

4404

2011-2012 Regular Sessions

I N A S S E M B L Y

February 3, 2011

Introduced by M. of A. GABRYSZAK, TITONE, GOTTFRIED, JAFFEE, McKEVITT, MILLMAN, REILLY, ROBINSON, ROSENTHAL, TITUS -- Multi-Sponsored by -- M. of A. ABBATE, BOYLAND, CAHILL, CUSICK, GALEF, GIGLIO, GLICK, MAISEL, PEOPLES-STOKES, 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:

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

3 S 2. Article 18 of the labor law is amended by adding a new title 7-B
4 to read as follows:

5 TITLE 7-B

6 UNEMPLOYMENT INSURANCE FOR DOMESTIC VIOLENCE SURVIVORS

7 SECTION 615. DEFINITIONS.

8 616. ELIGIBILITY FOR UNEMPLOYMENT INSURANCE FOR DOMESTIC
9 VIOLENCE SURVIVORS.

10 617. TRAINING PROGRAM.

11 S 615. DEFINITIONS. FOR PURPOSES OF THIS TITLE:

12 1. "DOMESTIC VIOLENCE" MEANS ABUSE COMMITTED AGAINST AN EMPLOYEE OR AN
13 EMPLOYEE'S DEPENDENT CHILD BY:

14 (A) A CURRENT OR FORMER SPOUSE OF THE EMPLOYEE; OR

15 (B) A PERSON WITH WHOM THE EMPLOYEE SHARES PARENTAGE OF A CHILD IN
16 COMMON; OR

17 (C) A PERSON WHO IS COHABITATING WITH, OR HAS COHABITATED WITH, THE
18 EMPLOYEE; OR

19 (D) A PERSON WHO IS RELATED BY BLOOD OR MARRIAGE; OR

20 (E) A PERSON WITH WHOM THE EMPLOYEE HAS OR HAD A DATING OR ENGAGEMENT
21 RELATIONSHIP.

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

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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 UNEM-
PLOYMENT INSURANCE BENEFITS IF THE CLAIMANT ESTABLISHES TO THE SATISFAC-
TION 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 RECEIV-
ING 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 PROFES-
SIONAL 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, INCLUD-
ING 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 TRAIN-
ING CURRICULUM FOR EMPLOYEES OF THE DEPARTMENT WHO INTERACT WITH CLAIM-
ANTS 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 EFFEC-

1 TIVE DATE OF THIS TITLE. THE COMMISSIONER SHALL DEVELOP AN ONGOING PLAN
2 FOR EMPLOYEES OF THE DEPARTMENT WHO INTERACT WITH CLAIMANTS TO BE
3 TRAINED IN THE NATURE AND DYNAMICS OF DOMESTIC VIOLENCE, SO THAT EMPLOY-
4 MENT SEPARATIONS STEMMING FROM DOMESTIC VIOLENCE ARE RELIABLY SCREENED
5 AND ADJUDICATED, AND SO THAT VICTIMS OF DOMESTIC VIOLENCE ARE ABLE TO
6 TAKE ADVANTAGE OF THE FULL RANGE OF JOB SERVICES PROVIDED BY THE DEPART-
7 MENT.

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