

A08485 Summary:

BILL NO A08485

SAME AS No Same As

SPONSOR Nolan

COSPNSR Gunther, Thiele, Sepulveda, Englebright, Brindisi,
Lifton, Otis, Titone, Rosenthal L, Jaffee, McDonough,
Murray, Lawrence, McLaughlin

MLTSPNSR Walsh

Amd §§1125, 1126, 1128, 1128-a, 1132 & 1133, Ed L

Relates to child abuse in an educational setting; extends such provisions to private schools and such employees and volunteers within.

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A08485 Memo:

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER: A8485

SPONSOR: Nolan

TITLE OF BILL:

An act to amend the education law, in relation to child abuse in an educational setting

PURPOSE:

This legislation would provide comprehensive reform to Article 23-B of the Education Law, which requires child abuse in an educational setting to be reported.

SUMMARY OF PROVISIONS:

Section 1 amends section 1125 of the Education Law to expand the definitions of "child," "employee," "volunteer," "educational setting," and "administrator" within Article 23-B of the Education Law to include all public schools, including charter schools; private schools, including approved private 853 schools, state supported and state operated schools; Special Act School Districts; boards of cooperative educational services (BOCES); and any person or entity that contracts with a public school, private school, Special Act School District or BOCES to provide transportation services. This section also eliminates the exemption for New York City.

Section 2 amends section 1126 of the Education Law to expand the responsibility to complete a report when child abuse allegations are made to include licensed and registered physical therapists, licensed and registered occupational therapists, licensed and registered speech-language pathologists, teacher aides and school resource officers. Any employee of a person or entity which contracts with a school district, charter school, private school or BOCES to provide transportation to children would have to file or cause to file a report if they have reason to suspect abuse.

Sections 3 and 4 make technical changes to conform to this act.

Sections 5 amends section 1132 of the Education Law to require that all teachers and administrators employed by a private or charter school to

complete two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment.

Section 6 makes a technical change to conform to this act.

Section 7 establishes the effective date.

JUSTIFICATION:

Recent allegations of child abuse at private schools have caused renewed interest in the laws protecting children from such abuse. Currently, private schools are not included in Article 23-B, leaving a serious void in the effort to protect vulnerable children from abuse. It has been reported that accused teachers are often quietly forced to resign or transfer rather than the allegations being officially reported. This act would require that allegations of abuse at private schools be reported, and would protect New York's children who attend private schools.

LEGISLATIVE HISTORY:

New bill

FISCAL IMPLICATIONS:

To be determined.

EFFECTIVE DATE:

180th day after enactment

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A08485 Text:

STATE OF NEW YORK

8485

2017-2018 Regular Sessions

IN ASSEMBLY

June 16, 2017

Introduced by M. of A. NOLAN, GUNTHER, THIELE -- read once and referred

to the Committee on Education

AN ACT to amend the education law, in relation to child abuse in an educational setting

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

1 Section 1. Subdivisions 2, 3, 4, 5 and 6 of section 1125 of the educa-
2 tion law, subdivisions 2, 3, 4 and 6 as added by chapter 180 of the laws
3 of 2000 and subdivision 5 as amended by section 1 of part E of chapter
4 501 of the laws of 2012, are amended to read as follows:

5 2. "Child" shall mean a person under the age of twenty-one years

6 enrolled in a school district or public school, including a charter
7 school, private school, including an approved private 853 school
8 established under chapter eight hundred fifty-three of the laws of
9 nineteen hundred seventy-six, state supported school and state operated
10 school, special act school district as defined in section four thousand one
11 of this chapter or board of cooperative educational services in
12 this state[, ~~other than a school district within a city having a~~
~~population~~
13 ~~of one million or more~~].

14 3. "Employee" shall mean any person receiving compensation from a
15 school district or public school, including a charter school,
16 private school, including an approved private 853 school established under
17 chapter eight hundred fifty-three of the laws of nineteen hundred
18 seventy-six, state supported school and state operated school, special
19 act school district as defined in section four thousand one of this
20 chapter or board of cooperative educational services, or any person or
21 entity which contracts with a school district, charter school, private
22 school, special act school district or board of cooperative educational
23 services to provide transportation to children, or employee of a
contracted

24 service provider or worker placed within the school under a
public
25 assistance employment program, pursuant to title nine-B of article
five

EXPLANATION--Matter in italics (underscored) is new; matter in
brackets

[-] is old law to be omitted.

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1 of the social services law, and consistent with the provisions of
such
2 title for the provision of services to such district, its students
or
3 employees, directly or through contract, whereby such services
performed

4 by such person involve direct student contact.

5 4. "Volunteer" shall mean any person, other than an employee,
who

6 provides services to a [~~school or~~] school district or public
school,

7 including a charter school, private school, including an
approved

8 private 853 school established under chapter eight hundred fifty-
three

9 of the laws of nineteen hundred seventy-six, state supported school
and

10 state operated school, special act school district as defined in
section

11 four thousand one of this chapter or board of cooperative
educational

12 services, or any person or entity which contracts with a
school

13 district, charter school, private school, special act school district
or

14 board of cooperative educational services to provide transportation
to

15 children, which involve direct student contact.

16 5. "Educational setting" shall mean the building and grounds
of a

17 public school district or public school, including a charter
school,

18 private school, including an approved private 853 school
established

19 under chapter eight hundred fifty-three of the laws of nineteen
hundred

20 seventy-six, state supported school and state operated school,
special

21 act school district as defined in section four thousand one of
this

22 chapter or board of cooperative educational services, the
vehicles

23 provided directly or by contract by the school district or
public

24 school, including a charter school, private school, including
an
25 approved private 853 school established under chapter eight
hundred
26 fifty-three of the laws of nineteen hundred seventy-six, state
supported
27 school and state operated school, special act school district as
defined
28 in section four thousand one of this chapter or board of
cooperative
29 educational services for the transportation of students to and
from
30 school buildings, field trips, co-curricular and extra-curricular
activ-
31 ities both on and off school district grounds, all co-curricular
and
32 extra-curricular activity sites, and any other location where
direct
33 contact between an employee or volunteer and a child has
allegedly
34 occurred. [~~Such term shall not include a special act school district~~
as
35 ~~defined in section four thousand one of this chapter which shall~~
be
36 ~~subject to article eleven of the social services law.~~]
37 6. "Administrator" or "school administrator" shall mean a
principal
38 [~~ef~~], or the equivalent title, in a public school, private
school,
39 including an approved private 853 school established under chapter
eight
40 hundred fifty-three of the laws of nineteen hundred seventy-six,
state
41 supported school and state operated school, special act school
district
42 as defined in section four thousand one of this chapter, charter
school
43 or board of cooperative educational services, or other chief
school
44 officer.
45 § 2. The opening paragraph of subdivision 1 of section 1126 of
the
46 education law, as added by chapter 180 of the laws of 2000, is
amended
47 and a new subdivision 1-a is added to read as follows:
48 In any case where an oral or written allegation is made to a
teacher,
49 school nurse, school guidance counselor, school psychologist,
school
50 social worker, school administrator, school board member or other
school
51 personnel required to hold a teaching or administrative license
or
52 certificate, as well as individuals employed by the public school
or
53 private school to provide services to such school including licensed
and

54 registered physical therapists, licensed and registered
occupational
55 therapists, licensed and registered speech-language pathologists,
teach-
56 er aides and school resource officers, that a child has been
subjected

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1 to child abuse by an employee or volunteer in an educational
setting,
2 such person shall upon receipt of such allegation:
3 1-a. Any employee of a person or entity which contracts with a
school
4 district, charter school, private school or board of cooperative
educa-
5 tional services to provide transportation to children shall report
or
6 cause a report to be made to such person or entity when such
employee
7 knows or has reason to believe that any employee, former employee
or
8 volunteer of the contracting person or entity subjected a child to
child
9 abuse in an educational setting. In any case where an oral or
written
10 allegation is made to a person or entity which contracts with a
school
11 district, charter school, private school or board of cooperative
educa-
12 tional services to provide transportation to children that a child
has
13 been subjected to child abuse by an employee, former employee or
volun-
14 teer in an educational setting, such person or entity shall upon
receipt
15 of such allegation promptly complete a written report of such
allegation
16 including the full name of the child alleged to be abused; the
identity
17 of the person making the allegation and their relationship to
the
18 alleged child victim; the name of the employee, former employee
or
19 volunteer against whom the allegation was made; and a listing of
the
20 specific allegations of child abuse in an educational setting.
Such
21 written report shall be in the form as prescribed in section
eleven
22 hundred thirty-two of this article, and shall be personally delivered
to
23 the school district superintendent or the administrator in a
private
24 school or charter school or in the event that the employee against
whom
25 the allegation is made is the superintendent or the administrator,
to

26 another administrator designated by the private school or charter
27 school
27 for reporting purposes under this subdivision.

28 § 3. The opening paragraph of section 1128 of the education law,
as

29 added by chapter 180 of the laws of 2000, is amended to read as
follows:

30 Upon receipt of a written report described in paragraph (a) of
subdi-
31 vision one or subdivision one-a of section eleven hundred twenty-six
of
32 this article alleging that a child has been abused in an
educational

33 setting, a school administrator or superintendent shall where there
is a

34 reasonable suspicion to believe that an act of child abuse has
occurred:

35 § 4. Subdivision 1 of section 1128-a of the education law, as added
by

36 chapter 180 of the laws of 2000, is amended to read as follows:

37 1. Where a superintendent of schools forwards to law enforcement
a

38 report as described in paragraph (a) of subdivision one or
subdivision

39 one-a of section eleven hundred twenty-six of this article, he or
she

40 shall refer such report to the commissioner where the employee or
volun-

41 teer alleged to have committed an act of child abuse as defined in
this

42 article holds a certification or license issued by the department.

43 § 5. Section 1132 of the education law is amended by adding a
new

44 subdivision 3 to read as follows:

45 3. Notwithstanding any other provision of law, the commissioner
shall

46 require that all persons employed by a registered private school
or

47 charter school in titles equivalent to a teacher or administrator
as

48 defined in the regulations of the commissioner, on or after July
first,

49 two thousand eighteen, to have completed two hours of coursework
or

50 training regarding the identification and reporting of child abuse
and

51 maltreatment. The coursework or training shall be obtained from
an

52 institution or provider which has been approved by the department
to

53 provide such coursework or training. The coursework or training
shall

54 include information regarding the physical and behavioral indicators
of

55 child abuse and maltreatment and the statutory reporting
requirements

56 set out in sections four hundred thirteen through four hundred twenty
of

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4

1 the social services law, including but not limited to, when and how
a
2 report must be made, what other actions the reporter is mandated
or
3 authorized to take, the legal protections afforded reporters, and
the
4 consequences for failing to report. Each employee in such titles
shall
5 provide the chief of the private school or charter school with
documen-
6 tation showing that he or she has completed the required training.
The
7 department shall be authorized to request such records on a
periodic
8 basis and may publish a list of any persons, private schools or
charter
9 schools who are not in compliance with this subdivision on its
website.

10 § 6. Subdivision 3 of section 1133 of the education law, as added
by

11 chapter 180 of the laws of 2000, is amended to read as follows:

12 3. Any superintendent of schools or school administrator who
reason-

13 ably and in good faith reports to law enforcement officials
information

14 regarding allegations of child abuse or a resignation as required
by

15 this article shall have immunity from any liability, civil or
criminal,

16 which might otherwise result by reason of such actions.

17 § 7. This act shall take effect on the one hundred eightieth day
after

18 it shall have become a law.

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