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2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. WEINSTEIN -- read once and referred to the
Committee on Social Services

AN ACT to amend the social services law, in relation to the definitions
of "victim of domestic violence" and "family and household members"
for the purposes of domestic violence prevention

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

- 1 Section 1. Subdivisions 1 and 2 of section 459-a of the social
2 services law, as added by chapter 838 of the laws of 1987, are amended
3 to read as follows:
4 1. "Victim of domestic violence" means any person over the age of
5 sixteen, any married person or any parent accompanied by his or her
6 minor child or children in situations in which such person or such
7 person's child is a victim of an act which would constitute a violation
8 of the penal law, including, but not limited to acts constituting disor-
9 derly conduct, harassment, AGGRAVATED HARASSMENT, SEXUAL MISCONDUCT,
10 FORCIBLE TOUCHING, SEXUAL ABUSE, STALKING, CRIMINAL MISCHIEF, menacing,
11 reckless endangerment, kidnapping, assault, attempted assault, [or]
12 attempted murder, CRIMINAL OBSTRUCTION OF BREATHING OR BLOOD CIRCU-
13 LATION, OR STRANGULATION; and
14 (i) such act or acts have resulted in actual physical or emotional
15 injury or have created a substantial risk of physical or emotional harm
16 to such person or such person's child; and
17 (ii) such act or acts are or are alleged to have been committed by a
18 family or household member.
19 2. "Family or household members" mean the following individuals:
20 (a) persons related by consanguinity or affinity;
21 (b) persons legally married to one another;
22 (c) persons formerly married to one another regardless of whether
23 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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1 (d) persons who have a child in common regardless of whether such
2 persons are married or have lived together at any time;

3 (e) unrelated persons who are continually or at regular intervals
4 living in the same household or who have in the past continually or at
5 regular intervals lived in the same household; [or]

6 (f) PERSONS WHO ARE NOT RELATED BY CONSANGUINITY OR AFFINITY AND WHO
7 ARE OR HAVE BEEN IN AN INTIMATE RELATIONSHIP REGARDLESS OF WHETHER SUCH
8 PERSONS HAVE LIVED TOGETHER AT ANY TIME. FACTORS THAT MAY BE CONSIDERED
9 IN DETERMINING WHETHER A RELATIONSHIP IS AN "INTIMATE RELATIONSHIP"
10 INCLUDE, BUT ARE NOT LIMITED TO: THE NATURE OR TYPE OF RELATIONSHIP,
11 REGARDLESS OF WHETHER THE RELATIONSHIP IS SEXUAL IN NATURE; THE FREQUEN-
12 CY OF INTERACTION BETWEEN THE PERSONS; AND THE DURATION OF THE RELATION-
13 SHIP. NEITHER A CASUAL ACQUAINTANCE NOR ORDINARY FRATERNIZATION BETWEEN
14 TWO INDIVIDUALS IN BUSINESS OR SOCIAL CONTEXTS SHALL BE DEEMED TO
15 CONSTITUTE AN "INTIMATE RELATIONSHIP"; OR

16 (G) any other category of individuals deemed to be a victim of domes-
17 tic violence as defined by the [department] OFFICE OF CHILDREN AND
18 FAMILY SERVICES in regulation.

19 S 2. This act shall take effect immediately.