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

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I N A S S E M B L Y

February 6, 2009

Introduced by M. of A. HYER-SPENCER, TITONE, GABRYSZAK, GOTTFRIED, JAFFEE, JOHN, McKEVITT, MILLMAN, REILLY, ROBINSON, ROSENTHAL, STIRPE, TOWNSEND, WALKER, TITUS, ALFANO -- Multi-Sponsored by -- M. of A. ABBATE, BARRA, BOYLAND, CAHILL, CUSICK, DIAZ, GALEF, GIGLIO, GLICK, KOON, MAISEL, PEOPLES, PERRY, RAIA, SPANO, TOWNS, WEISENBERG -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to establishing the "unemployment insurance for domestic violence survivors act"

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

Section 1. Short title. This act shall be known and may be cited as the "unemployment insurance for domestic violence survivors act".

S 2. 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

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

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(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;

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

(D) MEDICAL DOCUMENTATION OF THE ABUSE;

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

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

3. NO EVIDENCE OF DOMESTIC VIOLENCE EXPERIENCED BY A CLAIMANT, INCLUDING THE CLAIMANT'S STATEMENT AND CORROBORATING EVIDENCE, SHALL BE DISCLOSED BY THE DEPARTMENT UNLESS CONSENT FOR DISCLOSURE IS GIVEN BY THE CLAIMANT.

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

S 617. TRAINING PROGRAM. 1. THE COMMISSIONER SHALL IMPLEMENT A TRAINING CURRICULUM FOR EMPLOYEES OF THE DEPARTMENT WHO INTERACT WITH CLAIMANTS APPLYING FOR UNEMPLOYMENT INSURANCE DUE TO THEIR DOMESTIC VIOLENCE STATUS.

2. ALL SENIOR MANAGEMENT PERSONNEL OF THE DEPARTMENT THAT SUPERVISE THE TRAINING OF EMPLOYEES INVOLVED IN HANDLING UNEMPLOYMENT CLAIMS SHALL BE TRAINED IN THIS CURRICULUM NOT LATER THAN SIXTY DAYS FROM THE EFFECTIVE DATE OF THIS TITLE. THE COMMISSIONER SHALL DEVELOP AN ONGOING PLAN FOR EMPLOYEES OF THE DEPARTMENT WHO INTERACT WITH CLAIMANTS TO BE TRAINED IN THE NATURE AND DYNAMICS OF DOMESTIC VIOLENCE, SO THAT EMPLOYMENT SEPARATIONS STEMMING FROM DOMESTIC VIOLENCE ARE RELIABLY SCREENED AND ADJUDICATED, AND SO THAT VICTIMS OF DOMESTIC VIOLENCE ARE ABLE TO TAKE ADVANTAGE OF THE FULL RANGE OF JOB SERVICES PROVIDED BY THE DEPARTMENT.

S 3. This act shall take effect on the first of July next succeeding the date on which it shall have become a law.