

2715

2013-2014 Regular Sessions

I N A S S E M B L Y

January 17, 2013

Introduced by M. of A. WEISENBERG -- read once and referred to the
Committee on Governmental Operations

AN ACT to amend the civil service law, in relation to the physical or
sexual abuse of people with developmental disabilities

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

1 Section 1. Section 75 of the civil service law is amended by adding a
2 new subdivision 5 to read as follows:
3 5. DISCIPLINE OF AN EMPLOYEE FOR PHYSICAL OR SEXUAL ABUSE OF PEOPLE
4 WITH DEVELOPMENTAL DISABILITIES. (A) NOTWITHSTANDING ANY OTHER PROVISION
5 OF LAW TO THE CONTRARY, IN THE EVENT THAT AN EMPLOYEE OF A PROGRAM OR
6 FACILITY OPERATED, CERTIFIED OR LICENSED BY THE OFFICE FOR PEOPLE WITH
7 DEVELOPMENTAL DISABILITIES IS IDENTIFIED IN AN INCIDENT REPORT AS THE
8 PERPETRATOR OF AN ACT OF PHYSICAL OR SEXUAL ABUSE AGAINST A PERSON
9 RECEIVING CARE IN SUCH PROGRAM OR FACILITY, SUCH EMPLOYEE SHALL BE
10 PLACED ON ADMINISTRATIVE LEAVE IMMEDIATELY PENDING FURTHER INVESTI-
11 GATION. IN THE EVENT THAT THE INCIDENT REPORT IS SUBSTANTIATED, AND THE
12 PHYSICAL OR SEXUAL ABUSE IS FOUND, THE EMPLOYEE SHALL BE TERMINATED AND
13 SUCH TERMINATION DECISION SHALL BECOME FINAL.
14 (B) A PERSON WHO CAUSES A FALSE INCIDENT REPORT TO BE FILED PURSUANT
15 TO PARAGRAPH (A) OF THIS SUBDIVISION, SHALL BE SUBJECT TO SECTION 175.30
16 OF THE PENAL LAW.
17 (C) NOTWITHSTANDING SECTION TWO HUNDRED NINE-A OF THIS CHAPTER, FOR
18 PURPOSES OF DISCIPLINARY PROCEDURES CONTAINED IN A COLLECTIVE BARGAINING
19 AGREEMENT, THIS SUBDIVISION SHALL ONLY APPLY TO DISCIPLINARY PROCEDURES
20 IMPLEMENTED UNDER A COLLECTIVE BARGAINING AGREEMENT THAT TAKES EFFECT ON
21 OR AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION.
22 (D) THE COMMISSIONER SHALL PROMULGATE REGULATIONS TO IMPLEMENT THIS
23 SUBDIVISION, INCLUDING A DEFINITION OF "PHYSICAL OR SEXUAL ABUSE" AND
24 THE ESTABLISHMENT OF TIME FRAMES NOT TO EXCEED A TIME PERIOD SPECIFIED

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

LBD05313-01-3

1 IN REGULATION FOR INVESTIGATION AND DETERMINING WHETHER ANY SUCH ALLEGA-
2 TION IS SUBSTANTIATED.
3 (E) IN THE EVENT OF A SUBSTANTIATED REPORT OF PHYSICAL OR SEXUAL ABUSE
4 AGAINST AN EMPLOYEE NOT COVERED BY A COLLECTIVE BARGAINING AGREEMENT,
5 THE EMPLOYEE SHALL BE TERMINATED AND SUCH TERMINATION SHALL BE FINAL.
6 HOWEVER, SUBSTANTIATION OF A REPORT OF PHYSICAL OR SEXUAL ABUSE BY SUCH
7 EMPLOYEE SHALL NOT BE A PREREQUISITE FOR DISCIPLINARY ACTION, INCLUDING
8 TERMINATION, NOR SHALL THIS SUBDIVISION SUPERSEDE EXISTING POLICIES,
9 AGREEMENTS OR CONTRACTS AS APPLICABLE NOR SHALL ANYTHING IN THIS SUBDI-
10 VISION ABRIDGE THE AT-WILL STATUS OF INDIVIDUALS EMPLOYED IN SUCH CAPAC-
11 ITY.
12 S 2. This act shall take effect immediately.