



Thursday, July 31, 2008

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S T A T E O F N E W Y O R K

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Cal. No. 237

2007-2008 Regular Sessions

I N S E N A T E

February 27, 2007

Introduced by Sens. VOLKER, DeFRANCISCO, FLANAGAN, FUSCHILLO, GOLDEN, GRIFFO, HANNON, LEIBELL, MALTESE, MAZIARZ, PADAVAN, PERKINS, RATH, SEWARD, TRUNZO, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Social Services, Children and Families -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Social Services, Children and Families in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the social services law and the family court act, in relation to services for exploited children

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

1 Section 1. Article 6 of the social services law is amended by adding a
2 new title 8-A to read as follows:

3 TITLE 8-A
4 SAFE HARBOUR FOR EXPLOITED CHILDREN ACT

5 SECTION 447-A. DEFINITIONS.

6 447-B. SERVICES FOR EXPLOITED CHILDREN.

7 S 447-A. DEFINITIONS. AS USED IN THIS TITLE:

8 1. THE TERM "SEXUALLY EXPLOITED CHILD" MEANS ANY PERSON UNDER THE AGE
9 OF EIGHTEEN WHO HAS BEEN SUBJECT TO SEXUAL EXPLOITATION BECAUSE HE OR
10 SHE:

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

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1 (A) IS THE VICTIM OF THE CRIME OF SEX TRAFFICKING AS DEFINED IN
2 SECTION 230.34 OF THE PENAL LAW;
3 (B) IS AN ABUSED CHILD AS DEFINED IN PARAGRAPH (III) OF SUBDIVISION
4 (E) OF SECTION TEN HUNDRED TWELVE OF THE FAMILY COURT ACT;
5 (C) ENGAGES IN ANY ACT AS DEFINED IN SECTION 230.00 OR 240.37 OF THE
6 PENAL LAW;
7 (D) IS A VICTIM OF THE CRIME OF COMPELLING PROSTITUTION AS DEFINED IN
8 SECTION 230.33 OF THE PENAL LAW;
9 (E) ENGAGES IN ACTS OR CONDUCT DESCRIBED IN ARTICLE TWO HUNDRED
10 SIXTY-THREE OF THE PENAL LAW.
11 2. THE TERM "SHORT-TERM SAFE HOUSE" MEANS A RESIDENTIAL FACILITY OPER-
12 ATED BY AN AUTHORIZED AGENCY AS DEFINED IN SUBDIVISION TEN OF SECTION
13 THREE HUNDRED SEVENTY-ONE OF THIS ARTICLE INCLUDING A RESIDENTIAL FACIL-
14 ITY OPERATING AS PART OF AN APPROVED RUNAWAY PROGRAM AS DEFINED IN
15 SUBDIVISION FOUR OF SECTION FIVE HUNDRED THIRTY-TWO-A OF THE EXECUTIVE
16 LAW OR A NOT-FOR-PROFIT AGENCY WITH EXPERIENCE IN PROVIDING SERVICES TO
17 SEXUALLY EXPLOITED YOUTH AND APPROVED IN ACCORDANCE WITH THE REGULATIONS
18 OF THE OFFICE OF CHILDREN AND FAMILY SERVICES THAT PROVIDES EMERGENCY
19 SHELTER, SERVICES AND CARE TO SEXUALLY EXPLOITED CHILDREN INCLUDING
20 FOOD, SHELTER, CLOTHING, MEDICAL CARE, COUNSELING AND APPROPRIATE CRISIS
21 INTERVENTION SERVICES AT THE TIME THEY ARE TAKEN INTO CUSTODY BY LAW
22 ENFORCEMENT AND FOR THE DURATION OF ANY LEGAL PROCEEDING OR PROCEEDINGS
23 IN WHICH THEY ARE EITHER THE COMPLAINING WITNESS OR THE SUBJECT CHILD.
24 THE SHORT-TERM SAFE HOUSE SHALL ALSO BE AVAILABLE AT THE POINT IN TIME
25 THAT A CHILD UNDER THE AGE OF EIGHTEEN HAS FIRST COME INTO THE CUSTODY
26 OF JUVENILE DETENTION OFFICIALS, LAW ENFORCEMENT, LOCAL JAILS OR THE
27 LOCAL COMMISSIONER OF SOCIAL SERVICES OR IS RESIDING WITH THE LOCAL
28 RUNAWAY AND HOMELESS YOUTH AUTHORITY.
29 3. THE TERM "ADVOCATE" MEANS AN EMPLOYEE OF THE SHORT-TERM SAFE HOUSE
30 DEFINED IN SUBDIVISION TWO OF THIS SECTION THAT HAS BEEN TRAINED TO WORK
31 WITH AND ADVOCATE FOR THE NEEDS OF SEXUALLY EXPLOITED CHILDREN. THE
32 ADVOCATE SHALL ACCOMPANY THE CHILD TO ALL COURT APPEARANCES AND WILL
33 SERVE AS A LIAISON BETWEEN THE SHORT-TERM SAFE HOUSE AND THE COURT.
34 4. THE TERM "SAFE HOUSE" MEANS A RESIDENTIAL FACILITY OPERATED BY AN
35 AUTHORIZED AGENCY AS DEFINED IN SUBDIVISION TEN OF SECTION THREE HUNDRED
36 SEVENTY-ONE OF THIS ARTICLE INCLUDING A RESIDENTIAL FACILITY OPERATING
37 AS PART OF AN APPROVED RUNAWAY PROGRAM AS DEFINED IN SUBDIVISION FOUR OF
38 SECTION FIVE HUNDRED THIRTY-TWO-A OF THE EXECUTIVE LAW OR A NOT-FOR-PRO-
39 FIT AGENCY WITH EXPERIENCE IN PROVIDING SERVICES TO SEXUALLY EXPLOITED
40 YOUTH AND APPROVED IN ACCORDANCE WITH THE REGULATIONS OF THE OFFICE OF
41 CHILDREN AND FAMILY SERVICES THAT PROVIDES SHELTER FOR SEXUALLY
42 EXPLOITED CHILDREN. A SAFE HOUSE CREATED UNDER THIS ARTICLE SHALL
43 PROVIDE OR ASSIST IN SECURING NECESSARY SERVICES FOR SUCH SEXUALLY
44 EXPLOITED CHILDREN EITHER THROUGH DIRECT PROVISION OF SERVICES, OR
45 THROUGH WRITTEN AGREEMENTS WITH OTHER COMMUNITY AND PUBLIC AGENCIES FOR
46 THE PROVISION OF SERVICES INCLUDING BUT NOT LIMITED TO HOUSING, ASSESS-
47 MENT, CASE MANAGEMENT, MEDICAL CARE, LEGAL, MENTAL HEALTH AND SUBSTANCE
48 AND ALCOHOL ABUSE SERVICES. WHERE APPROPRIATE SUCH SAFE HOUSE IN ACCORD-
49 ANCE WITH A SERVICE PLAN FOR SUCH SEXUALLY EXPLOITED CHILD MAY ALSO
50 PROVIDE COUNSELING AND THERAPEUTIC SERVICES, EDUCATIONAL SERVICES
51 INCLUDING LIFE SKILLS SERVICES AND PLANNING SERVICES TO SUCCESSFULLY
52 TRANSITION RESIDENTS BACK TO THE COMMUNITY. THE SAFE HOUSE SHALL BE
53 AVAILABLE AS A FINAL DISPOSITION PURSUANT TO SECTION SEVEN HUNDRED
54 FIFTY-SIX OF THE FAMILY COURT ACT TO ANY SEXUALLY EXPLOITED CHILD WHO IS
55 IN NEED OF LONG TERM HOUSING. NOTHING IN THE PROVISIONS OF THIS ARTICLE
56 SHALL PREVENT A CHILD WHO IS THE SUBJECT OF A PROCEEDING WHICH HAS NOT

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1 REACHED FINAL DISPOSITION FROM RESIDING AT THE SAFE HOUSE FOR THE DURA-
2 TION OF THAT PROCEEDING NOR SHALL IT PREVENT ANY SEXUALLY EXPLOITED
3 CHILD WHO IS NOT THE SUBJECT OF A PROCEEDING FROM RESIDING AT THE SAFE
4 HOUSE.
5 5. THE TERM "COMMUNITY-BASED PROGRAM" MEANS A PROGRAM OPERATED BY A
6 NOT-FOR-PROFIT ORGANIZATION THAT PROVIDES SERVICES SUCH AS STREET
7 OUTREACH, VOLUNTARY DROP-IN SERVICES, PEER COUNSELING, INDIVIDUAL COUN-
8 SELING, FAMILY-THERAPY AND REFERRALS FOR SERVICES SUCH AS EDUCATIONAL

9 AND VOCATIONAL TRAINING AND HEALTH CARE. ANY COMMUNITY-BASED PROGRAM
10 FUNDED UNDER THIS ARTICLE SHALL ALSO WORK WITH THE SAFE HOUSE CREATED
11 UNDER THIS ARTICLE TO PROVIDE TRANSITIONAL SERVICES TO CHILDREN RETURN-
12 ING TO THE COMMUNITY.

13 S 447-B. SERVICES FOR EXPLOITED CHILDREN. 1. NOTWITHSTANDING ANY
14 INCONSISTENT PROVISION OF LAW, PURSUANT TO REGULATIONS OF THE OFFICE OF
15 CHILDREN AND FAMILY SERVICES, EVERY LOCAL SOCIAL SERVICES DISTRICT SHALL
16 AS A COMPONENT OF THE DISTRICT'S MULTI-YEAR CONSOLIDATED SERVICES CHILD
17 WELFARE SERVICES PLAN ADDRESS THE CHILD WELFARE SERVICES NEEDS OF SEXU-
18 ALLY EXPLOITED CHILDREN AND TO THE EXTENT THAT FUNDS ARE AVAILABLE
19 ENSURE THAT PREVENTATIVE SERVICES INCLUDING A SHORT-TERM SAFE HOUSE OR
20 ANOTHER SHORT-TERM SAFE PLACEMENT SUCH AS AN APPROVED RUNAWAY AND HOME-
21 LESS YOUTH PROGRAM, APPROVED RESPITE OR CRISIS PROGRAM PROVIDING CRISIS
22 INTERVENTION OR RESPITE SERVICES OR COMMUNITY-BASED PROGRAM TO SERVE
23 SEXUALLY EXPLOITED CHILDREN IS AVAILABLE TO CHILDREN RESIDING IN SUCH
24 DISTRICT. NOTHING IN THIS SECTION SHALL PROHIBIT A LOCAL SOCIAL
25 SERVICES DISTRICT FROM UTILIZING EXISTING RESPITE OR CRISIS INTERVENTION
26 SERVICES ALREADY OPERATED BY SUCH SOCIAL SERVICES DISTRICT OR HOMELESS
27 YOUTH PROGRAMS OR SERVICES FOR VICTIMS OF HUMAN TRAFFICKING PURSUANT TO
28 ARTICLE TEN-D OF THIS CHAPTER SO LONG AS THE STAFF MEMBERS HAVE RECEIVED
29 APPROPRIATE TRAINING APPROVED BY THE OFFICE OF CHILDREN AND FAMILY
30 SERVICES REGARDING SEXUALLY EXPLOITED CHILDREN AND THE EXISTING PROGRAMS
31 AND FACILITIES PROVIDE A SAFE, SECURE AND APPROPRIATE ENVIRONMENT FOR
32 SEXUALLY EXPLOITED CHILDREN. CRISIS INTERVENTION SERVICES, SHORT-TERM
33 SAFE HOUSE CARE AND COMMUNITY-BASED PROGRAMMING MAY, WHERE APPROPRIATE,
34 BE PROVIDED BY THE SAME NOT-FOR-PROFIT AGENCY. LOCAL SOCIAL SERVICES
35 DISTRICTS MAY WORK COOPERATIVELY TO PROVIDE SUCH SHORT-TERM SAFE HOUSE
36 OR OTHER SHORT-TERM SAFE PLACEMENT, SERVICES AND PROGRAMMING AND ACCESS
37 TO SUCH PLACEMENT, SERVICES AND PROGRAMMING MAY BE PROVIDED ON A
38 REGIONAL BASIS, PROVIDED, HOWEVER, THAT EVERY LOCAL SOCIAL SERVICES
39 DISTRICT SHALL TO THE EXTENT THAT FUNDS ARE AVAILABLE ENSURE THAT SUCH
40 PLACEMENT, SERVICES AND PROGRAMS SHALL BE READILY ACCESSIBLE TO SEXUALLY
41 EXPLOITED CHILDREN RESIDING WITHIN THE DISTRICT.

42 2. ALL OF THE SERVICES CREATED UNDER THIS ARTICLE MAY, TO THE EXTENT
43 POSSIBLE PROVIDED BY LAW, BE AVAILABLE TO ALL SEXUALLY EXPLOITED CHIL-
44 DREN WHETHER THEY ARE ACCESSED VOLUNTARILY, AS A CONDITION OF AN
45 ADJOURNMENT IN CONTEMPLATION OF DISMISSAL ISSUED IN CRIMINAL COURT,
46 THROUGH THE DIVERSION SERVICES CREATED UNDER SECTION SEVEN HUNDRED THIR-
47 TY-FIVE OF THE FAMILY COURT ACT, THROUGH A PROCEEDING UNDER ARTICLE
48 THREE OF THE FAMILY COURT ACT, A PROCEEDING UNDER ARTICLE TEN OF THE
49 FAMILY COURT ACT OR THROUGH A REFERRAL FROM A LOCAL SOCIAL SERVICES
50 AGENCY.

51 3. THE CAPACITY OF THE CRISIS INTERVENTION SERVICES AND
52 COMMUNITY-BASED PROGRAMS IN SUBDIVISION ONE OF THIS SECTION SHALL BE
53 BASED ON THE NUMBER OF SEXUALLY EXPLOITED CHILDREN IN EACH DISTRICT WHO
54 ARE IN NEED OF SUCH SERVICES. A DETERMINATION OF SUCH NEED SHALL BE MADE
55 ANNUALLY IN EVERY SOCIAL SERVICES DISTRICT BY THE LOCAL COMMISSIONER OF
56 SOCIAL SERVICES AND BE INCLUDED IN THE INTEGRATED COUNTY PLAN. SUCH

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1 DETERMINATION SHALL BE MADE IN CONSULTATION WITH LOCAL LAW ENFORCEMENT,
2 RUNAWAY AND HOMELESS YOUTH PROGRAM PROVIDERS, LOCAL PROBATION DEPART-
3 MENTS, LOCAL SOCIAL SERVICES COMMISSIONERS, THE RUNAWAY AND HOMELESS
4 YOUTH COORDINATOR FOR THE LOCAL SOCIAL SERVICES DISTRICT, LOCAL LAW
5 GUARDIANS, PRESENTMENT AGENCIES, PUBLIC DEFENDERS AND DISTRICT ATTOR-
6 NEY'S OFFICES AND CHILD ADVOCATES AND SERVICES PROVIDERS WHO WORK
7 DIRECTLY WITH SEXUALLY EXPLOITED YOUTH.

8 4. IN DETERMINING THE NEED FOR AND CAPACITY OF THE SERVICES CREATED
9 UNDER THIS SECTION, EACH LOCAL SOCIAL SERVICES DISTRICT SHALL RECOGNIZE
10 THAT SEXUALLY EXPLOITED YOUTH HAVE SEPARATE AND DISTINCT SERVICE NEEDS
11 ACCORDING TO GENDER AND, WHERE A LOCAL SOCIAL SERVICES DISTRICT DETER-
12 MINES THAT THE NEED EXISTS, TO THE EXTENT THAT FUNDS ARE AVAILABLE,
13 APPROPRIATE PROGRAMMING SHALL BE MADE AVAILABLE.

14 5. THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL CONTRACT WITH AN
15 APPROPRIATE NOT-FOR-PROFIT AGENCY WITH EXPERIENCE WORKING WITH SEXUALLY
16 EXPLOITED CHILDREN TO OPERATE AT LEAST ONE SAFE HOUSE IN A GEOGRAPH-
17 ICALLY APPROPRIATE AREA OF THE STATE WHICH SHALL PROVIDE SAFE AND SECURE

18 LONG TERM HOUSING AND SPECIALIZED SERVICES FOR SEXUALLY EXPLOITED CHIL-
19 DREN THROUGHOUT THE STATE. THE APPROPRIATENESS OF THE GEOGRAPHIC
20 LOCATION SHALL BE DETERMINED TAKING INTO ACCOUNT THE AREAS OF THE STATE
21 WITH HIGH NUMBERS OF SEXUALLY EXPLOITED CHILDREN AND THE NEED FOR SEXU-
22 ALLY EXPLOITED CHILDREN TO FIND SHELTER AND LONG TERM PLACEMENT IN A
23 REGION THAT CANNOT BE READILY ACCESSED BY THE PERPETRATORS OF SEXUAL
24 EXPLOITATION. THE NEED FOR MORE THAN ONE SAFE HOUSE SHALL BE DETERMINED
25 BY THE OFFICE OF CHILDREN AND FAMILY SERVICES BASED ON THE NUMBERS AND
26 GEOGRAPHICAL LOCATION OF SEXUALLY EXPLOITED CHILDREN WITHIN THE STATE.

27 6. THE LOCAL SOCIAL SERVICES COMMISSIONER MAY, TO THE EXTENT THAT
28 FUNDS ARE AVAILABLE, IN CONJUNCTION WITH LOCAL LAW ENFORCEMENT OFFI-
29 CIALS, CONTRACT WITH AN APPROPRIATE NOT-FOR-PROFIT AGENCY WITH EXPERI-
30 ENCE WORKING WITH SEXUALLY EXPLOITED CHILDREN TO TRAIN LAW ENFORCEMENT
31 OFFICIALS WHO ARE LIKELY TO ENCOUNTER SEXUALLY EXPLOITED CHILDREN IN THE
32 COURSE OF THEIR LAW ENFORCEMENT DUTIES ON THE PROVISIONS OF THIS SECTION
33 AND HOW TO IDENTIFY AND OBTAIN APPROPRIATE SERVICES FOR SEXUALLY
34 EXPLOITED CHILDREN. LOCAL SOCIAL SERVICES DISTRICTS MAY WORK COOPERA-
35 TIVELY TO PROVIDE SUCH TRAINING AND SUCH TRAINING MAY BE PROVIDED ON A
36 REGIONAL BASIS. THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL ASSIST
37 LOCAL SOCIAL SERVICES DISTRICTS IN OBTAINING ANY AVAILABLE FUNDS FOR THE
38 PURPOSES OF CONDUCTING LAW ENFORCEMENT TRAINING FROM THE FEDERAL JUSTICE
39 DEPARTMENT AND/OR THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY
40 PREVENTION.

41 S 2. Section 311.4 of the family court act is amended by adding a new
42 subdivision 3 to read as follows:

43 3. IN ANY PROCEEDING UNDER THIS ARTICLE BASED UPON AN ARREST FOR AN
44 ACT OF PROSTITUTION, THERE IS A PRESUMPTION THAT THE RESPONDENT MEETS
45 THE CRITERIA FOR A CERTIFICATION AS A VICTIM OF A SEVERE FORM OF TRAF-
46 FICKING AS DEFINED IN SECTION 7105 OF TITLE 22 OF THE UNITED STATES CODE
47 (TRAFFICKING VICTIMS PROTECTION ACT OF 2000). UPON THE MOTION OF THE
48 RESPONDENT, WITHOUT THE CONSENT OF THE PRESENTMENT AGENCY, A PETITION
49 ALLEGING THAT THE RESPONDENT IS IN NEED OF SUPERVISION SHALL BE SUBSTI-
50 TUTED FOR THE DELINQUENCY PETITION. IF, HOWEVER, THE RESPONDENT IS NOT A
51 VICTIM OF A SEVERE FORM OF TRAFFICKING AS DEFINED BY THE FEDERAL TRAF-
52 FICKING VICTIMS PROTECTION ACT OF 2000, OR HAS BEEN PREVIOUSLY FOUND
53 UNDER THIS ARTICLE TO HAVE COMMITTED AN OFFENSE PURSUANT TO ARTICLE TWO
54 HUNDRED THIRTY OF THE PENAL LAW, OR HAS BEEN PREVIOUSLY ADJUDICATED
55 UNDER SECTION SEVEN HUNDRED FIFTY-TWO OF THIS CHAPTER AND PLACED WITH A
56 COMMISSIONER OF SOCIAL SERVICES PURSUANT TO SUBDIVISIONS (A) AND (B) OF

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1 SECTION SEVEN HUNDRED FIFTY-SIX OF THIS CHAPTER, OR EXPRESSES A CURRENT
2 UNWILLINGNESS TO COOPERATE WITH SPECIALIZED SERVICES FOR SEXUALLY
3 EXPLOITED YOUTH, CONTINUING WITH THE DELINQUENCY PROCEEDING SHALL BE
4 WITHIN THE COURT'S DISCRETION. THE NECESSARY FINDINGS OF FACT TO SUPPORT
5 THE CONTINUATION OF THE DELINQUENCY PROCEEDING SHALL BE REDUCED TO WRIT-
6 ING AND MADE PART OF THE COURT RECORD. IF, SUBSEQUENT TO ISSUANCE OF A
7 SUBSTITUTION ORDER UNDER THIS SUBDIVISION, THE RESPONDENT IS NOT IN
8 SUBSTANTIAL COMPLIANCE WITH A LAWFUL ORDER OF THE COURT, THE COURT MAY,
9 IN ITS DISCRETION, SUBSTITUTE A PETITION ALLEGING THAT THE RESPONDENT IS
10 A JUVENILE DELINQUENT FOR THE PETITION ALLEGING THAT THE RESPONDENT IS
11 IN NEED OF SUPERVISION.

12 S 3. Subdivision (a) of section 712 of the family court act, as
13 amended by chapter 596 of the laws of 2000, is amended to read as
14 follows:

15 (a) "Person in need of supervision". A person less than eighteen years
16 of age who does not attend school in accordance with the provisions of
17 part one of article sixty-five of the education law or who is incorrigi-
18 ble, ungovernable or habitually disobedient and beyond the lawful
19 control of a parent or other person legally responsible for such child's
20 care, or other lawful authority, or who violates the provisions of
21 section 221.05, 230.00, OR 240.37 of the penal law.

22 S 4. Subdivision (a) of section 732 of the family court act, as
23 amended by section 6 of part E of chapter 57 of the laws of 2005, is
24 amended to read as follows:

25 (a) the respondent is an habitual truant or is incorrigible, ungovern-
26 able, or habitually disobedient and beyond the lawful control of his or

27 her parents, guardian or lawful custodian, OR HAS BEEN THE VICTIM OF
28 SEXUAL EXPLOITATION AS DEFINED IN SUBDIVISION ONE OF SECTION FOUR
29 HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, and specifying the
30 acts on which the allegations are based and the time and place they
31 allegedly occurred. Where habitual truancy is alleged or the petitioner
32 is a school district or local educational agency, the petition shall
33 also include the steps taken by the responsible school district or local
34 educational agency to improve the school attendance and/or conduct of
35 the respondent;
36 S 5. This act shall take effect April 1, 2010.

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