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

4185

2009-2010 Regular Sessions

I N A S S E M B L Y

January 30, 2009

Introduced by M. of A. ORTIZ -- Multi-Sponsored by -- M. of A. McDONOUGH -- read once and referred to the Committee on Social Services

AN ACT to amend the social services law, in relation to requiring certain persons to make reports in incidences of domestic violence

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

Section 1. The social services law is amended by adding two new sections 459-h and 459-i to read as follows:

S 459-H. PERSONS AND OFFICIALS REQUIRED TO REPORT CASES OF SUSPECTED DOMESTIC VIOLENCE. 1. THE FOLLOWING PERSONS AND OFFICIALS ARE REQUIRED TO REPORT OR CAUSE A REPORT TO BE MADE TO THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES, WHO SHALL TAKE APPROPRIATE ACTION TO REFER SUCH VICTIM OF DOMESTIC VIOLENCE TO A PROGRAM UNDER EITHER SECTION FOUR HUNDRED FIFTY-NINE-B OR FOUR HUNDRED FIFTY-NINE-C OF THIS ARTICLE, WHEN THEY HAVE REASONABLE CAUSE TO SUSPECT THAT AN INDIVIDUAL COMING BEFORE THEM IN THEIR PROFESSIONAL OR OFFICIAL CAPACITY IS A VICTIM OF DOMESTIC VIOLENCE: ANY PHYSICIAN; REGISTERED PHYSICIAN'S ASSISTANT; SURGEON; MEDICAL EXAMINER; CORONER; DENTIST; DENTAL HYGIENIST; OSTEOPATH; OPTOMETRIST; CHIROPRACTOR; PODIATRIST; RESIDENT; INTERN; PSYCHOLOGIST; REGISTERED NURSE; HOSPITAL PERSONNEL ENGAGED IN THE ADMISSION, EXAMINATION, CARE OR TREATMENT OF PERSONS; A CHRISTIAN SCIENCE PRACTITIONER; SOCIAL SERVICES WORKER; MENTAL HEALTH PROFESSIONAL; SUBSTANCE ABUSE COUNSELOR; ALCOHOLISM COUNSELOR; PEACE OFFICER; POLICE OFFICER; DISTRICT ATTORNEY OR ASSISTANT DISTRICT ATTORNEY; INVESTIGATOR EMPLOYED IN THE OFFICE OF A DISTRICT ATTORNEY; OR OTHER LAW ENFORCEMENT OFFICIAL. WHENEVER SUCH PERSON IS REQUIRED TO REPORT UNDER THIS ARTICLE IN HIS OR HER CAPACITY AS A MEMBER OF THE STAFF OF A MEDICAL OR OTHER PUBLIC OR PRIVATE INSTITUTION, FACILITY OR AGENCY, HE OR SHE SHALL IMMEDIATELY NOTIFY THE PERSON IN CHARGE OF SUCH INSTITUTION, FACILITY OR AGENCY, OR HIS OR HER DESIGNATED AGENT, WHO THEN ALSO SHALL BECOME RESPONSIBLE TO REPORT OR CAUSE REPORTS TO BE MADE. HOWEVER, NOTHING IN THIS SECTION OR

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

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ARTICLE IS INTENDED TO REQUIRE MORE THAN ONE REPORT FROM ANY SUCH INSTITUTION OR AGENCY.

2. ANY PERSON, INSTITUTION, FACILITY, AGENCY, ORGANIZATION, PARTNERSHIP OR CORPORATION WHICH EMPLOYS PERSONS MANDATED TO REPORT SUSPECTED INCIDENTS OF DOMESTIC VIOLENCE PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL PROVIDE ALL SUCH CURRENT AND NEW EMPLOYEES WITH WRITTEN INFORMATION EXPLAINING THE REPORTING REQUIREMENTS SET OUT IN SUBDIVISION ONE OF THIS SECTION. THE EMPLOYERS SHALL BE RESPONSIBLE FOR THE COSTS ASSOCIATED WITH PRINTING AND DISTRIBUTING THE WRITTEN INFORMATION.

S 459-I. IMMUNITY FROM LIABILITY. ANY PERSON, OFFICIAL, OR INSTITUTION WHICH IN GOOD FAITH MAKES A REPORT IN COMPLIANCE WITH SECTION FOUR HUNDRED FIFTY-NINE-H OF THIS ARTICLE SHALL HAVE IMMUNITY FROM ANY LIABILITY, CIVIL OR CRIMINAL, THAT MIGHT OTHERWISE RESULT BY REASON OF SUCH ACTIONS. FOR THE PURPOSE OF ANY PROCEEDING, CIVIL OR CRIMINAL, THE GOOD FAITH OF ANY SUCH PERSON, OFFICIAL, OR INSTITUTION REQUIRED TO REPORT CASES OF DOMESTIC VIOLENCE SHALL BE PRESUMED, PROVIDED SUCH PERSON, OFFICIAL OR INSTITUTION WAS ACTING IN DISCHARGE OF THEIR DUTIES AND WITHIN THE SCOPE OF THEIR EMPLOYMENT, AND THAT SUCH LIABILITY DID NOT RESULT FROM THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF SUCH PERSON, OFFICIAL OR INSTITUTION.

S 2. This act shall take effect immediately.