STATE OF NEW YORK

1368

2019-2020 Regular Sessions

IN ASSEMBLY

January 15, 2019

Introduced by M. of A. SIMON, PICHARDO, D'URSO, GOTTFRIED, BLAKE -- Multi-Sponsored by -- M. of A. MOSLEY, PERRY -- read once and referred to the Committee on Children and Families

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:

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

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

(b) Definitions. As used in this subdivision:

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

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

(2) any form of noxious, painful, or intrusive taste, spray, or inhalant;

(3) withholding sleep, shelter, bedding, bathroom facilities or clothing;

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

LBD01748-01-9

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

(5) movement limitation used as a punishment, including but not limited to use of helmets and mechanical restraint devices;

(6) electric shock therapy; and

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

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

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

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

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

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

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

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

§ 2. The mental hygiene law is amended by adding a new section 13.44 to read as follows:

§ 13.44 Holistic autism spectrum disorder treatment center.

(a) There is hereby established within the children's hospital at SUNY downstate medical center a holistic autism spectrum disorder treatment center. The center shall focus on innovative and demonstrably effective treatments that avoid any of the aversive interventions as described in subdivision seven of section four hundred eighty-three-d of the social services law, and that attempt, to the extent feasible, to minimize the

use of prescription drugs and focus on complementary and alternative medicine.

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

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

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

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

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

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

§ 4. This act shall take effect January 1, 2020; provided that, effective immediately, member agencies of the out-of-state placement committee are authorized and directed to promulgate any regulations necessary to implement the provisions of this act on such effective date.