

3597

2015-2016 Regular Sessions

I N S E N A T E

February 13, 2015

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 section 2 and paragraph (i) as amended by
4 section 3 of part J of chapter 58 of the laws of 2014, is amended to
5 read as follows:
6 1. Social services districts may provide, and require applicants for
7 and recipients of public assistance to participate in a variety of
8 activities[, including but not] limited to ACTIVITIES THE RECIPIENT CAN
9 CHOOSE FROM WHICH WILL IMPROVE THE RECIPIENT'S EMPLOYMENT OPPORTUNITIES,
10 INCLUDING the following:
11 (a) unsubsidized employment;
12 (b) subsidized private sector employment;
13 (c) subsidized public sector employment;
14 [(d) work experience in the public sector or non-profit sector,
15 (including work associated with refurbishing publicly assisted housing)
16 if sufficient private sector employment is not available;]
17 [(e)] (D) On-the-job training;
18 [(f)] (E) job search and job readiness assistance, provided that job
19 search is an active and continuing effort to secure employment config-
20 ured by the local social services official;
21 [(g)] (F) community service programs provided, however, the number of
22 hours a participant in community service activities authorized pursuant
23 to this section shall be required to work in such assignment shall not
24 exceed a number which equals the amount of assistance payable with
25 respect to such individual (inclusive of the value of food stamps

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

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received by such individual, if any) divided by the higher of [(a)] (I) the federal minimum wage, or [(b)] (II) the state minimum wage. No participant 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)] (G) 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 including programs that require up to four years of post-secondary education. 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)] (H) job skills training directly related to employment. Job skills training directly related to employment may include but not be limited to participation in up to four years of post-secondary education to the extent consistent with federal and state requirements;

[(j)] (I) 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)] (J) 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)] (K) provision of child care services to an individual who is participating in community service;

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

[(n)] (M) 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

1 of (a) the federal minimum wage provided that such hours shall be limit-
2 ed as set forth in subdivision four of section three hundred thirty-six
3 of this title, or (b) the state minimum wage;

4 (c) such recipients are provided appropriate workers' compensation or
5 equivalent protection for on-the-job injuries and tort claims protection
6 on the same basis, but not necessarily at the same benefit level, as
7 they are provided to other persons in the same or similar positions,
8 while participating in work experience activities under this section;

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

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

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

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

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

1 the recipient is enrolled and shall not unreasonably assign the student
2 to hours that conflict with the student's academic schedule. Provided,
3 however, in order to qualify for a work experience assignment on-campus,
4 or in close proximity to campus, a student must have a cumulative C
5 average, or its equivalent. The district may waive the requirement that
6 the student have a cumulative C average or its equivalent for undue
7 hardship based on: (i) the death of a relative of the student; (ii) the
8 personal injury or illness of the student; or (iii) other extenuating
9 circumstances] ARE PROHIBITED IN THE STATE OF NEW YORK.
10 S 3. This act shall take effect on the first of January next succeed-
11 ing the date on which it shall have become a law.