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

7016

2009-2010 Regular Sessions

I N A S S E M B L Y

March 18, 2009

Introduced by M. of A. EDDINGTON -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to authorizing registration records of victims of domestic violence to be kept confidential in certain cases

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

Section 1. The election law is amended by adding a new section 5-508 to read as follows:

S 5-508. CONFIDENTIALITY OF REGISTRATION RECORDS IN CERTAIN CASES. 1. FOR PURPOSES OF THIS SECTION:

(A) "VICTIM OF DOMESTIC VIOLENCE" MEANS ANY PERSON OVER THE AGE OF SIXTEEN, ANY MARRIED PERSON, OR ANY PARENT ACCOMPANIED BY HIS OR HER MINOR CHILD OR CHILDREN IN SITUATIONS IN WHICH SUCH PERSON OR SUCH PERSON'S CHILD IS A VICTIM OF AN ACT WHICH WOULD CONSTITUTE A VIOLATION OF THE PENAL LAW, INCLUDING, BUT NOT LIMITED TO, ACTS CONSTITUTING DISORDERLY CONDUCT, HARASSMENT, MENACING, RECKLESS ENDANGERMENT, KIDNAPPING, ASSAULT, ATTEMPTED ASSAULT, OR ATTEMPTED MURDER; AND

(I) SUCH ACT OR ACTS HAVE RESULTED IN ACTUAL PHYSICAL OR EMOTIONAL INJURY OR HAVE CREATED A SUBSTANTIAL RISK OF PHYSICAL OR EMOTIONAL HARM TO SUCH PERSON OR SUCH PERSON'S CHILD; AND

(II) SUCH ACT OR ACTS ARE OR ARE ALLEGED TO HAVE BEEN COMMITTED BY A FAMILY OR HOUSEHOLD MEMBER.

(B) "FAMILY OR HOUSEHOLD MEMBERS" MEAN THE FOLLOWING INDIVIDUALS:

(I) PERSONS RELATED BY CONSANGUINITY OR AFFINITY;

(II) PERSONS LEGALLY MARRIED TO ONE ANOTHER;

(III) PERSONS FORMERLY MARRIED TO ONE ANOTHER REGARDLESS OF WHETHER OR NOT THEY STILL RESIDE IN THE SAME HOUSEHOLD;

(IV) PERSONS WHO HAVE A CHILD IN COMMON REGARDLESS OF WHETHER OR NOT SUCH PERSONS ARE MARRIED OR HAVE LIVED TOGETHER AT ANY TIME;

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

LBD05508-03-9

(V) PERSONS WHO ARE NOT RELATED BY CONSANGUINITY OR AFFINITY AND WHO ARE OR HAVE BEEN IN AN INTIMATE RELATIONSHIP REGARDLESS OF WHETHER SUCH PERSONS HAVE LIVED TOGETHER AT ANY TIME. FACTORS THE COURT MAY CONSIDER IN DETERMINING WHETHER A RELATIONSHIP IS AN "INTIMATE RELATIONSHIP" INCLUDE BUT ARE NOT LIMITED TO: THE NATURE OR TYPE OF RELATIONSHIP, REGARDLESS OF WHETHER THE RELATIONSHIP IS SEXUAL IN NATURE; THE FREQUENCY OF INTERACTION BETWEEN THE PERSONS; AND THE DURATION OF THE RELATIONSHIP. NEITHER A CASUAL ACQUAINTANCE NOR ORDINARY FRATERNIZATION BETWEEN TWO INDIVIDUALS IN BUSINESS OR SOCIAL CONTEXTS SHALL BE DEEMED TO CONSTITUTE AN "INTIMATE RELATIONSHIP".

(VI) ANY OTHER CATEGORY OF INDIVIDUALS DEEMED TO BE A VICTIM OF DOMESTIC VIOLENCE AS DEFINED BY THE OFFICE OF CHILDREN AND FAMILY SERVICES IN REGULATION.

2. UPON APPLICATION MADE TO A COUNTY COURT, IN THE COUNTY WHEREIN A VICTIM OF DOMESTIC VIOLENCE IS REGISTERED PURSUANT TO THIS ARTICLE, OR THE SUPREME COURT, IN THE CITY OF NEW YORK, THE COURT MAY ISSUE AN ORDER REQUIRING THAT ANY REGISTRATION RECORD KEPT OR MAINTAINED IN ACCORDANCE WITH THIS ARTICLE WITH RESPECT TO SUCH AN INDIVIDUAL BE KEPT SEPARATE AND APART FROM OTHER REGISTRATION RECORDS AND NOT BE MADE AVAILABLE FOR INSPECTION OR COPYING BY THE PUBLIC OR ANY OTHER PERSON, EXCEPT ELECTION OFFICIALS ACTING WITHIN THE COURSE AND SCOPE OF THEIR OFFICIAL DUTIES AND ONLY AS PERTINENT AND NECESSARY IN CONNECTION THEREWITH.

S 2. This act shall take effect immediately.