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

3616

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. GLICK, GREENE, CLARK, TITUS, JACOBS -- Multi-Sponsored by -- M. of A. BRENNAN, COLTON, GALEF, GOTTFRIED, JAFFEE, JOHN, V. LOPEZ, MILLMAN, PEOPLES, PERRY, PHEFFER, REILLY, ROSENTHAL, SWEENEY, TOWNS -- read once and referred to the Committee on Social Services

AN ACT to amend the social services law, in relation to the availability of adult basic literacy, English for speakers of other languages, and high school equivalency education for public assistance recipients; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. Section 330 of the social services law is amended by adding two new subdivisions 6 and 7 to read as follows:

6. "BASIC LITERACY LEVEL" SHALL MEAN A LITERACY LEVEL EQUIVALENT TO THE NINTH MONTH OF THE EIGHTH GRADE, TOGETHER WITH ENGLISH LANGUAGE PROFICIENCY.

7. "APPROVED PROGRAM" SHALL INCLUDE EDUCATION THAT IS PROVIDED BY AN ENTITY THAT IS LICENSED, CERTIFIED OR OTHERWISE APPROVED BY AN APPROPRIATE GOVERNMENTAL AUTHORITY INCLUDING LOCAL SOCIAL SERVICES DISTRICTS TO PROVIDE ADULT BASIC LITERACY, ENGLISH LANGUAGE PROFICIENCY AND/OR GED PREPARATION.

S 2. Paragraph (b) of subdivision 2 of section 335 of the social services law, as amended by section 148 of part B of chapter 436 of the laws of 1997, is amended to read as follows:

(b) Where an assessment indicates that a participant who is not subject to the education requirements of subdivision four of section three hundred thirty-six-a of this title has not attained a basic literacy level, OR HAS NOT ATTAINED A HIGH SCHOOL DIPLOMA OR ITS EQUIVALENT, the social services official shall encourage and may require the participant to enter a program to achieve basic literacy or THE EQUIVALENT OF

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

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A high school [equivalency] DIPLOMA or to enter such educational programs in combination with other training activities consistent with the employability plan. PRIOR TO ASSIGNMENT OR REASSIGNMENT TO A WORK ACTIVITY, THE SOCIAL SERVICES DISTRICT SHALL MAKE PARTICIPANTS AWARE OF ALL BASIC EDUCATION PROVIDERS IN THE DISTRICT THAT ARE APPROVED PROGRAMS; SHALL MAKE PARTICIPANTS AWARE OF THEIR RIGHTS AND OBLIGATIONS IN CONTINUING IN OR SEEKING ENROLLMENT IN SUCH PROGRAMS; AND SHALL, BY MEANS INCLUDING BUT NOT LIMITED TO REFERRAL OF PARTICIPANTS TO THE OUTREACH AND REFERRAL SERVICES FOR BASIC EDUCATION UNDER TITLE II OF THE FEDERAL WORKFORCE INVESTMENT ACT, PROVIDE PARTICIPANTS AN OPPORTUNITY TO SEEK ENROLLMENT IN SUCH PROGRAMS. ANY PARTICIPANT WHO IS EITHER ENROLLED IN AN APPROVED PROGRAM OR IS ACCEPTED BY AN APPROVED PROGRAM SHALL NOT BE UNREASONABLY DENIED THE ABILITY TO PARTICIPATE IN SUCH PROGRAM OR PROGRAMS UP TO A MAXIMUM OF SIXTEEN HOURS PER WEEK, AND EACH HOUR OF APPROVED CLASSROOM PARTICIPATION SHALL, TO THE EXTENT PERMISSIBLE UNDER THE FEDERAL DEFICIT REDUCTION ACT OF 2005 AND ACCOMPANYING FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES REGULATIONS FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES, COUNT TOWARD SATISFACTION OF SUCH PARTICIPANT'S WORK ACTIVITY REQUIREMENTS UNDER THIS TITLE.

NOTHING CONTAINED IN THIS SECTION SHALL PREVENT THE LOCAL SOCIAL SERVICES COMMISSIONER FROM AUTHORIZING ADDITIONAL HOURS OF CLASSROOM PARTICIPATION, IN EXCESS OF SIXTEEN HOURS PER WEEK. IN DECIDING WHETHER TO AUTHORIZE CONTINUED PARTICIPATION IN A BASIC EDUCATION PROGRAM OR ADDITIONAL HOURS OF CLASSROOM PARTICIPATION IN EXCESS OF SIXTEEN HOURS PER WEEK, A LOCAL SOCIAL SERVICES COMMISSIONER MAY CONSIDER, AMONG OTHER FACTORS, WHETHER:

(I) THE PARTICIPANT HAS VOLUNTARILY TERMINATED HIS OR HER EMPLOYMENT OR VOLUNTARILY REDUCED HIS OR HER EARNINGS TO QUALIFY FOR PUBLIC ASSISTANCE PURSUANT TO SUBDIVISION TEN OF SECTION ONE HUNDRED THIRTY-ONE OF THIS ARTICLE;

(II) THE PARTICIPANT IS FULLY IN COMPLIANCE WITH ALL WORK ACTIVITY REQUIREMENTS;

(III) THE PARTICIPANT HAS MADE AND IS MAKING EDUCATIONAL PROGRESS REASONABLY CALCULATED TO ACHIEVE THE STANDARDS OF THE EDUCATIONAL PROGRAM AS APPROVED BY THE COMMISSIONER OF THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE;

(IV) THE PARTICIPANT MAINTAINS GOOD ATTENDANCE AND THE EDUCATION PROVIDER AND PARTICIPANT COOPERATE WITH THE LOCAL DISTRICT IN MONITORING AND REPORTING ON THE PARTICIPANT'S ATTENDANCE AND PROGRESS; AND

(V) THE PARTICIPANT'S PARTICIPATION IN BASIC EDUCATION ACTIVITIES IS COUNTABLE TOWARD FEDERAL WORK PARTICIPATION REQUIREMENTS.

A PARTICIPANT FAILING TO MAINTAIN GOOD ATTENDANCE AT ACTIVITIES ASSIGNED AND/OR COUNTED TOWARD A PARTICIPANT'S WORK ACTIVITIES PURSUANT TO THIS SECTION SHALL BE SUBJECT TO SANCTIONS EQUIVALENT TO THOSE ASSOCIATED WITH FAILURE TO ADEQUATELY SATISFY THEIR OTHER REQUIRED WORK ACTIVITIES. IN ASSIGNING PARTICIPANTS ATTENDING ADULT BASIC EDUCATION TO OTHER WORK ACTIVITIES, THE DISTRICTS SHALL MAKE REASONABLE EFFORTS TO ASSIGN THE PARTICIPANT TO HOURS THAT DO NOT CONFLICT WITH THE PARTICIPANT'S BASIC EDUCATION CLASS, PROVIDED PARTICIPANTS WHO HAVE THE OPTION OF CHOOSING BETWEEN SCHEDULES OF BASIC EDUCATION CLASSES WITH SIMILAR PROGRAM DESIGN AND LOCATION MAY BE REQUIRED TO ACCOMMODATE THE DISTRICT'S OTHER REQUIRED WORK ACTIVITIES. THE PARTICIPANT SHALL NOT BE DEEMED NONCOMPLIANT AND SUBJECT TO THE PROVISIONS OF SECTION THREE HUNDRED FORTY-TWO OF THIS TITLE FOR FAILURE TO ATTEND A BASIC EDUCATION PROGRAM AS LONG AS THE PARTICIPANT IS FULLY ENGAGED IN ALLOWABLE WORK ACTIVITIES SET FORTH IN SECTION THREE HUNDRED THIRTY-SIX OF THIS TITLE

FOR THE MINIMUM NUMBER OF HOURS PER WEEK SET FORTH IN SUBDIVISION TWO OF SECTION THREE HUNDRED THIRTY-FIVE-B OF THIS TITLE OR REQUIRED UNDER FEDERAL WORK PARTICIPATION RULES.

S 3. Paragraph (b) of subdivision 2 of section 335-a of the social services law, as amended by section 148 of part B of chapter 436 of the laws of 1997, is amended to read as follows:

(b) Where an assessment indicates that a participant who is not subject to the education requirements of this title has not attained a basic literacy level, OR HAS NOT ATTAINED A HIGH SCHOOL DIPLOMA OR ITS EQUIVALENT, the social services official shall encourage and may require the participant to enter a program to achieve basic literacy or THE EQUIVALENT OF A high school [equivalency] DIPLOMA or to enter such educational programs in combination with other training activities consistent with the employability plan. PRIOR TO ASSIGNMENT OR REASSIGNMENT TO A WORK ACTIVITY, THE SOCIAL SERVICES DISTRICT SHALL MAKE PARTICIPANTS AWARE OF ALL BASIC EDUCATION PROVIDERS IN THE DISTRICT THAT ARE APPROVED PROGRAMS; AND SHALL MAKE PARTICIPANTS AWARE OF THEIR RIGHTS AND OBLIGATIONS IN CONTINUING IN OR SEEKING ENROLLMENT IN SUCH PROGRAMS; AND SHALL, BY MEANS INCLUDING BUT NOT LIMITED TO REFERRAL OF PARTICIPANTS TO THE OUTREACH AND REFERRAL SERVICES FOR BASIC EDUCATION UNDER TITLE II OF THE FEDERAL WORKFORCE INVESTMENT ACT, PROVIDE PARTICIPANTS AN OPPORTUNITY TO SEEK ENROLLMENT IN SUCH PROGRAMS. ANY PARTICIPANT WHO IS EITHER ENROLLED IN AN APPROVED PROGRAM OR IS ACCEPTED BY AN APPROVED PROGRAM SHALL NOT BE UNREASONABLY DENIED THE ABILITY TO PARTICIPATE IN SUCH PROGRAM OR PROGRAMS UP TO A MAXIMUM OF SIXTEEN HOURS PER WEEK, AND EACH HOUR OF APPROVED CLASSROOM PARTICIPATION SHALL, TO THE EXTENT PERMISSIBLE UNDER THE FEDERAL DEFICIT REDUCTION ACT OF 2005 AND ACCOMPANYING FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES REGULATIONS FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES, COUNT TOWARD SATISFACTION OF SUCH PARTICIPANT'S WORK ACTIVITY REQUIREMENTS UNDER THIS TITLE.

NOTHING CONTAINED IN THIS SECTION SHALL PREVENT THE LOCAL SOCIAL SERVICES COMMISSIONER FROM AUTHORIZING ADDITIONAL HOURS OF CLASSROOM PARTICIPATION, IN EXCESS OF SIXTEEN HOURS PER WEEK. IN DECIDING WHETHER TO AUTHORIZE CONTINUED PARTICIPATION IN A BASIC EDUCATION PROGRAM OR ADDITIONAL HOURS OF CLASSROOM PARTICIPATION IN EXCESS OF SIXTEEN HOURS PER WEEK, A LOCAL SOCIAL SERVICES COMMISSIONER MAY CONSIDER, AMONG OTHER FACTORS, WHETHER:

(I) THE PARTICIPANT HAS VOLUNTARILY TERMINATED HIS OR HER EMPLOYMENT OR VOLUNTARILY REDUCED HIS OR HER EARNINGS TO QUALIFY FOR PUBLIC ASSISTANCE PURSUANT TO SUBDIVISION TEN OF SECTION ONE HUNDRED THIRTY-ONE OF THIS ARTICLE;

(II) THE PARTICIPANT IS FULLY IN COMPLIANCE WITH ALL WORK ACTIVITY REQUIREMENTS;

(III) THE PARTICIPANT HAS MADE AND IS MAKING EDUCATIONAL PROGRESS REASONABLY CALCULATED TO ACHIEVE THE STANDARDS OF THE EDUCATIONAL PROGRAM AS APPROVED BY THE COMMISSIONER OF THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE;

(IV) THE PARTICIPANT MAINTAINS GOOD ATTENDANCE AND THE EDUCATION PROVIDER AND PARTICIPANT COOPERATE WITH THE LOCAL DISTRICT IN MONITORING AND REPORTING ON THE PARTICIPANT'S ATTENDANCE AND PROGRESS; AND

(V) THE PARTICIPANT'S PARTICIPATION IN BASIC EDUCATION ACTIVITIES IS COUNTABLE TOWARD FEDERAL WORK PARTICIPATION REQUIREMENTS.

A PARTICIPANT FAILING TO MAINTAIN GOOD ATTENDANCE AT ACTIVITIES ASSIGNED AND/OR COUNTED TOWARD A PARTICIPANT'S WORK ACTIVITIES PURSUANT TO THIS SECTION SHALL BE SUBJECT TO SANCTIONS EQUIVALENT TO THOSE ASSOCIATED WITH FAILURE TO ADEQUATELY SATISFY THEIR OTHER REQUIRED WORK

ACTIVITIES. IN ASSIGNING PARTICIPANTS ATTENDING ADULT BASIC EDUCATION TO OTHER WORK ACTIVITIES, THE DISTRICTS SHALL MAKE REASONABLE EFFORTS TO ASSIGN THE PARTICIPANT TO HOURS THAT DO NOT CONFLICT WITH THE PARTICIPANT'S BASIC EDUCATION CLASS, PROVIDED PARTICIPANTS WHO HAVE THE OPTION OF CHOOSING BETWEEN SCHEDULES OF BASIC EDUCATION CLASSES WITH SIMILAR PROGRAM DESIGN AND LOCATION MAY BE REQUIRED TO ACCOMMODATE THE DISTRICT'S OTHER REQUIRED WORK ACTIVITIES. THE PARTICIPANT SHALL NOT BE DEEMED NONCOMPLIANT AND SUBJECT TO THE PROVISIONS OF SECTION THREE HUNDRED FORTY-TWO OF THIS TITLE FOR FAILURE TO ATTEND A BASIC EDUCATION PROGRAM AS LONG AS THE PARTICIPANT IS FULLY ENGAGED IN ALLOWABLE WORK ACTIVITIES SET FORTH IN SECTION THREE HUNDRED THIRTY-SIX OF THIS TITLE FOR THE MINIMUM NUMBER OF HOURS PER WEEK SET FORTH IN SUBDIVISION TWO OF SECTION THREE HUNDRED THIRTY-FIVE-B OF THIS TITLE OR REQUIRED UNDER FEDERAL WORK PARTICIPATION RULES.

S 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall expire June 30, 2012 when upon such date the provisions of this act shall be deemed repealed.