

5120--A

2013-2014 Regular Sessions

I N S E N A T E

May 10, 2013

Introduced by Sens. SAVINO, HASSELL-THOMPSON, MONTGOMERY, PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- recommitted to the Committee on Social Services in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 THE RECIPIENT CAN
8 CHOOSE FROM WHICH WILL IMPROVE THE RECIPIENT'S EMPLOYMENT OPPORTUNITIES,
9 INCLUDING the following:
10 (a) unsubsidized employment;
11 (b) subsidized private sector employment;
12 (c) subsidized public sector employment;
13 [(d) work experience in the public sector or non-profit sector,
14 (including work associated with refurbishing publicly assisted housing)
15 if sufficient private sector employment is not available;]
16 (e) On-the-job training;
17 (f) job search and job readiness assistance, provided that job search
18 is an active and continuing effort to secure employment configured by
19 the local social services official;
20 (g) community service programs provided, however, the number of hours
21 a participant in community service activities authorized pursuant to

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

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1 this section shall be required to work in such assignment shall not
2 exceed a number which equals the amount of assistance payable with
3 respect to such individual (inclusive of the value of food stamps
4 received by such individual, if any) divided by the higher of (a) the
5 federal minimum wage, or (b) the state minimum wage. No participant
6 shall in any case be required to engage in assigned activities for more
7 than forty hours in any week. No participant shall be assigned to a
8 community service activity that conflicts with his or her bona fide
9 religious beliefs; AND PROVIDED FURTHER THAT PARTICIPANTS SHALL BE
10 ALLOWED TO CHOOSE THE LOCATION IN WHICH THEY PERFORM COMMUNITY SERVICE;

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

22 (i) job skills training directly related to employment;

23 (j) education directly related to employment, in the case of a recipi-
24 ent who has not yet received a high school diploma or a certificate of
25 high school equivalency;

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

29 (l) provision of child care services to an individual who is partic-
30 ipating in community service;

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

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

35 S 2. Section 336-c of the social services law, as amended by section
36 148 of part B of chapter 436 of the laws of 1997, subdivision 4 as
37 amended by chapter 534 of the laws of 2000, is amended to read as
38 follows:

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

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

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

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

50 (b) The number of hours a participant in work experience activities
51 authorized pursuant to this section shall be required to work in such
52 assignment shall not exceed a number which equals the amount of assist-
53 ance payable with respect to such individual (inclusive of the value of
54 food stamps received by such individual, if any) divided by the higher
55 of (a) the federal minimum wage provided that such hours shall be limit-

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

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

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

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

3. The public employer shall publish on a monthly basis a report summarizing the employer's work experience program for the month. Such monthly report shall include, at a minimum, summary information regarding the agencies or departments where participants are assigned, work locations, job duties and assignments, hours worked and period worked and shall be provided to the certified collective bargaining representative and may not be disclosed to any other party. Such certified collective bargaining representative shall take reasonable steps to protect the confidentiality of such information and shall take reasonable steps to prevent disclosure of same to non-authorized persons. Every report provided pursuant to this section shall contain a warning against re-disclosure and asserting the confidentiality of the information therein provided.

4. In assigning a recipient who is a non-graduate student attending CUNY, SUNY or other approved non-profit education, training or vocational rehabilitation agency, the social services district must, after consultation with officials of CUNY, SUNY or other non-profit education, training or vocational rehabilitation agency, assign the student to a work site on campus, where the recipient is enrolled, and shall not unreasonably assign the student to hours that conflict with the student's academic schedule, if an approved work experience assignment is available. Where such work experience assignment is not available, the social services district shall, to the extent possible, assign the student to a work site within reasonable proximity to the campus where the recipient is enrolled and shall not unreasonably assign the student

1 to hours that conflict with the student's academic schedule. Provided,
2 however, in order to qualify for a work experience assignment on-campus,
3 or in close proximity to campus, a student must have a cumulative C
4 average, or its equivalent. The district may waive the requirement that
5 the student have a cumulative C average or its equivalent for undue
6 hardship based on: (i) the death of a relative of the student; (ii) the
7 personal injury or illness of the student; or (iii) other extenuating
8 circumstances] ARE PROHIBITED IN THE STATE OF NEW YORK.
9 S 3. This act shall take effect on the first of January next succeed-
10 ing the date on which it shall have become a law.