S T A T E O F N E W Y O R K

10440--B

Cal. No. 796

I N A S S E M B L Y

March 25, 2010

Introduced by M. of A. WEINSTEIN -- read once and referred to the Committee on Social Services -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the social services law, in relation to the definitions of "victim of domestic violence" and "family and household members" for the purposes of domestic violence prevention

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

Section 1. Subdivisions 1 and 2 of section 459-a of the social services law, as added by chapter 838 of the laws of 1987, are amended to read as follows:

1. "Victim of domestic violence" means any person [over the age of sixteen, any married person] or any parent accompanied by his or her minor child or children in situations in which such person or such person's child is a victim of an act which would constitute a violation of the penal law, including, but not limited to acts constituting disorderly conduct, harassment, SEXUAL MISCONDUCT, FORCIBLE TOUCHING, SEXUAL ABUSE, STALKING, CRIMINAL MISCHIEF, menacing, reckless endangerment, kidnapping, assault, attempted assault, or attempted murder; and

(i) such act or acts have resulted in actual physical or emotional injury or have created a substantial risk of physical or emotional harm to such person or such person's child; and

(ii) such act or acts are or are alleged to have been committed by a family or household member.

2. "Family or household members" mean the following individuals:

(a) persons related by consanguinity or affinity;

(b) persons legally married to one another;

(c) persons formerly married to one another regardless of whether they still reside in the same household;

(d) persons who have a child in common regardless of whether 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.

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(e) unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household; [or]

(f) PERSONS WHO ARE NOT RELATED BY CONSANGUINITY OR AFFINITY AND WHO ARE OR HAVE BEEN IN AN INTIMATE RELATIONSHIP REGARDLESS OF WHETHER SUCH PERSONS HAVE LIVED TOGETHER AT ANY TIME. FACTORS THAT MAY BE CONSIDERED IN DETERMINING WHETHER A RELATIONSHIP IS AN "INTIMATE RELATIONSHIP" INCLUDE, BUT ARE NOT LIMITED TO: THE NATURE OR TYPE OF RELATIONSHIP, REGARDLESS OF WHETHER THE RELATIONSHIP IS SEXUAL IN NATURE; THE FREQUENCY OF INTERACTION BETWEEN THE PERSONS; AND THE DURATION OF THE RELATIONSHIP. NEITHER A CASUAL ACQUAINTANCE NOR ORDINARY FRATERNIZATION BETWEEN TWO INDIVIDUALS IN BUSINESS OR SOCIAL CONTEXTS SHALL BE DEEMED TO CONSTITUTE AN "INTIMATE RELATIONSHIP"; OR

(G) any other category of individuals deemed to be a victim of domestic violence as defined by the [department] OFFICE OF CHILDREN AND FAMILY SERVICES in regulation.

S 2. This act shall take effect immediately.