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

3878

2009-2010 Regular Sessions

I N A S S E M B L Y

January 28, 2009

Introduced by M. of A. AUBRY -- read once and referred to the Committee on Correction

AN ACT to amend the correction law, in relation to the duty to report sexual conduct by an employee with an inmate

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

Section 1. The correction law is amended by adding a new section 22-b to read as follows:

S 22-B. DUTY TO REPORT. ALL EMPLOYEES OF THE DEPARTMENT OF CORRECTIONAL SERVICES, REGARDLESS OF TITLE, ARE UNDER A DUTY TO REPORT ANY SEXUAL CONDUCT BETWEEN ANOTHER DEPARTMENT EMPLOYEE AND AN INMATE. SUCH DUTY TO REPORT SHALL INCLUDE ANY KNOWLEDGE OR A REASONABLE BELIEF THAT THE EMPLOYEE HAS OF ANY SEXUAL CONDUCT TAKING PLACE OR THAT HAS TAKEN PLACE BETWEEN ANY DEPARTMENT EMPLOYEE AND ANY INMATE NOT MARRIED TO SUCH EMPLOYEE, IN THE CUSTODY OF THE DEPARTMENT. ANY DEPARTMENT EMPLOYEE HAVING EITHER KNOWLEDGE OR A REASONABLE BELIEF OF ANY SEXUAL CONDUCT TAKING PLACE OR HAVING TAKEN PLACE BETWEEN ANY DEPARTMENT EMPLOYEE AND AN INMATE HAS A DUTY TO REPORT SUCH INFORMATION TO THE SUPERINTENDENT OF THE CORRECTIONAL FACILITY WHERE SUCH SEXUAL CONDUCT IS TAKING PLACE OR HAS TAKEN PLACE. ANY EMPLOYEE WHO HAS EITHER KNOWLEDGE OR A REASONABLE BELIEF TO SUSPECT THAT SUCH SEXUAL CONDUCT IS TAKING PLACE OR HAS TAKEN PLACE BETWEEN A DEPARTMENT EMPLOYEE AND AN INMATE AND WHO REPORTS SUCH SEXUAL CONDUCT TO THE SUPERINTENDENT OF THE CORRECTIONAL FACILITY SHALL HAVE IMMUNITY FROM ANY CIVIL LIABILITY THAT OTHERWISE MIGHT BE INCURRED OR IMPOSED AS A RESULT OF THE MAKING OF SUCH REPORT.

ANY EMPLOYEE WHO EITHER HAS EITHER KNOWLEDGE OR A REASONABLE BELIEF OF SEXUAL CONDUCT BETWEEN A DEPARTMENT EMPLOYEE AND AN INMATE AND WHO FAILS TO REPORT SUCH INFORMATION SHALL BE SUBJECT TO DISCIPLINARY ACTION.

FOR PURPOSES OF THIS SECTION, SEXUAL CONDUCT SHALL HAVE THE SAME MEANING AS SUCH TERM IS DEFINED IN SUBDIVISION TEN OF SECTION 130.00 OF THE PENAL LAW.

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

LBD04426-01-9

AS USED IN THIS SECTION, THE TERM EMPLOYEE SHALL INCLUDE A PERSON WHO IS REGISTERED AS A VOLUNTEER TO PROVIDE A SERVICE TO INMATES AT A CORRECTIONAL FACILITY.

S 2. This act shall take effect immediately.