STATE OF NEW YORK

7042

2021-2022 Regular Sessions

IN ASSEMBLY

April 21, 2021

Introduced by M. of A. DiPIETRO -- read once and referred to the Committee on Judiciary

AN ACT to amend the public health law and the court of claims act, in relation to establishing strict liability for injuries caused by required immunizations

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

Section 1. The public health law is amended by adding a new section 2113 to read as follows:

§ 2113. Vaccinations; liability. 1. For purposes of this section "health practitioner" shall mean an individual who is employed as a public employee or any other person authorized by law to administer an immunization to ensure compliance with the state's immunization requirements pursuant to this chapter.

2. Notwithstanding any provision of law to the contrary, the state shall be strictly liable for any injury caused by the administration of an immunization that is intended to prevent or minimize the spread of disease and to protect public health if an individual establishes that:

(a) such immunization was mandated by a state law, rule or regulation as:

(i) a condition of attendance at a public, private or parochial child caring center, day nursery, day care agency, nursery school, elementary school, secondary school or an institution of higher education at the time of the immunization's administration; or

(ii) an emergency declaration issued by the commissioner or the governor at the time of the immunization's administration;

(b) such immunization was administered by a health practitioner; and

(c) the injury was proximately caused by the administration of such immunization.

3. A health practitioner shall not be liable for any injury alleged to have been sustained by an individual by reason of an act or omission in

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

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the administering of such immunization unless it is established that such injury was caused by gross negligence on the part of such health practitioner.

§ 2. Section 9 of the court of claims act is amended by adding a new subdivision 14 to read as follows:

14. To hear and determine a claim of any person against the state for any injury caused by the administration of a required immunization pursuant to section twenty-one hundred thirteen of the public health law.

§ 3. This act shall take effect immediately and shall apply to all immunization-related injuries sustained after, or that are ongoing as of, such effective date.