

5945

2009-2010 Regular Sessions

I N S E N A T E

June 19, 2009

Introduced by Sen. FOLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the election law, in relation to authorizing registration records of victims of domestic violence to be kept confidential in certain cases

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

1 Section 1. The election law is amended by adding a new section 5-508
2 to read as follows:

3 S 5-508. CONFIDENTIALITY OF REGISTRATION RECORDS IN CERTAIN CASES. 1.
4 FOR PURPOSES OF THIS SECTION:

5 (A) "VICTIM OF DOMESTIC VIOLENCE" MEANS ANY PERSON OVER THE AGE OF
6 SIXTEEN, ANY MARRIED PERSON, OR ANY PARENT ACCOMPANIED BY HIS OR HER
7 MINOR CHILD OR CHILDREN IN SITUATIONS IN WHICH SUCH PERSON OR SUCH
8 PERSON'S CHILD IS A VICTIM OF AN ACT WHICH WOULD CONSTITUTE A VIOLATION
9 OF THE PENAL LAW, INCLUDING, BUT NOT LIMITED TO, ACTS CONSTITUTING
10 DISORDERLY CONDUCT, HARASSMENT, MENACING, RECKLESS ENDANGERMENT, KIDNAP-
11 PING, ASSAULT, ATTEMPTED ASSAULT, OR ATTEMPTED MURDER; AND

12 (I) SUCH ACT OR ACTS HAVE RESULTED IN ACTUAL PHYSICAL OR EMOTIONAL
13 INJURY OR HAVE CREATED A SUBSTANTIAL RISK OF PHYSICAL OR EMOTIONAL HARM
14 TO SUCH PERSON OR SUCH PERSON'S CHILD; AND

15 (II) SUCH ACT OR ACTS ARE OR ARE ALLEGED TO HAVE BEEN COMMITTED BY A
16 FAMILY OR HOUSEHOLD MEMBER.

17 (B) "FAMILY OR HOUSEHOLD MEMBERS" MEAN THE FOLLOWING INDIVIDUALS:

18 (I) PERSONS RELATED BY CONSANGUINITY OR AFFINITY;

19 (II) PERSONS LEGALLY MARRIED TO ONE ANOTHER;

20 (III) PERSONS FORMERLY MARRIED TO ONE ANOTHER REGARDLESS OF WHETHER OR
21 NOT THEY STILL RESIDE IN THE SAME HOUSEHOLD;

22 (IV) PERSONS WHO HAVE A CHILD IN COMMON REGARDLESS OF WHETHER OR NOT
23 SUCH PERSONS ARE MARRIED OR HAVE LIVED TOGETHER AT ANY TIME;

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

LBD05508-03-9

1 (V) PERSONS WHO ARE NOT RELATED BY CONSANGUINITY OR AFFINITY AND WHO
2 ARE OR HAVE BEEN IN AN INTIMATE RELATIONSHIP REGARDLESS OF WHETHER SUCH
3 PERSONS HAVE LIVED TOGETHER AT ANY TIME. FACTORS THE COURT MAY CONSIDER
4 IN DETERMINING WHETHER A RELATIONSHIP IS AN "INTIMATE RELATIONSHIP"
5 INCLUDE BUT ARE NOT LIMITED TO: THE NATURE OR TYPE OF RELATIONSHIP,
6 REGARDLESS OF WHETHER THE RELATIONSHIP IS SEXUAL IN NATURE; THE FREQUEN-
7 CY OF INTERACTION BETWEEN THE PERSONS; AND THE DURATION OF THE RELATION-
8 SHIP. NEITHER A CASUAL ACQUAINTANCE NOR ORDINARY FRATERNIZATION BETWEEN
9 TWO INDIVIDUALS IN BUSINESS OR SOCIAL CONTEXTS SHALL BE DEEMED TO
10 CONSTITUTE AN "INTIMATE RELATIONSHIP".

11 (VI) ANY OTHER CATEGORY OF INDIVIDUALS DEEMED TO BE A VICTIM OF DOMES-
12 TIC VIOLENCE AS DEFINED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES
13 IN REGULATION.

14 2. UPON APPLICATION MADE TO A COUNTY COURT, IN THE COUNTY WHEREIN A
15 VICTIM OF DOMESTIC VIOLENCE IS REGISTERED PURSUANT TO THIS ARTICLE, OR
16 THE SUPREME COURT, IN THE CITY OF NEW YORK, THE COURT MAY ISSUE AN ORDER
17 REQUIRING THAT ANY REGISTRATION RECORD KEPT OR MAINTAINED IN ACCORDANCE
18 WITH THIS ARTICLE WITH RESPECT TO SUCH AN INDIVIDUAL BE KEPT SEPARATE
19 AND APART FROM OTHER REGISTRATION RECORDS AND NOT BE MADE AVAILABLE FOR
20 INSPECTION OR COPYING BY THE PUBLIC OR ANY OTHER PERSON, EXCEPT ELECTION
21 OFFICIALS ACTING WITHIN THE COURSE AND SCOPE OF THEIR OFFICIAL DUTIES
22 AND ONLY AS PERTINENT AND NECESSARY IN CONNECTION THEREWITH.

23 S 2. This act shall take effect immediately.