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

4792

2009-2010 Regular Sessions

I N A S S E M B L Y

February 6, 2009

Introduced by M. of A. WEISENBERG -- read once and referred to the Committee on Children and Families

AN ACT to amend the executive law, in relation to testing of certain applicants for employment with the office of children and family services

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

Section 1. The executive law is amended by adding a new section 503-b to read as follows:

S 503-B. TESTING OF CERTAIN APPLICANTS FOR EMPLOYMENT. 1. ANY APPLICANT WHO APPLIES FOR EMPLOYMENT WITH THE OFFICE OF CHILDREN AND FAMILY SERVICES AS A YOUTH DIVISION AIDE AT A FACILITY OF THE OFFICE OF CHILDREN AND FAMILY SERVICES AFTER THE DATE THIS SECTION BECOMES A LAW, SHALL BE TESTED IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.

2. THE OFFICE OF CHILDREN AND FAMILY SERVICES IS HEREBY AUTHORIZED TO CONDUCT, OR TO ENTER INTO AGREEMENTS NECESSARY FOR CONDUCTING TESTS FOR PSYCHOLOGICAL SCREENING OF APPLICANTS COVERED BY THIS SECTION. ANY SUCH TESTS SHALL CONSIST OF AT LEAST THREE INDEPENDENT PSYCHOLOGICAL INSTRUMENTS AND SHALL MEET THE LEVEL OF THE ART FOR PSYCHOLOGICAL INSTRUMENTS TO BE USED IN A VALIDATION STUDY DEVELOPED FOR SELECTION OF SUCH APPLICANTS. SUCH PSYCHOLOGICAL INSTRUMENTS SHALL BE USED IN TESTING AND SELECTION OF APPLICANTS FOR POSITIONS REFERRED TO IN SUBDIVISION ONE OF THIS SECTION. PERSONS WHO HAVE BEEN DETERMINED BY A PSYCHOLOGIST LICENSED UNDER THE LAWS OF THIS STATE AS SUFFERING FROM PSYCHOTIC DISORDERS, SERIOUS CHARACTER DISORDERS, OR OTHER DISORDERS WHICH COULD HINDER PERFORMANCE ON THE JOB MAY BE DEEMED INELIGIBLE FOR APPOINTMENT; PROVIDED, HOWEVER, THAT OTHER COMPONENTS OF THE EMPLOYEE SELECTION PROCESS MAY BE TAKEN INTO CONSIDERATION IN REACHING THE DETERMINATION AS TO WHETHER A CANDIDATE IS DEEMED ELIGIBLE OR INELIGIBLE FOR CERTIFICATION TO A LIST OF ELIGIBLE CANDIDATES. SUCH TESTING PROGRAM SHALL INCLUDE A COMPONENT CONSISTING OF CRITERIA RELATED VALIDITY STUDIES OR OTHER

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

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VALIDITY STUDIES ACCEPTABLE UNDER RELEVANT FEDERAL LAW GOVERNING EQUAL EMPLOYMENT.

3. THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES OR HIS OR HER DESIGNEE SHALL ADVISE THOSE CANDIDATES WHO HAVE BEEN DEEMED INELIGIBLE FOR APPOINTMENT THROUGH PSYCHOLOGICAL SCREENING AND SHALL NOTIFY SUCH PERSONS OF THEIR RIGHT TO APPEAL THEIR DISQUALIFICATION. A PERSON SO DEEMED MAY APPLY TO THE COMMISSIONER FOR A REVIEW OF THE FINDINGS WITHIN THIRTY DAYS OF THE DATE OF NOTIFICATION. THE COMMISSIONER SHALL REFER THE MATTER TO AN INDEPENDENT ADVISORY BOARD TO REVIEW ANY RECOMMENDATION. A COPY OF THE ADVISORY BOARD'S RECOMMENDATIONS SHALL BE PROMPTLY FORWARDED TO THE PARTIES AND TO THE COMMISSIONER. IF THE ADVISORY BOARD'S RECOMMENDATION IS REJECTED BY THE COMMISSIONER, WHOLLY OR IN PART, THE COMMISSIONER SHALL STATE HIS OR HER REASONS FOR SUCH REJECTION IN WRITING.

4. THE APPLICANT SHALL NOT BE CHARGED ANY FEE FOR THE PERFORMANCE OF THESE TESTS.

5. THE ADVISORY BOARD SHALL CONSIST OF THREE MEMBERS WHO SHALL BE SELECTED BY THE PRESIDENT OF THE CIVIL SERVICE COMMISSION. THE MEMBERSHIP OF THE BOARD SHALL CONSIST OF: A PSYCHOLOGIST, AND A PSYCHIATRIST, BOTH OF WHOM SHALL BE LICENSED UNDER THE LAWS OF THIS STATE, AND A THIRD MEMBER WHO SHALL BE A REPRESENTATIVE OF THE DEPARTMENT OF CIVIL SERVICE. THE DEPARTMENT OF CIVIL SERVICE SHALL MAINTAIN A LIST OF ALTERNATE BOARD MEMBERS COMPRISED OF PSYCHOLOGISTS AND PSYCHIATRISTS, LICENSED UNDER THE LAWS OF THIS STATE, AND REPRESENTATIVES NOMINATED BY THE PRESIDENT OF THE CIVIL SERVICE COMMISSION, WHO SHALL SIT ON THE ADVISORY BOARD IN THE EVENT A DESIGNATED MEMBER IS UNABLE TO SERVE, PROVIDED HOWEVER AT ALL TIMES THE ADVISORY BOARD MUST BE COMPRISED OF A PSYCHIATRIST, A PSYCHOLOGIST AND A REPRESENTATIVE OF THE DEPARTMENT OF CIVIL SERVICE. EACH OF THE MEMBERS OF THE ADVISORY BOARD AND THEIR ALTERNATES SO SELECTED SHALL SERVE AT THE PLEASURE OF THE PRESIDENT OF THE CIVIL SERVICE COMMISSION. EACH OF THE MEMBERS AND ALTERNATES SO SELECTED SHALL BE REIMBURSED FOR SERVICES AND ACTUAL COSTS AT A PER DIEM RATE NOT TO EXCEED THREE HUNDRED DOLLARS PER DAY; PROVIDED, HOWEVER, THAT IF ANY MEMBER OF OR ALTERNATE TO THE ADVISORY BOARD IS AN EMPLOYEE OF THE STATE OF NEW YORK, THEN SUCH REPRESENTATIVE SHALL ONLY RECEIVE REIMBURSEMENT FOR ACTUAL COSTS INCURRED.

6. THE COMMISSIONER OR HIS OR HER DESIGNEE SHALL ADVISE THE DEPARTMENT OF CIVIL SERVICE OF THOSE PERSONS WHO HAVE BEEN DETERMINED UNDER THIS SECTION AS BEING ELIGIBLE FOR APPOINTMENT FROM ANY LIST OF ELIGIBLE CANDIDATES.

7. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE RESULTS OF THE TESTS ADMINISTERED PURSUANT TO THIS SECTION SHALL BE USED SOLELY FOR THE QUALIFICATION OF A CANDIDATE FOR YOUTH DIVISION AIDE AND THE VALIDATION OF THE PSYCHOLOGICAL INSTRUMENTS UTILIZED. FOR ALL OTHER PURPOSES, THE RESULTS OF THE EXAMINATION SHALL BE CONFIDENTIAL AND THE RECORDS SEALED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES AND NOT BE AVAILABLE TO ANY OTHER AGENCY OR PERSON EXCEPT BY AUTHORIZATION OF THE APPLICANT OR, UPON WRITTEN NOTICE BY ORDER OF A COURT OF THIS STATE OR THE UNITED STATES.

8. PRIOR TO MARCH FIRST OF EACH YEAR, THE COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES WILL REPORT TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE AND SPEAKER OF THE ASSEMBLY ON THE CONDUCT OF THE PSYCHOLOGICAL TESTING PROGRAM AND THE RESULTS OF SUCH PROGRAM IN IMPROVING THE QUALITY OF YOUTH DIVISION AIDES.

S 2. This act shall take effect April 1, 2010.