STATE OF NEW YORK

1166

2023-2024 Regular Sessions

IN ASSEMBLY

January 13, 2023

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

AN ACT to amend the social services law, in relation to prohibiting the use of aversive conditioning and other certain punishments

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

Section 1. The social services law is amended by adding a new section 498 to read as follows:

§ 498. Aversive conditioning. Notwithstanding any provision of law to the contrary:

1. No program, agency or facility that is funded, operated, licensed, or approved by the state or an agency or political subdivision of the state shall administer or cause to be administered to a vulnerable person any procedure which uses aversive conditioning.

2. No program, agency or facility that is funded, operated, licensed, or approved by the state or an agency or political subdivision of the state shall use any form of physical contact or punishment that is otherwise prohibited by law, or would be prohibited if used on a person who is not vulnerable.

3. No program, agency or facility that is funded, operated, licensed, or approved by the state or an agency or political subdivision of the state shall use any procedure or punishment that denies a vulnerable person reasonable sleep, shelter, bedding, bathroom facilities and any other aspect expected of a humane existence.

4. Any student with an individualized education program that is effective as of the effective date of this section shall be permitted to complete such program, provided that such student is not subjected to: aversive conditioning; physical contact or punishment that is otherwise prohibited by law, or would be prohibited if used on a person who is not vulnerable; or any other procedure or punishment that denies a vulnerable person reasonable sleep, shelter, bedding, bathroom facilities and

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

LBD03550-01-3

any other aspect expected of a humane existence. Provided, however, that no further individualized education plans shall be funded, operated, licensed, or approved by the state or any agency or political subdivision of the state, if any related program, agency, or facility connected to such individualized education program engages in any conduct that would otherwise be prohibited by this section.

5. The provisions of this section shall apply regardless of the location of the relevant conduct or the residence of any impacted persons.

§ 2. Paragraph (e) of subdivision 1 of section 488 of the social services law, as added by section 1 of part B of chapter 501 of the laws of 2012, is amended to read as follows:

(e) "Use of aversive conditioning," which shall mean the application of a physical stimulus that is intended to induce pain or discomfort in order to modify or change the behavior of a person [~~receiving services in the absence of a person-specific authorization by the operating, licensing or certifying state agency pursuant to governing state agency regulations~~]. Aversive conditioning may include but is not limited to, the use of physical stimuli such as noxious odors, noxious tastes, blindfolds, the withholding of meals and the provision of substitute foods in an unpalatable form [~~and~~], movement limitations used as punishment, including but not limited to helmets and mechanical restraint devices and any procedure which causes obvious signs of physical pain, including but not limited to hitting, pinching and electric shock.

§ 3. Section 488 of the social services law is amended by adding a new subdivision 17 to read as follows:

17. "Program" shall mean any residential or non-residential public or private program that provides care, services, programs, and/or support to vulnerable persons.

§ 4. This act shall take effect on the sixtieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.