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

4033

2011-2012 Regular Sessions

I N A S S E M B L Y

February 1, 2011

Introduced by M. of A. GABRYSZAK, M. MILLER -- Multi-Sponsored by -- M. of A. PHEFFER, WEISENBERG -- 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 5-510 to read as follows:

S 5-510. CONFIDENTIALITY OF REGISTRATION RECORDS IN CERTAIN CASES. 1. FOR PURPOSES OF THIS SECTION:

(A) "VICTIM OF DOMESTIC VIOLENCE" MEANS ANY PERSON WHO IS A VICTIM OF A VIOLENT FELONY, AS DEFINED IN SECTION 70.02 OF THE PENAL LAW, OR DISORDERLY CONDUCT, HARASSMENT IN THE FIRST DEGREE, HARASSMENT IN THE SECOND DEGREE, AGGRAVATED HARASSMENT IN THE SECOND DEGREE, AGGRAVATED HARASSMENT IN THE THIRD DEGREE, STALKING IN THE FOURTH DEGREE, CRIMINAL MISCHIEF, MENACING IN THE SECOND DEGREE, MENACING IN THE THIRD DEGREE, RECKLESS ENDANGERMENT, ASSAULT IN THE THIRD DEGREE OR AN ATTEMPTED ASSAULT; 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 THEY STILL RESIDE IN THE SAME HOUSEHOLD;

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

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(IV) PERSONS WHO HAVE A CHILD IN COMMON REGARDLESS OF WHETHER SUCH PERSONS ARE MARRIED OR HAVE LIVED TOGETHER AT ANY TIME;

(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".

2. UPON APPLICATION MADE TO THE SUPREME COURT, IN THE COUNTY WHEREIN A VICTIM OF DOMESTIC VIOLENCE IS REGISTERED PURSUANT TO THIS ARTICLE, 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.