

5120

2013-2014 Regular Sessions

I N   S E N A T E

May 10, 2013

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

AN ACT to amend the social services law, in relation to prohibiting work experience programs in New York

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

1     Section 1. Subdivision 1 of section 336 of the social services law, as  
2     amended by section 148 of part B of chapter 436 of the laws of 1997,  
3     paragraph (h) as amended by chapter 214 of the laws of 1998, is amended  
4     to read as follows:  
5     1. Social services districts may provide, and require applicants for  
6     and recipients of public assistance to participate in a variety of  
7     activities[, including but not] limited to ACTIVITIES WHICH WILL IMPROVE  
8     THE RECIPIENT'S EMPLOYMENT OPPORTUNITIES, INCLUDING the following:  
9        (a) unsubsidized employment;  
10        (b) subsidized private sector employment;  
11        (c) subsidized public sector employment;  
12        [(d) work experience in the public sector or non-profit sector,  
13        (including work associated with refurbishing publicly assisted housing)  
14        if sufficient private sector employment is not available;]  
15        (e) On-the-job training;  
16        (f) job search and job readiness assistance, provided that job search  
17        is an active and continuing effort to secure employment configured by  
18        the local social services official;  
19        (g) community service programs provided, however, the number of hours  
20        a participant in community service activities authorized pursuant to  
21        this section shall be required to work in such assignment shall not  
22        exceed a number which equals the amount of assistance payable with  
23        respect to such individual (inclusive of the value of food stamps  
24        received by such individual, if any) divided by the higher of (a) the  
25        federal minimum wage, or (b) the state minimum wage. No participant

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

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shall in any case be required to engage in assigned activities for more than forty hours in any week. No participant shall be assigned to a community service activity that conflicts with his or her bona fide religious beliefs; AND PROVIDED FURTHER THAT PARTICIPANTS SHALL BE ALLOWED TO CHOOSE THE LOCATION IN WHICH THEY PERFORM COMMUNITY SERVICE;

(h) vocational educational training as time limited by federal law. For the purposes of this title, "vocational educational training" shall include but not be limited to organized educational programs offering a sequence of courses which are directly related to the preparation of individuals for current or emerging occupations requiring other than a baccalaureate or advanced degree. Such programs shall include competency-based applied learning which contributes to an individual's academic knowledge, higher-order reasoning, and problem-solving skills, work attitudes, general employability skills, and the occupational-specific skills necessary for economic independence. Such term also includes applied technology education;

(i) job skills training directly related to employment;

(j) education directly related to employment, in the case of a recipient who has not yet received a high school diploma or a certificate of high school equivalency;

(k) satisfactory attendance at secondary school or a course of study leading to a certificate of general equivalency in the case of a recipient who has not completed secondary school or received such certificate;

(l) provision of child care services to an individual who is participating in community service;

(m) job search and job readiness assistance once the individual has exceeded the six week limit set in federal law;

(n) educational activities pursuant to section three hundred thirty-six-a of this title.

S 2. Section 336-c of the social services law, as amended by section 148 of part B of chapter 436 of the laws of 1997, subdivision 4 as amended by chapter 534 of the laws of 2000, is amended to read as follows:

S 336-c. Work experience. [1. (a)] Work experience programs [meeting state and federal requirements may be established by social services districts.

(b) Work experience programs may include the performance of work for a federal office or agency, county, city, village or town or for the state or in the operation of or in an activity of a nonprofit agency or institution, in accordance with the regulations of the department.

2. A recipient may be assigned to participate in such work experience program only if:

(a) appropriate federal and state standards of health, safety and other work conditions are maintained;

(b) The number of hours a participant in work experience activities authorized pursuant to this section shall be required to work in such assignment shall not exceed a number which equals the amount of assistance payable with respect to such individual (inclusive of the value of food stamps received by such individual, if any) divided by the higher of (a) the federal minimum wage provided that such hours shall be limited as set forth in subdivision four of section three hundred thirty-six of this title, or (b) the state minimum wage;

(c) such recipients are provided appropriate workers' compensation or equivalent protection for on-the-job injuries and tort claims protection on the same basis, but not necessarily at the same benefit level, as

1 they are provided to other persons in the same or similar positions,  
2 while participating in work experience activities under this section;

3 (d) the project to which the participant is assigned serves a useful  
4 public purpose in fields such as health, social services, environmental  
5 protection, education, urban and rural development and redevelopment,  
6 welfare, recreation, operation of public facilities, public safety, and  
7 child day care;

8 (e) such assignment would not result in (i) the displacement of any  
9 currently employed worker or loss of position (including partial  
10 displacement such as reduction in the hours of non-overtime work, wages  
11 or employment benefits) or result in the impairment of existing  
12 contracts for services or collective bargaining agreements; (ii) the  
13 employment or assignment of a participant or the filling of a position  
14 when any other person is on layoff from the same or any equivalent posi-  
15 tion or the employer has terminated the employment of any regular  
16 employee or otherwise reduced its workforce with the effect of filling  
17 the vacancy so created with a participant assigned pursuant to this  
18 section; (iii) any infringement of the promotional opportunities of any  
19 current employed person; or (iv) the performance, by such participant,  
20 of a substantial portion of the work ordinarily and actually performed  
21 by regular employees; or (v) the loss of a bargaining unit position as a  
22 result of work experience participants performing, in part or in whole,  
23 the work normally performed by the employee in such position;

24 (f) such assignment is not at any work site at which the regular  
25 employees are on a legal strike against the employer or are being  
26 subjected to lock out by the employer.

27 3. The public employer shall publish on a monthly basis a report  
28 summarizing the employer's work experience program for the month. Such  
29 monthly report shall include, at a minimum, summary information regard-  
30 ing the agencies or departments where participants are assigned, work  
31 locations, job duties and assignments, hours worked and period worked  
32 and shall be provided to the certified collective bargaining represen-  
33 tative and may not be disclosed to any other party. Such certified  
34 collective bargaining representative shall take reasonable steps to  
35 protect the confidentiality of such information and shall take reason-  
36 able steps to prevent disclosure of same to non-authorized persons.  
37 Every report provided pursuant to this section shall contain a warning  
38 against re-disclosure and asserting the confidentiality of the informa-  
39 tion therein provided.

40 4. In assigning a recipient who is a non-graduate student attending  
41 CUNY, SUNY or other approved non-profit education, training or voca-  
42 tional rehabilitation agency, the social services district must, after  
43 consultation with officials of CUNY, SUNY or other non-profit education,  
44 training or vocational rehabilitation agency, assign the student to a  
45 work site on campus, where the recipient is enrolled, and shall not  
46 unreasonably assign the student to hours that conflict with the  
47 student's academic schedule, if an approved work experience assignment  
48 is available. Where such work experience assignment is not available,  
49 the social services district shall, to the extent possible, assign the  
50 student to a work site within reasonable proximity to the campus where  
51 the recipient is enrolled and shall not unreasonably assign the student  
52 to hours that conflict with the student's academic schedule. Provided,  
53 however, in order to qualify for a work experience assignment on-campus,  
54 or in close proximity to campus, a student must have a cumulative C  
55 average, or its equivalent. The district may waive the requirement that  
56 the student have a cumulative C average or its equivalent for undue

1 hardship based on: (i) the death of a relative of the student; (ii) the  
2 personal injury or illness of the student; or (iii) other extenuating  
3 circumstances] ARE PROHIBITED IN THE STATE OF NEW YORK.  
4 S 3. This act shall take effect on the first of January next succeed-  
5 ing the date on which it shall have become a law.