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

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2013-2014 Regular Sessions

I N A S S E M B L Y

May 1, 2013

Introduced by M. of A. WRIGHT, AUBRY, GOTTFRIED, COOK, SEPULVEDA, BROOK-KRASNY -- Multi-Sponsored by -- M. of A. ARROYO, JACOBS, KIM, McDONALD, TITONE -- read once and referred to the Committee on Social Services -- recommitted to the Committee on Social Services in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law, in relation to prohibiting work experience programs in New York

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

Section 1. Subdivision 1 of section 336 of the social services law, as amended by section 148 of part B of chapter 436 of the laws of 1997, paragraph (h) as amended by chapter 214 of the laws of 1998, is amended to read as follows:

1. Social services districts may provide, and require applicants for and recipients of public assistance to participate in a variety of activities[, including but not] limited to ACTIVITIES THE RECIPIENT CAN CHOOSE FROM WHICH WILL IMPROVE THE RECIPIENT'S EMPLOYMENT OPPORTUNITIES, INCLUDING the following:

(a) unsubsidized employment;

(b) subsidized private sector employment;

(c) subsidized public sector employment;

[(d) work experience in the public sector or non-profit sector, (including work associated with refurbishing publicly assisted housing) if sufficient private sector employment is not available;]

(e) On-the-job training;

(f) job search and job readiness assistance, provided that job search is an active and continuing effort to secure employment configured by the local social services official;

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

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(g) community service programs provided, however, the number of hours a participant in community service activities authorized pursuant to this section shall be required to work in such assignment shall not exceed a number which equals the amount of assistance payable with respect to such individual (inclusive of the value of food stamps received by such individual, if any) divided by the higher of (a) the federal minimum wage, or (b) the state minimum wage. No participant shall in any case be required to engage in assigned activities for more than forty hours in any week. No participant shall be assigned to a community service activity that conflicts with his or her bona fide religious beliefs; AND PROVIDED FURTHER THAT PARTICIPANTS SHALL BE ALLOWED TO CHOOSE THE LOCATION IN WHICH THEY PERFORM COMMUNITY SERVICE;

(h) vocational educational training as time limited by federal law. For the purposes of this title, "vocational educational training" shall include but not be limited to organized educational programs offering a sequence of courses which are directly related to the preparation of individuals for current or emerging occupations requiring other than a baccalaureate or advanced degree. Such programs shall include competency-based applied learning which contributes to an individual's academic knowledge, higher-order reasoning, and problem-solving skills, work attitudes, general employability skills, and the occupational-specific skills necessary for economic independence. Such term also includes applied technology education;

(i) job skills training directly related to employment;

(j) education directly related to employment, in the case of a recipient who has not yet received a high school diploma or a certificate of high school equivalency;

(k) satisfactory attendance at secondary school or a course of study leading to a certificate of general equivalency in the case of a recipient who has not completed secondary school or received such certificate;

(l) provision of child care services to an individual who is participating in community service;

(m) job search and job readiness assistance once the individual has exceeded the six week limit set in federal law;

(n) educational activities pursuant to section three hundred thirty-six-a of this title.

S 2. Section 336-c of the social services law, as amended by section 148 of part B of chapter 436 of the laws of 1997, subdivision 4 as amended by chapter 534 of the laws of 2000, is amended to read as follows:

S 336-c. Work experience. [1. (a)] Work experience programs [meeting state and federal requirements may be established by social services districts.

(b) Work experience programs may include the performance of work for a federal office or agency, county, city, village or town or for the state or in the operation of or in an activity of a nonprofit agency or institution, in accordance with the regulations of the department.

2. A recipient may be assigned to participate in such work experience program only if:

(a) appropriate federal and state standards of health, safety and other work conditions are maintained;

(b) The number of hours a participant in work experience activities authorized pursuant to this section shall be required to work in such assignment shall not exceed a number which equals the amount of assistance payable with respect to such individual (inclusive of the value of food stamps received by such individual, if any) divided by the higher

of (a) the federal minimum wage provided that such hours shall be limited as set forth in subdivision four of section three hundred thirty-six of this title, or (b) the state minimum wage;

(c) such recipients are provided appropriate workers' compensation or equivalent protection for on-the-job injuries and tort claims protection on the same basis, but not necessarily at the same benefit level, as they are provided to other persons in the same or similar positions, while participating in work experience activities under this section;

(d) the project to which the participant is assigned serves a useful public purpose in fields such as health, social services, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, operation of public facilities, public safety, and child day care;

(e) such assignment would not result in (i) the displacement of any currently employed worker or loss of position (including partial displacement such as reduction in the hours of non-overtime work, wages or employment benefits) or result in the impairment of existing contracts for services or collective bargaining agreements; (ii) the employment or assignment of a participant or the filling of a position when any other person is on layoff from the same or any equivalent position or the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the effect of filling the vacancy so created with a participant assigned pursuant to this section; (iii) any infringement of the promotional opportunities of any current employed person; or (iv) the performance, by such participant, of a substantial portion of the work ordinarily and actually performed by regular employees; or (v) the loss of a bargaining unit position as a result of work experience participants performing, in part or in whole, the work normally performed by the employee in such position;

(f) such assignment is not at any work site at which the regular employees are on a legal strike against the employer or are being subjected to lock out by the employer.

3. The public employer shall publish on a monthly basis a report summarizing the employer's work experience program for the month. Such monthly report shall include, at a minimum, summary information regarding the agencies or departments where participants are assigned, work locations, job duties and assignments, hours worked and period worked and shall be provided to the certified collective bargaining representative and may not be disclosed to any other party. Such certified collective bargaining representative shall take reasonable steps to protect the confidentiality of such information and shall take reasonable steps to prevent disclosure of same to non-authorized persons. Every report provided pursuant to this section shall contain a warning against re-disclosure and asserting the confidentiality of the information therein provided.

4. In assigning a recipient who is a non-graduate student attending CUNY, SUNY or other approved non-profit education, training or vocational rehabilitation agency, the social services district must, after consultation with officials of CUNY, SUNY or other non-profit education, training or vocational rehabilitation agency, assign the student to a work site on campus, where the recipient is enrolled, and shall not unreasonably assign the student to hours that conflict with the student's academic schedule, if an approved work experience assignment is available. Where such work experience assignment is not available, the social services district shall, to the extent possible, assign the student to a work site within reasonable proximity to the campus where

the recipient is enrolled and shall not unreasonably assign the student to hours that conflict with the student's academic schedule. Provided, however, in order to qualify for a work experience assignment on-campus, or in close proximity to campus, a student must have a cumulative C average, or its equivalent. The district may waive the requirement that the student have a cumulative C average or its equivalent for undue hardship based on: (i) the death of a relative of the student; (ii) the personal injury or illness of the student; or (iii) other extenuating circumstances] ARE PROHIBITED IN THE STATE OF NEW YORK.

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