

STATE OF NEW YORK

6073

2023-2024 Regular Sessions

IN ASSEMBLY

April 3, 2023

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

AN ACT to amend the family court act, in relation to modifying the existing exemption from what constitutes prima facie evidence of child neglect where a parent or guardian voluntarily participates in a recognized rehabilitative program

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

1 Section 1. Subparagraph (B) of paragraph (i) of subdivision (f) of
2 section 1012 of the family court act, as amended by chapter 984 of the
3 laws of 1981, is amended to read as follows:

4 (B) in providing the child with proper supervision or guardianship, by
5 unreasonably inflicting or allowing to be inflicted harm, or a substan-
6 tial risk thereof, including the infliction of excessive corporal
7 punishment; or by misusing a drug or drugs; or by misusing alcoholic
8 beverages to the extent that he loses self-control of his actions; or by
9 any other acts of a similarly serious nature requiring the aid of the
10 court; provided, however, that where the respondent ~~[is]~~ has voluntarily
11 ~~[and regularly participating]~~ participated in and successfully completed
12 a recognized rehabilitative program and has been verifiably rehabili-
13 tated for an uninterrupted period of one year immediately prior to the
14 hearing date, evidence that the respondent has repeatedly misused a drug
15 or drugs or alcoholic beverages to the extent that he loses self-control
16 of his actions shall not establish that the child is a neglected child
17 in the absence of evidence establishing that the child's physical,
18 mental or emotional condition has been impaired or is in imminent danger
19 of becoming impaired as set forth in this paragraph ~~[(i) of this subdivi-~~
20 ~~vision]~~; or

21 § 2. Paragraph (iii) of subdivision (a) of section 1046 of the family
22 court act, as amended by chapter 92 of the laws of 2021, is amended to
23 read as follows:

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

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1 (iii) proof that a person repeatedly misuses a drug or drugs or alco-
2 holic beverages, to the extent that it has or would ordinarily have the
3 effect of producing in the user thereof a substantial state of stupor,
4 unconsciousness, intoxication, hallucination, disorientation, or incom-
5 petence, or a substantial impairment of judgment, or a substantial
6 manifestation of irrationality, shall be prima facie evidence that a
7 child of or who is the legal responsibility of such person is a
8 neglected child except that such drug, or alcoholic beverage misuse
9 shall not be prima facie evidence of neglect when such person ~~[is]~~ has
10 voluntarily ~~[and regularly participating]~~ participated in and success-
11 fully completed a recognized rehabilitative program and has been verifi-
12 ably rehabilitated for an uninterrupted period of one year immediately
13 prior to the hearing date. Provided however, the sole fact that an indi-
14 vidual consumes cannabis, without a separate finding that the child's
15 physical, mental or emotional condition was impaired or is in imminent
16 danger of becoming impaired established by a fair preponderance of the
17 evidence shall not be sufficient to establish prima facie evidence of
18 neglect; and
19 § 3. This act shall take effect on the ninetieth day after it shall
20 have become a law.