district~~], the vehicles provided directly or by contract by the school [~~district~~] for the transportation of students to and from school buildings, field trips, co-curricular and extra-curricular activities both on and off school [~~district~~] grounds, all co-curricular and extra-curricular activity sites, and any other location where direct contact between an employee or volunteer and a child has allegedly occurred. [~~Such term shall not include a special act school district as defined in section four thousand one of this chapter which shall be subject to article eleven of the social services law.~~]

6. "Administrator" or "school administrator" shall mean a principal [~~of~~], or the equivalent title, in a [~~public~~] school, [~~charter school or board of cooperative educational services,~~] or other chief school officer.

10. "School" shall include a school district, public school, charter school, nonpublic school, board of cooperative educational services, special act school district as defined in section four thousand one of this chapter, approved preschool special education program pursuant to section forty-four hundred ten of this chapter, approved private residential or non-residential school for the education of students with disabilities including private schools established under chapter eight hundred fifty-three of the laws of nineteen hundred seventy-six, or state-operated or state-supported school in accordance with article eighty-five, eighty-seven or eighty-eight of this chapter.

§ 2. The opening paragraph of subdivision 1 and subdivisions 2 and 3 of section 1126 of the education law, as added by chapter 180 of the laws of 2000, are amended and two new subdivisions 1-a and 4 are added to read as follows:

In any case where an oral or written allegation is made to a teacher, school nurse, school guidance counselor, school psychologist, school social worker, school administrator, school board member or other school personnel required to hold a teaching or administrative license or certificate, as well as a licensed and registered physical therapist, licensed and registered occupational therapist, licensed and registered speech-language pathologist, teacher aide or school resource officer, that a child has been subjected to child abuse by an employee or volunteer in an educational setting, such person shall upon receipt of such allegation:

1-a. (i) In any case where an oral or written allegation is made to a school bus driver employed by a person or entity that contracts with a school to provide transportation services to children that a child has been subjected to child abuse by an employee or volunteer in an educational setting, such driver shall upon receipt of such allegation, promptly report or cause a report to be made to his or her supervisor employed by such contracting person or entity.

(ii) In any case where an oral or written report or allegation is made to a supervisor who is employed by a person or entity that contracts with a school to provide transportation services to children from a person employed by the contracted person or entity, that a child in such school has been subjected to child abuse by an employee or volunteer in an educational setting, such supervisor shall upon receipt of such allegation promptly complete a written report of such allegation including the full name of the child alleged to be abused; the name of the child's parent or guardian; the identity of the person making the allegation and

their relationship to the alleged child victim; the name of the employee or volunteer against whom the allegation was made; and a listing of the specific allegations of child abuse in an educational setting. Such written report shall be upon a form as prescribed in section eleven hundred thirty-two of this article, and shall be personally delivered to the school district superintendent employed by the school district where the child abuse occurred or, for a school other than a school district or public school, the school administrator employed by the school where the child abuse occurred.

2. In any case where it is alleged that a child was abused by an employee or volunteer of a school other than a school within the school district of the child's attendance, the report of such allegations shall be promptly forwarded to the superintendent of schools of the school district of the child's attendance and the school district where the abuse allegedly occurred, whereupon both school superintendents shall comply with sections eleven hundred twenty-eight and eleven hundred twenty-eight-a of this article. If such case involves a school that is not a school district or public school, the appropriate school administrator or administrators, in addition to any appropriate superintendent of schools, shall be notified whereupon all such individuals shall comply with sections eleven hundred twenty-eight and eleven hundred twenty-eight-a of this article.

3. Any employee [~~or~~], volunteer , or supervisor who is employed by a person or entity that contracts with a school to provide transportation services to children who reasonably and in good faith makes a report of allegations of child abuse in an educational setting to a person and in a manner described in this section shall have immunity from civil liability which might otherwise result by reason of such actions.

4. In any case where the employee against whom the allegation is made is the superintendent or the administrator, the report of such allegations shall be made to another administrator designated by the school.

§ 3. The opening paragraph of section 1128 of the education law, as added by chapter 180 of the laws of 2000, is amended to read as follows:

Upon receipt of a written report described in paragraph (a) of subdivision one or subdivision one-a of section eleven hundred twenty-six of this article alleging that a child has been abused in an educational setting, a school administrator or superintendent shall where there is a reasonable suspicion to believe that an act of child abuse has occurred:

§ 4. The section heading and subdivision 1 of section 1128-a of the education law, as added by chapter 180 of the laws of 2000, are amended to read as follows:

Additional duties of school administrators and superintendents.

1. Where a superintendent of schools or, in a school other than a school district or public school, the school administrator forwards to law enforcement a report as described in paragraph (a) of subdivision one or subdivision one-a of section eleven hundred twenty-six of this article, he or she shall refer such report to the commissioner where the employee or volunteer alleged to have committed an act of child abuse as defined in this article holds a certification or license issued by the department.

§ 5. Section 1130 of the education law, as added by chapter 180 of the laws of 2000, is amended to read as follows:

§ 1130. Notification by district attorney. Where a criminal investigation of an allegation of child abuse by an employee or volunteer is undertaken in response to a report forwarded by a school administrator or superintendent to law enforcement authorities pursuant to section

eleven hundred twenty-eight of this article, and where law enforcement authorities have provided such report to the district attorney and have requested assistance, as soon as practicable, it shall be the responsibility of the district attorney to notify the superintendent of schools of the district where the acts of child abuse allegedly occurred and of the school district where the child is attending, if different, of an indictment or the filing of an accusatory instrument against the employee or volunteer against whom an allegation of child abuse in an educational setting was made. The district attorney shall notify the superintendent of schools of the district where the acts of child abuse allegedly occurred and of the school district, if different, where the child is attending of the disposition of the criminal case against such employee or volunteer or the suspension or termination of the criminal investigation of such employee or volunteer. **The aforementioned notifications to the superintendent of schools shall be made to the appropriate school administrator where the acts of child abuse allegedly occurred in a school other than a school district or public school.**

§ 6. Subdivision 1 of section 1131 of the education law, as added by chapter 180 of the laws of 2000, is amended to read as follows:

1. In the event that a licensed or certified school employee against whom an allegation of child abuse in an educational setting has been made, is convicted of any crime involving child abuse in an educational setting, the district attorney shall provide notice thereof to the commissioner[~~,~~] **and** the superintendent of schools of the district **or, in a school other than a school district or public school, the school administrator** where the acts of child abuse occurred and to the school [~~district~~] where the child is attending [~~school~~], if different.

§ 7. Subdivision 2 of section 1132 of the education law, as added by chapter 180 of the laws of 2000, is amended to read as follows:

2. The commissioner shall promulgate rules and regulations for training necessary for the implementation of this article **provided all employees specifically described in section eleven hundred twenty-six of this article shall be required to complete training pursuant to such rules and regulations. Such training shall include, at a minimum, information regarding the physical and behavioral indicators of child abuse and maltreatment and the statutory reporting requirements set out in sections four hundred thirteen, four hundred fourteen, four hundred fifteen, four hundred sixteen, four hundred seventeen, four hundred eighteen, four hundred nineteen and four hundred twenty of the social services law, including but not limited to, when and how a report must be made, what other actions the reporter is mandated or authorized to take, the legal protections afforded reporters, and the consequences for failing to report**.

§ 8. Section 1132 of the education law is amended by adding two new subdivisions 3 and 4 to read as follows:

3. All persons employed on or after July first, two thousand nineteen by a school, other than a school district or public school, in titles equivalent to a teacher or administrator as defined in the regulations of the commissioner, and any school bus driver employed by any person or entity that contracts with a school to provide transportation services to children shall be required to complete two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment. The coursework or training shall be obtained from an institution or provider that has been approved by the department to provide such coursework or training. The coursework or training shall include information regarding the physical and behavioral indicators of

child abuse and maltreatment and the statutory reporting requirements set out in sections four hundred thirteen through four hundred twenty of the social services law, including but not limited to, when and how a report must be made, what other actions the reporter is mandated or authorized to take, the legal protections afforded reporters, and the consequences for failing to report. Each employee in such titles shall provide the school administrator of the school with documentation showing that he or she completed the required training. In addition, each school bus driver shall provide such contracting person or entity with documentation showing that he or she completed the required training. The department shall be authorized to request such records on a periodic basis and may publish a list of any persons or schools who are not in compliance with this subdivision on its website.

4. The coursework or training required by this section shall not apply to those persons already required to undergo coursework or training regarding the identification and reporting of child abuse and maltreatment pursuant to sections three thousand three and three thousand four of this chapter.

§ 9. Subdivision 3 of section 1133 of the education law, as added by chapter 180 of the laws of 2000, is amended to read as follows:

3. Any superintendent of schools or school administrator who reasonably and in good faith reports to law enforcement officials information regarding allegations of child abuse or a resignation as required by this article shall have immunity from any liability, civil or criminal, which might otherwise result by reason of such actions.

§ 10. The education law is amended by adding a new section 1134 to read as follows:

§ 1134. Reporting to the vulnerable persons' central register. Where a person employed by a school is required to report an incident of child abuse in an educational setting to the vulnerable persons' central register pursuant to article eleven of the social services law and he or she reports such incident thereto, such person shall have been deemed to have complied with the reporting requirements of this article.

§ 11. This act shall take effect on the one hundred eightieth day after it shall have become a law.