

4053

2009-2010 Regular Sessions

I N S E N A T E

April 8, 2009

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

AN ACT to amend the labor law, in relation to increasing unemployment insurance benefits; to amend chapter 831 of the laws of 1981 amending the labor law relating to fees and expenses in unemployment insurance proceedings, in relation to the effectiveness thereof; to amend the labor law, in relation to non-recoverable benefits; and to repeal subdivision 11 of section 590 of the labor law relating thereto

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

1 Section 1. Subdivision 5 of section 590 of the labor law, as amended
2 by chapter 413 of the laws of 2003, is amended to read as follows:
3 5. Benefit rate. A claimant's weekly benefit amount shall be one twen-
4 ty-sixth of the remuneration paid during the highest calendar quarter of
5 the base period by employers, liable for contributions or payments in
6 lieu of contributions under this article. However, for claimants whose
7 high calendar quarter remuneration during the base period is [three
8 thousand five hundred seventy-five] EIGHT THOUSAND dollars or less, the
9 benefit amount shall be [one twenty-fifth] ONE TWENTY-SECOND of the
10 remuneration paid during the highest calendar quarter of the base period
11 by employers liable for contributions or payments in lieu of contrib-
12 utions under this article. Any claimant whose high calendar quarter
13 remuneration during the base period is more than three thousand five
14 hundred seventy-five dollars shall not have a weekly benefit amount less
15 than one hundred forty-three dollars. The weekly benefit amount, so
16 computed, that is not a multiple of one dollar shall be [lowered to] the
17 next multiple of one dollar. On the first Monday of September, nineteen
18 hundred ninety-eight the weekly benefit amount shall not exceed three
19 hundred sixty-five dollars nor be less than forty dollars, until the
20 first Monday of September, two thousand, at which time the maximum bene-
21 fit payable pursuant to this subdivision shall equal one-half of the

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

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1 state average weekly wage for covered employment as calculated by the
2 department no sooner than July first, two thousand and no later than
3 August first, two thousand, rounded [down] to the [lowest] NEXT dollar.
4 ON THE FIRST MONDAY OF JULY, TWO THOUSAND NINE, THE WEEKLY BENEFIT SHALL
5 NOT EXCEED FOUR HUNDRED SEVENTY-FIVE DOLLARS NOR LESS THAN SEVENTY-FIVE
6 DOLLARS, UNTIL THE FIRST MONDAY OF JULY, TWO THOUSAND TEN AT WHICH TIME
7 THE WEEKLY BENEFIT SHALL NOT EXCEED FIVE HUNDRED TWENTY-FIVE DOLLARS,
8 UNTIL THE FIRST MONDAY OF JULY, TWO THOUSAND ELEVEN AT WHICH TIME THE
9 MAXIMUM WEEKLY BENEFIT SHALL NOT EXCEED FIVE HUNDRED SEVENTY-FIVE
10 DOLLARS, UNTIL THE FIRST MONDAY OF JULY, TWO THOUSAND TWELVE, AT WHICH
11 TIME THE MAXIMUM WEEKLY BENEFIT SHALL NOT EXCEED SIX HUNDRED TWENTY-FIVE
12 DOLLARS UNTIL THE FIRST MONDAY OF JULY, TWO THOUSAND THIRTEEN, AT WHICH
13 TIME THE MAXIMUM WEEKLY BENEFIT PURSUANT TO THIS SUBDIVISION SHALL EQUAL
14 ONE-HALF OF THE STATE AVERAGE WEEKLY WAGE AS CALCULATED BY THE DEPART-
15 MENT NO SOONER THAN JULY FIRST, TWO THOUSAND THIRTEEN AND NOT LATER THAN
16 AUGUST FIRST, TWO THOUSAND THIRTEEN AND ON JULY FIRST OF EACH SUCCEEDING
17 YEAR THE MAXIMUM BENEFIT SHALL EQUAL ONE-HALF OF THE STATE AVERAGE WEEK-
18 LY WAGE AS CALCULATED BY THE DEPARTMENT ANNUALLY PURSUANT TO THE MANNER
19 DESCRIBED IN THIS SUBDIVISION.

20 S 2. Paragraph (a) of subdivision 1 of section 518 of the labor law,
21 as amended by chapter 589 of the laws of 1998, is amended to read as
22 follows:

23 (a) "Wages" means all remuneration paid, except that such term does
24 not include remuneration paid to an employee by an employer after [eight
25 thousand five hundred] NINE THOUSAND SEVEN HUNDRED FIFTY dollars have
26 been paid to such employee by such employer with respect to employment
27 during any calendar year PRECEDING THE FIRST DAY OF JANUARY, TWO THOU-
28 SAND TEN, NOR TO INCLUDE REMUNERATION PAID TO AN EMPLOYEE BY AN EMPLOYER
29 AFTER ELEVEN THOUSAND FIVE HUNDRED DOLLARS HAVE BEEN PAID TO SUCH
30 EMPLOYEE BY SUCH EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY CALENDAR
31 YEAR PRECEDING THE FIRST DAY OF JANUARY, TWO THOUSAND ELEVEN, NOR TO
32 INCLUDE REMUNERATION PAID TO AN EMPLOYEE BY AN EMPLOYER AFTER THIRTEEN
33 THOUSAND DOLLARS HAVE BEEN PAID TO SUCH EMPLOYEE BY SUCH EMPLOYER WITH
34 RESPECT TO EMPLOYMENT DURING ANY CALENDAR YEAR PRECEDING THE FIRST DAY
35 OF JANUARY, TWO THOUSAND TWELVE, NOR TO INCLUDE REMUNERATION PAID TO AN
36 EMPLOYEE BY AN EMPLOYER AFTER FIFTEEN THOUSAND DOLLARS HAVE BEEN PAID TO
37 SUCH EMPLOYEE BY SUCH EMPLOYER WITH RESPECT TO EMPLOYMENT DURING ANY
38 CALENDAR YEAR PRECEDING THE FIRST DAY OF JANUARY, TWO THOUSAND THIRTEEN.
39 IN EACH SUCCEEDING CALENDAR YEAR, THE DEPARTMENT SHALL CALCULATE THE
40 BASE AMOUNT OF REMUNERATION NECESSARY FROM WHICH TO PRODUCE SUFFICIENT
41 PREMIUM TO PROVIDE FOR THE ANNUAL INCREASES IN MAXIMUM WEEKLY BENEFIT
42 PROVIDED FOR IN THIS ARTICLE, AND OTHER FUNDING FOR THE UNEMPLOYMENT
43 INSURANCE TRUST FUND PURSUANT TO SECTION FIVE HUNDRED FIFTY OF THIS
44 ARTICLE, AS MAY BE NECESSARY. The term "employment" includes for the
45 purposes of this subdivision services constituting employment under any
46 unemployment compensation law of another state or the United States.

47 S 3. Subdivision 1 of section 593 of the labor law, as amended by
48 chapter 415 of the laws of 1983, paragraph (a) as amended by chapter 268
49 of the laws of 1999 and paragraph (b) as amended by chapter 589 of the
50 laws of 1998, is amended to read as follows:

51 1. Voluntary separation. [(a)] No days of total unemployment shall be
52 deemed to occur after a claimant's voluntary separation without good
53 cause from employment until he or she has subsequently worked in employ-
54 ment and earned remuneration at least equal to five times his or her
55 weekly benefit rate. [In addition to other circumstances that may be
56 found to constitute good cause, voluntary separation from employment

1 shall not in itself disqualify a claimant if circumstances have devel-
2 oped in the course of such employment that would have justified the
3 claimant in refusing such employment in the first instance under the
4 terms of subdivision two of this section or if the claimant, pursuant to
5 an option provided under a collective bargaining agreement or written
6 employer plan which permits waiver of his right to retain the employment
7 when there is a temporary layoff because of lack of work, has elected to
8 be separated for a temporary period and the employer has consented ther-
9 eto.

10 A voluntary separation may also be deemed for good cause if it
11 occurred as a consequence of circumstances directly resulting from the
12 claimant being a victim of domestic violence.

13 (b) A disqualification as provided in this subdivision shall also
14 apply after a claimant's voluntary separation from employment if such
15 voluntary separation was due to claimant's marriage.]

16 S 4. Subdivision 11 of section 590 of the labor law is REPEALED.

17 S 5. Subdivision 10 of section 590 of the labor law, as amended by
18 chapter 589 of the laws of 1998, the opening paragraph as amended by
19 chapter 734 of the laws of 2004, paragraph (c) as amended by chapter 102
20 of the laws of 2002, is amended to read as follows:

21 10. Benefits based on professional AND NON-PROFESSIONAL employment
22 with educational institutions, including the state university of New
23 York, the city university of New York and any public community colleges.
24 If a claimant was employed in an instructional, research, or principal
25 administrative capacity by an institution of education, including the
26 state university of New York, the city university of New York and any
27 public community colleges, or performed services in such an institution
28 in such capacity while employed by an educational service agency, the
29 following shall apply to any week commencing during the period between
30 two successive academic years or terms, or during a similar period
31 between two regular but not successive terms when the contract provides
32 therefor instead, provided the claimant has a contract to perform[, or
33 there is a reasonable assurance that the claimant will perform],
34 services in such capacity for any such institution or institutions for
35 both of such academic years or such terms, and to any week commencing
36 during an established and customary vacation period or holiday recess,
37 not between such academic terms or years, provided the claimant
38 performed services for such institution immediately before such vacation
39 period or holiday recess and there is a reasonable assurance that the
40 claimant will perform any services described in this subdivision [or
41 subdivision eleven of this section] in the period immediately following
42 such vacation period or holiday recess:

43 (a) In the case of a claimant who has no current benefit year, whether
44 the claimant meets the conditions of section five hundred twenty-seven
45 OF THIS ARTICLE in any such week shall be determined by disregarding the
46 remuneration paid for such employment.

47 (b) In the case of a claimant who does have a current benefit year, no
48 benefits shall be payable with respect to any such week provided the
49 claimant would not have met the conditions of section five hundred twen-
50 ty-seven OF THIS ARTICLE in the week in which the claimant filed a valid
51 original claim if the remuneration paid for such employment is disre-
52 garded.

53 (c) The benefit rate of a claimant with respect to any such week shall
54 be determined or redetermined by disregarding the remuneration paid for
55 such employment.

1 "Educational service agency" means a governmental agency or govern-
2 mental entity or Indian tribal entity which is established and operated
3 exclusively for the purpose of providing to one or more educational
4 institutions services mentioned under this subdivision [or subdivision
5 eleven of this section].

6 For purposes of this subdivision [or subdivision eleven of this
7 section], "educational institution" shall include any not-for-profit
8 community art school which is chartered as a school by the board of
9 regents of the university of state of New York.

10 (D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FOR THE PURPOSES OF
11 THIS SUBDIVISION, AN OFFER OF EMPLOYMENT OR ASSIGNMENT MADE TO A
12 PART-TIME FACULTY EMPLOYEE BY A HIGHER EDUCATION INSTITUTION, WHICH
13 OFFER IS CONTINGENT ON ENROLLMENT, FUNDING, OR PROGRAMMATIC CHANGES WILL
14 NOT BE PRESUMED TO BE REASONABLE ASSURANCE. REASONABLE ASSURANCE MUST BE
15 DETERMINED ON A CASE-BY-CASE BASIS BY THE TOTAL WEIGHT OF EVIDENCE RATH-
16 ER THAN THE EXISTENCE OF ANY ONE FACTOR. PRIMARY WEIGHT MUST BE GIVEN TO
17 THE CONTINGENT NATURE OF AN OFFER OF EMPLOYMENT BASED ON ENROLLMENT,
18 FUNDING, AND PROGRAM CHANGES. PROVIDED, HOWEVER, THAT IN ANY UNEMPLOY-
19 MENT INSURANCE PROCEEDING A WRITTEN LETTER FROM AN EMPLOYER TO AN
20 EMPLOYEE WHICH MAKES EMPLOYMENT CONDITIONAL SHALL NOT BE PRIMA FACIE
21 EVIDENCE OF REASONABLE ASSURANCE TO BE USED TO DENY A CLAIM FOR UNEM-
22 PLOYMENT INSURANCE.

23 S 6. Section 599 of the labor law, as amended by chapter 593 of the
24 laws of 1991, is amended to read as follows:

25 S 599. Career and related training; preservation of eligibility. 1.
26 Notwithstanding any other provision of this article, a claimant shall
27 not become ineligible for benefits because of the claimant's regular
28 attendance in a program of training which the commissioner has approved.
29 The commissioner shall give due consideration to existing and prospec-
30 tive conditions of the labor market in the state, taking into account
31 present and anticipated supply and demand regarding the occupation or
32 skill to which the training relates, and to any other relevant factor. A
33 DETERMINATION OF POTENTIAL ELIGIBILITY FOR BENEFITS UNDER THIS ARTICLE
34 SHALL BE ISSUED TO AN UNEMPLOYED INDIVIDUAL IF THE COMMISSIONER FINDS
35 THAT THE TRAINING IS AUTHORIZED BY THE FEDERAL WORKFORCE INVESTMENT ACT,
36 THE STATE DIVISION OF VETERANS' AFFAIRS, THE DEPARTMENT, THE NEW YORK
37 STATE DEPARTMENTS OF EDUCATION, CORRECTIONAL SERVICES, HEALTH, OR THE
38 OFFICE OF MENTAL HEALTH, THE EMPIRE STATE DEVELOPMENT CORPORATION, OR
39 THE STATE UNIVERSITY OF NEW YORK EDUCATIONAL OPPORTUNITY CENTER. Howev-
40 er, in no event shall the commissioner approve [such] training for a
41 claimant NOT AUTHORIZED BY SUCH LEGISLATIVE ACT OR STATE OR QUASI-STATE
42 ENTITY LISTED ABOVE unless:

43 (a) (1) the training will upgrade the claimant's existing skill or
44 train the claimant for an occupation likely to lead to more regular long
45 term employment; ENABLE THE CLAIMANT TO OBTAIN EMPLOYMENT THAT ACHIEVES
46 WAGE PRESERVATION OR MAKES PROGRESS TOWARD A FAMILY-SUSTAINING WAGE; or

47 (2) employment opportunities for the claimant are or may be substan-
48 tially impaired because of:

49 (i) existing or prospective conditions of the labor market in the
50 locality or in the state or reduced opportunities for employment in the
51 claimant's occupation or skill; or

52 (ii) technological change, plant closing or plant removal, discontin-
53 uance of specific plant operations, or similar reasons; or

54 (iii) limited opportunities for employment throughout the year due to
55 the seasonal nature of the industry in which the claimant is customarily
56 employed; or

1 (iv) the claimant's personal traits such as physical or mental hand-
2 icap; and

3 (b) the training, INCLUDING REMEDIAL EDUCATION WHICH IS INTEGRAL TO
4 CAREER ADVANCEMENT OR REQUIRED FOR COMPLETING CAREER-RELATED TRAINING,
5 relates to an occupation or skill for which there are, or are expected
6 to be in the immediate future, reasonable employment opportunities in
7 the state; and

8 (c) the training is offered by a competent and reliable agency and
9 does not require more than twenty-four months to complete; and

10 (d) the claimant has the required qualifications and aptitudes to
11 complete the training successfully.

12 2. (a) Notwithstanding any other provision of this chapter, a claimant
13 attending an approved training course or program under this section may
14 receive additional benefits of up to one hundred four effective days
15 following exhaustion of regular and, if in effect, any other extended
16 benefits, provided that entitlement to a new benefit claim cannot be
17 established. Certification of continued satisfactory participation and
18 progress in such training course or program must be submitted to the
19 commissioner prior to the payment of any such benefits. [The duration of
20 such additional benefits shall in no case exceed twice the number of
21 effective days of regular benefits to which the claimant is entitled at
22 the time the claimant is accepted in, or demonstrates application for
23 appropriate training.] ANY UNEMPLOYED INDIVIDUAL RECEIVING UNEMPLOYMENT
24 INSURANCE BENEFITS PAYABLE UNDER THIS SUBDIVISION, WHO NOTIFIES THE
25 DEPARTMENT WITH THE INTENT TO SEEK TRAINING OPPORTUNITIES UNDER THIS
26 ARTICLE NO LATER THAN THE SIXTEENTH WEEK OF HIS OR HER RECEIVING BENE-
27 FITS, AND IS DETERMINED ELIGIBLE FOR BENEFITS UNDER THIS ARTICLE, IS
28 ENTITLED TO A TRAINING EXTENSION OF THE FULL ONE HUNDRED FOUR EFFECTIVE
29 DAYS ON HIS OR HER UNEMPLOYMENT COMPENSATION CLAIM, IF NECESSARY, TO
30 COMPLETE APPROVED TRAINING.

31 (b) No more than [twenty] FIFTY million dollars of benefits per year
32 shall be made available for payment to claimants participating in such
33 courses or programs.

34 (c) Participation in such training course or program shall not be
35 limited to any selected areas or localities of the state but subject to
36 the availability of funds, shall be available to any claimant otherwise
37 eligible to participate in training courses or programs pursuant to this
38 section.

39 (d) The additional benefits paid to a claimant shall be charged to the
40 general account.

41 3. Notwithstanding any other provision of this article, a claimant who
42 is in training approved under the federal trade act of nineteen hundred
43 seventy-four shall not be disqualified or become ineligible for benefits
44 because he OR SHE is in such training or because he OR SHE left employ-
45 ment which is not suitable employment to enter such training. For
46 purposes hereof, "suitable employment" means work of a substantially
47 equal or higher skill level than the claimant's past adversely affected
48 employment and for which the remuneration is not less than eighty
49 percent of the claimant's average weekly wage.

50 S 7. Section 3 of chapter 831 of the laws of 1981, amending the labor
51 law relating to fees and expenses in unemployment insurance proceedings,
52 as amended by chapter 634 of the laws of 2008, is amended to read as
53 follows:

54 S 3. This act shall take effect January 1, 1982, provided, however,
55 that paragraphs (a) and (c) of subdivision 3 of section 538 of the labor

law as added by section one of this act shall remain in full force and effect until December 31, [2010] 2012.

S 8. Article 18 of the labor law is amended by adding a new title 7-B to read as follows:

TITLE 7-B

UNEMPLOYMENT INSURANCE FOR DOMESTIC VIOLENCE SURVIVORS

SECTION 615. DEFINITIONS.

616. ELIGIBILITY FOR UNEMPLOYMENT INSURANCE FOR DOMESTIC VIOLENCE SURVIVORS.

617. TRAINING PROGRAM.

S 615. DEFINITIONS. FOR PURPOSES OF THIS TITLE:

1. "DOMESTIC VIOLENCE" MEANS ABUSE COMMITTED AGAINST AN EMPLOYEE OR AN EMPLOYEE'S DEPENDENT CHILD BY:

(A) A CURRENT OR FORMER SPOUSE OF THE EMPLOYEE; OR

(B) A PERSON WITH WHOM THE EMPLOYEE SHARES PARENTAGE OF A CHILD IN COMMON; OR

(C) A PERSON WHO IS COHABITATING WITH, OR HAS COHABITATED WITH, THE EMPLOYEE; OR

(D) A PERSON WHO IS RELATED BY BLOOD OR MARRIAGE; OR

(E) A PERSON WITH WHOM THE EMPLOYEE HAS OR HAD A DATING OR ENGAGEMENT RELATIONSHIP.

2. "ABUSE" MEANS:

(A) CAUSING, OR ATTEMPTING TO CAUSE, PHYSICAL HARM; OR

(B) PLACING ANOTHER PERSON IN FEAR OF IMMINENT SERIOUS PHYSICAL HARM; OR

(C) CAUSING ANOTHER PERSON TO ENGAGE INVOLUNTARILY IN SEXUAL RELATIONS BY FORCE, THREAT OR DURESS, OR THREATENING TO DO SO; OR

(D) ENGAGING IN MENTAL ABUSE, WHICH INCLUDES THREATS, INTIMIDATION, STALKING AND ACTS DESIGNED TO INDUCE TERROR; OR

(E) DEPRIVING ANOTHER PERSON OF MEDICAL CARE, HOUSING, FOOD OR OTHER NECESSITIES OF LIFE; OR

(F) RESTRAINING THE LIBERTY OF ANOTHER.

S 616. ELIGIBILITY FOR UNEMPLOYMENT INSURANCE FOR DOMESTIC VIOLENCE SURVIVORS. 1. A CLAIMANT SHALL NOT BE DISQUALIFIED FROM RECEIVING UNEMPLOYMENT INSURANCE BENEFITS IF THE CLAIMANT ESTABLISHES TO THE SATISFACTION OF THE COMMISSIONER THAT THE REASON THE CLAIMANT LEFT WORK WAS DUE TO DOMESTIC VIOLENCE, INCLUDING:

(A) THE CLAIMANT'S REASONABLE FEAR OF FUTURE DOMESTIC VIOLENCE AT OR EN ROUTE TO OR FROM THE CLAIMANT'S PLACE OF EMPLOYMENT.

(B) THE CLAIMANT'S NEED TO RELOCATE TO ANOTHER GEOGRAPHIC AREA IN ORDER TO AVOID FUTURE DOMESTIC VIOLENCE.

(C) THE CLAIMANT'S NEED TO ADDRESS THE PHYSICAL, PSYCHOLOGICAL AND LEGAL IMPACTS OF DOMESTIC VIOLENCE.

(D) THE CLAIMANT'S NEED TO LEAVE EMPLOYMENT AS A CONDITION OF RECEIVING SERVICES OR SHELTER FROM AN AGENCY WHICH PROVIDES SUPPORT SERVICES OR SHELTER TO VICTIMS OF DOMESTIC VIOLENCE.

(E) ANY OTHER SITUATION IN WHICH DOMESTIC VIOLENCE CAUSES THE CLAIMANT TO REASONABLY BELIEVE THAT TERMINATION OF EMPLOYMENT IS NECESSARY FOR THE FUTURE SAFETY OF THE CLAIMANT OR THE CLAIMANT'S FAMILY.

2. A CLAIMANT MAY DEMONSTRATE THE EXISTENCE OF DOMESTIC VIOLENCE BY PROVIDING ONE OF THE FOLLOWING:

(A) A RESTRAINING ORDER OR OTHER DOCUMENTATION OF EQUITABLE RELIEF ISSUED BY A COURT OF COMPETENT JURISDICTION;

(B) A POLICE RECORD DOCUMENTING THE ABUSE;

1 (C) DOCUMENTATION THAT THE ABUSER HAS BEEN CONVICTED OF ONE OR MORE
2 CRIMINAL OFFENSES ENUMERATED IN THE PENAL LAW AGAINST THE CLAIMANT;

3 (D) MEDICAL DOCUMENTATION OF THE ABUSE;

4 (E) A STATEMENT PROVIDED BY A COUNSELOR, SOCIAL WORKER, HEALTH WORKER,
5 MEMBER OF THE CLERGY, SHELTER WORKER, LEGAL ADVOCATE, OR OTHER PROFES-
6 SIONAL WHO HAS ASSISTED THE CLAIMANT IN ADDRESSING THE EFFECTS OF THE
7 ABUSE ON THE CLAIMANT OR THE CLAIMANT'S FAMILY; OR

8 (F) A SWORN STATEMENT FROM THE CLAIMANT ATTESTING TO THE ABUSE.

9 3. NO EVIDENCE OF DOMESTIC VIOLENCE EXPERIENCED BY A CLAIMANT, INCLUD-
10 ING THE CLAIMANT'S STATEMENT AND CORROBORATING EVIDENCE, SHALL BE
11 DISCLOSED BY THE DEPARTMENT UNLESS CONSENT FOR DISCLOSURE IS GIVEN BY
12 THE CLAIMANT.

13 4. FOR A CLAIMANT WHO LEFT WORK DUE TO DOMESTIC VIOLENCE, REQUIREMENTS
14 TO PURSUE SUITABLE WORK MUST REASONABLY ACCOMMODATE THE CLAIMANT'S NEED
15 TO ADDRESS THE PHYSICAL, PSYCHOLOGICAL, LEGAL AND OTHER EFFECTS OF THE
16 DOMESTIC VIOLENCE.

17 S 617. TRAINING PROGRAM. 1. THE COMMISSIONER SHALL IMPLEMENT A TRAIN-
18 ING CURRICULUM FOR EMPLOYEES OF THE DEPARTMENT WHO INTERACT WITH CLAIM-
19 ANTS APPLYING FOR UNEMPLOYMENT INSURANCE DUE TO THEIR DOMESTIC VIOLENCE
20 STATUS.

21 2. ALL SENIOR MANAGEMENT PERSONNEL OF THE DEPARTMENT THAT SUPERVISE
22 THE TRAINING OF EMPLOYEES INVOLVED IN HANDLING UNEMPLOYMENT CLAIMS SHALL
23 BE TRAINED IN THIS CURRICULUM NOT LATER THAN SIXTY DAYS FROM THE EFFEC-
24 TIVE DATE OF THIS TITLE. THE COMMISSIONER SHALL DEVELOP AN ONGOING PLAN
25 FOR EMPLOYEES OF THE DEPARTMENT WHO INTERACT WITH CLAIMANTS TO BE
26 TRAINED IN THE NATURE AND DYNAMICS OF DOMESTIC VIOLENCE, SO THAT EMPLOY-
27 MENT SEPARATIONS STEMMING FROM DOMESTIC VIOLENCE ARE RELIABLY SCREENED
28 AND ADJUDICATED, AND SO THAT VICTIMS OF DOMESTIC VIOLENCE ARE ABLE TO
29 TAKE ADVANTAGE OF THE FULL RANGE OF JOB SERVICES PROVIDED BY THE DEPART-
30 MENT.

31 S 9. Subdivision 1 of section 560 of the labor law, as amended by
32 chapter 103 of the laws of 1965, is amended to read as follows:

33 1. Liability. Any employer shall become liable for contributions under
34 this article if he has paid remuneration of [three hundred] ONE THOUSAND
35 dollars or more in any calendar quarter, except that liability with
36 respect to persons employed in personal or domestic service in private
37 homes shall be considered separately and an employer shall become liable
38 for contributions with respect to such persons only if he has paid to
39 them remuneration in cash of five hundred dollars or more in any calen-
40 dar quarter. Such liability for contributions shall commence on the
41 first day of such calendar quarter.

42 S 10. Paragraph (c) of subdivision 1 of section 538 of the labor law,
43 as amended by chapter 831 of the laws of 1981, is amended to read as
44 follows:

45 (c) Claims of representatives for services rendered to a claimant in
46 connection with any claim arising under this article shall not be
47 enforceable unless approved by the appeal board and shall in no event
48 exceed the benefit allowed, INCLUDING BENEFITS THAT ARE NON-RECOVERABLE
49 PURSUANT TO SUBDIVISION FOUR OF SECTION FIVE HUNDRED NINETY-SEVEN OF
50 THIS ARTICLE, except as provided in paragraph (d) of this subdivision.
51 In approving any fee requested by a representative pursuant to this
52 section, the appeal board shall consider the following factors: (i) the
53 total benefit allowed; (ii) the time spent in providing representation;
54 (iii) the legal and factual complexities involved; and (iv) such other
55 factors as the appeal board may deem relevant.

1 S 11. Subdivision 4 of section 597 of the labor law, as amended by
2 chapter 61 of the laws of 1998, is amended to read as follows:
3 4. Effect of review. Whenever a new determination in accordance with
4 [the preceding] subdivision THREE OF THIS SECTION or a decision by a
5 referee, the appeal board, or a court results in a decrease or denial of
6 benefits previously allowed, such new determination or decision, unless
7 it shall be based upon a retroactive payment of remuneration, shall not
8 affect the rights to any benefits already paid under the authority of
9 the prior determination or decision provided they were accepted by the
10 claimant in good faith and the claimant did not make any false statement
11 or representation and did not wilfully conceal any pertinent fact in
12 connection with his or her claim for benefits. NON-RECOVERABLE BENEFITS
13 PURSUANT TO THIS SECTION SHALL BE CONSIDERED TO HAVE BEEN ALLOWED BENE-
14 FITS FOR PURPOSES OF SECTION FIVE HUNDRED THIRTY-EIGHT OF THIS ARTICLE.
15 S 12. This act shall take effect immediately.