

**A RESOLUTION TO BE SUBMITTED
BY LEGISLATORS MILLER-WILLIAMS, GRANT & BURKE**

RE: Bringing the Family Court Act and the Social Services Law Up-to-Date

WHEREAS, legislation currently before the New York State Legislature aims to update antiquated State laws that classify excessive corporal punishment in such a way that such punishment does not meet a threshold for heightened scrutiny in child abuse and maltreatment investigations; and

WHEREAS, current State law defines excessive corporal punishment as “neglect,” as opposed to “abuse,” which limits scrutiny of Child Protective Services’ caseworkers in their investigation of allegations of child abuse, and even when the current classification of such punishment is proven, penalties are wholly inadequate for “neglect” as opposed to “abuse;” and

WHEREAS, according to the legislation, “Under New York State’s current legal statutes, a report of a child who is violently, senselessly and/or repeatedly hit by a legal guardian, with bruises left behind in the wake of each strike, may still be classified as neglect. Officials who work in the field of child advocacy, child protection, parents’ rights and law enforcement have long been clamoring for a change to this antiquated legal definition;” and

WHEREAS, the reclassification of excessive corporal punishment, with this appropriate and meaningful legislation becoming the law in New York State, will mandate that CPS caseworkers more thoroughly investigate certain cases of serious harm to young children; and

WHEREAS, support by the Erie County Legislature encouraging passage of this law in the New York State Legislature would provide another measure of positive action, which together with other actions at the County and State levels, could improve outcomes for our most vulnerable members of society – our children.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature goes on record in support NYS Senate Bill S.6342, and NYS Assembly Bill A.8428: “An act to amend the family court act and the social services law, in relation to the infliction of excessive corporal punishment on a child;” and be it further

RESOLVED, that the Clerk of the Legislature forward certified copies of this resolution to the Governor of the State of New York, the Honorable Andrew M. Cuomo; the Coalition Co-Majority Leaders of the New York State Senate, the Honorable Dean G. Skelos and the Honorable Jeff Klein; the Speaker of the New York State Assembly, the Honorable Sheldon Silver; the Erie County Executive, the Honorable Mark C. Poloncarz; and to the WNY Delegation to the New York State Legislature and the Commissioner of the Department of Social Services.

FISCAL IMPACT: None for resolution.



Bill S6342-2013

Relates to the infliction of excessive corporal punishment on a child

Relates to the infliction of excessive corporal punishment on a child.

Details

- Same as: A8428-2013
 - Versions S6342-2013
 - Sponsor:KENNEDY
 - Multi-sponsor(s): None
 - Co-sponsor(s): BRESLIN, DILAN, ESPAILLAT
 - Committee: CHILDREN AND FAMILIES
 - Law Section: Family Court Act
 - Law: Amd §1012, Fam Ct Act; amd §371, Soc Serv L
-

Actions

- Jan 15, 2014: REFERRED TO CHILDREN AND FAMILIES

Memo

BILL NUMBER: S6342

TITLE OF BILL: An act to amend the family court act and the social services law, in relation to the infliction of excessive corporal punishment on a child

PURPOSE:

This bill reclassifies excessive corporal punishment of a child as abuse, rather than neglect and thus, subjects more child protective services cases to further scrutiny to ensure the safety of New York's children.

SUMMARY OF PROVISIONS:

Section 1: adds excessive corporal punishment to the definition of abuse in section 1012 of the family court act.

Section 2: removes excessive corporal punishment from the definition of neglect in section 1012 of the family court act.

Section 3: removes excessive corporal punishment from the definition of neglect from subparagraph (B) of paragraph (i) of subdivision 4-a of section 371 of the social services law

Section 4: adds a new paragraph (iv) to subdivision 4-b of section 371 of the social services law, defining excessive corporal punishment as abuse.

Section 5: sets the effective date.

JUSTIFICATION:

Under current law, reports of child abuse are classified as either abuse or neglect - with cases of abuse receiving stricter scrutiny, more in-depth investigations and carrying stronger penalties than cases of neglect. This bill seeks to reclassify cases that involve excessive corporal punishment as abuse, rather than neglect. By reclassifying excessive corporal punishment - which can often involve serious injury to the child - as abuse, Child Protective Services will be able to more thoroughly investigate certain cases of serious harm to young children.

Under New York State's current legal statutes, a report of a child who is violently, senselessly and/or repeatedly hit by a legal guardian, with bruises left behind in the wake of each strike, may still be classified as neglect. Officials who work in the fields of child advocacy, child protection, parents' rights and law enforcement have long been clamoring for a change to this antiquated legal definition.

There have been numerous cases, including that of Eain Brooks and Abdifatah Mohamud from Erie County, where reports of excessive corporal punishment or abuse were made by either family members or those mandated to report abuse and maltreatment. Unfortunately, due to a gap in state law, many of these cases do not undergo the strictest of scrutiny as they are classified as neglect cases. Tragically, in

both Eain's case and Abdifatah's case, these children were later killed by their abuser.

By reclassifying excessive corporal punishment as abuse, New York State law will keep pace with at least 35 other states who currently classify excessive corporal punishment as abuse. Furthermore, Child Protective Services and law enforcement officials will be better geared to investigate reports of abuse and protect children like Eain and Abdifatah throughout New York State.

LEGISLATIVE HISTORY:

New Bill.

FISCAL IMPLICATIONS: :

None.

EFFECTIVE DATE:

This act shall take effect immediately.

Text

STATE OF NEW YORK

S. 6342

A. 8428

SENATE - ASSEMBLY

January 15, 2014

IN SENATE -- Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

IN ASSEMBLY -- Introduced by M. of A. PEOPLES-STOKES -- read once and referred to the Committee on Children and Families

AN ACT to amend the family court act and the social services law, in relation to the infliction of excessive corporal punishment on a child

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph (iii) of subdivision (e) of section 1012 of the family court act, as amended by chapter 320 of the laws of 2006, is amended and a new paragraph (iv) is added to read as follows:

(iii) commits, or allows to be committed an offense against such child defined in article one hundred thirty of the penal law; allows, permits or encourages such child to engage in any act described in sections 230.25, 230.30 and 230.32 of the penal law; commits any of the acts described in sections 255.25, 255.26 and 255.27 of the penal law; or allows such child to engage in acts or conduct described in article two hundred sixty-three of the penal law provided, however, that (a) the corroboration requirements contained in the penal law and (b) the age requirement for the application of article two hundred sixty-three of such law shall not apply to proceedings under this article~~(-)~~, OR

(IV) INFLECTS OR ALLOWS TO BE INFLECTED EXCESSIVE CORPORAL PUNISHMENT UPON SUCH CHILD.

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

(B) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof~~(, including the infliction of excessive corporal punishment)~~; or by misusing a drug or drugs; or by misusing alcoholic beverages to the extent that he loses self-control of his actions; or by any other acts of a similarly serious nature requiring the aid of the

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

LBD13153-01-3

court; provided, however, that where the respondent is voluntarily and regularly participating in a rehabilitative program, evidence that the respondent has repeatedly misused a drug or drugs or alcoholic beverages to the extent that he loses self-control of his actions shall not establish that the child is a neglected child in the absence of evidence establishing that the child's physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as set forth in paragraph (i) of this subdivision; or

S 3. Subparagraph (B) of paragraph (i) of subdivision 4-a of section 371 of the social services law, as amended by chapter 984 of the laws of 1981, is amended to read as follows:

(B) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, ~~including the infliction of excessive corporal punishment~~; or by misusing a drug or drugs; or by misusing alcoholic beverages to the extent that he loses self-control of his actions; or by any other acts of a similarly serious nature requiring the aid of the court; provided, however, that where the respondent is voluntarily and regularly participating in a rehabilitative program, evidence that the respondent has repeatedly misused a drug or drugs or alcoholic beverages to the extent that he loses self-control of his actions shall not establish that the child is a neglected child in the absence of evidence establishing that the child's physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as set forth in paragraph (i) of this subdivision; or

S 4. Paragraph (iii) of subdivision 4-b of section 371 of the social services law, as added by chapter 782 of the laws of 1971, is amended and a new paragraph (iv) is added to read as follows:

(iii) commits, or allows to be committed, an act of sexual abuse against such child as defined in the penal law~~(-)~~, OR

(IV) INFLECTS OR ALLOWS TO BE INFLECTED EXCESSIVE CORPORAL PUNISHMENT UPON SUCH CHILD.

S 5. This act shall take effect immediately.

Comments



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Bill Text: NY A08428 | 2013-2014 | General Assembly | Introduced New York Assembly Bill 8428

Bill Title: Relates to the infliction of excessive corporal punishment on a child. [Monitor Legislation]

Status: (Introduced) 2014-01-15 - referred to children and families [A08428 Detail]

Download: New_York-2013-A08428-Introduced.html

STATE OF NEW YORK

S. 6342

A. 8428

SENATE - ASSEMBLY
January 15, 2014

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2 family court act, as amended by chapter 320 of the laws of 2006, is
3 amended and a new paragraph (iv) is added to read as follows:

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5 defined in article one hundred thirty of the penal law; allows, permits
6 or encourages such child to engage in any act described in sections
7 230.25, 230.30 and 230.32 of the penal law; commits any of the acts
8 described in sections 255.25, 255.26 and 255.27 of the penal law; or
9 allows such child to engage in acts or conduct described in article two
10 hundred sixty-three of the penal law provided, however, that (a) the
11 corroboration requirements contained in the penal law and (b) the age
12 requirement for the application of article two hundred sixty-three of
13 such law shall not apply to proceedings under this article[.], OR

14 (IV) INFLECTS OR ALLOWS TO BE INFLECTED EXCESSIVE CORPORAL PUNISHMENT
15 UPON SUCH CHILD.

16 S 2. Subparagraph (B) of paragraph (i) of subdivision (f) of section
17 1012 of the family court act, as amended by chapter 984 of the laws of
18 1981, is amended to read as follows:

19 (B) in providing the child with proper supervision or guardianship, by
20 unreasonably inflicting or allowing to be inflicted harm, or a substan-
21 tial risk thereof[, including the infliction of excessive corporal
22 punishment]; or by misusing a drug or drugs; or by misusing alcoholic
23 beverages to the extent that he loses self-control of his actions; or by
24 any other acts of a similarly serious nature requiring the aid of the

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LBD13153-01-3

S. 6342

2

A. 8428

1 court; provided, however, that where the respondent is voluntarily and
2 regularly participating in a rehabilitative program, evidence that the
3 respondent has repeatedly misused a drug or drugs or alcoholic beverages
4 to the extent that he loses self-control of his actions shall not estab-
5 lish that the child is a neglected child in the absence of evidence
6 establishing that the child's physical, mental or emotional condition
7 has been impaired or is in imminent danger of becoming impaired as set
8 forth in paragraph (1) of this subdivision; or

9 S 3. Subparagraph (B) of paragraph (i) of subdivision 4-a of section

10 371 of the social services law, as amended by chapter 984 of the laws of
11 1981, is amended to read as follows:

12 (B) in providing the child with proper supervision or guardianship, by
13 unreasonably inflicting or allowing to be inflicted harm, or a substan-
14 tial risk thereof[, including the infliction of excessive corporal
15 punishment]; or by misusing a drug or drugs; or by misusing alcoholic
16 beverages to the extent that he loses self-control of his actions; or by
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