AN ACT to amend the executive law, in relation to prohibiting employers from discriminating against victims of domestic violence; and to repeal certain provisions of such law relating thereto.

THIS BILL IS APPROVED

The New York City Bar Association supports A.5618/S.1040. This bill amends the state’s Human Rights Law to add new employment protections to victims of domestic violence.

Currently, N.Y. Exec. L. § 296(1)(a) makes it an unlawful discriminatory practice for an employer or licensing agency to refuse to hire, employ or license, or to discharge from employment, a victim of domestic violence, or to discriminate against such an individual in the compensation, terms, conditions or privileges of employment. The proposed legislation would add a new section to the Human Rights Law that (1) prohibits prospective employers from inquiring about an applicant’s status as a victim of domestic violence and (2) requires that certain reasonable accommodations be provided to victims. The bill would also amend the Human Rights Law, N.Y. Exec. L. § 292, to cross-reference the definition of “victim of domestic violence” with the definition found at § 459-a of the Social Services Law.

This bill is critical to assisting victims of domestic violence in New York State to separate from violent situations in a safe manner jeopardizing their livelihood. Victims of domestic violence often lose jobs due to discrimination based on their status as victims of such violence. Employers fear that the victim’s presence in the workplace will attract further violence by the abuser and harm to third parties, such as co-workers. However, the economic security provided by a job is critical to allowing a victim of violence (and her children) to leave a dangerous situation in a safe manner.

Employment is crucial to victims’ ability to build secure and independent lives. However, domestic violence often intrudes on the workplace – a location where an abuser fears losing control of his victim and, often, the one place where an abuser can find a victim who is trying to escape. Abusers frequently interfere with their partners’ ability to work by harassing them in the workplace, limiting their access to transportation, and sabotaging childcare arrangements. Studies indicate that between 35 and 56% of employed battered women surveyed
were harassed at work by their abusive partners, and according to the General Accounting Office, between one-fourth and one-half of domestic violence victims reported losing a job due, at least in part, to domestic violence.¹ Support from one’s workplace once domestic violence is disclosed helps victims maintain employment.² Yet, employers may penalize or retaliate against employees who experience domestic violence or stalking.³

The Committees support the inclusion of the “reasonable accommodation” provision in the bill, as proposed in section 22(c). This would require employers to reasonably accommodate, absent undue burden, an employee who must be absent from work for a reasonable time for a specified list of reasons, including, access to medical or psychological care, obtaining services from a domestic violence shelter, obtaining legal services, or appearing in court. Where feasible, the employee must give reasonable advance notice of the absence to the employer. Where advance notice is not feasible, the employee must provide post-absence certification when requested by the employer. This is a well-balanced approach to the situations addressed by the bill. Currently, only victims living in New York City and Westchester County are entitled to reasonable accommodations.⁴ Enactment of this legislation would extend this protection to all citizens of New York State.

CONCLUSION

Based on the foregoing, the Committees urge the enactment of the bill.

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¹ See U.S. Gen. Acct. Office, Domestic Violence Prevalence and Implications For Employment Among Welfare Recipients, at 19 (Nov. 1998). Domestic and sexual violence also places significant costs on employers in terms of medical expenses, lost productivity, and increased turnover. The Centers for Disease Control and Prevention have estimated that domestic violence costs employers between $5.8 billion and $13 billion annually. Centers for Disease Control and Prevention, Costs of Intimate Partner Violence Against Women in the United States (2003). Victims of domestic violence lose 8 million days of paid work each year – the equivalent of over 32,000 full-time jobs. Id.


⁴ See N.Y.C. Admin. Code § 8-107.1 (prohibiting employment discrimination against and providing for reasonable accommodations to victims of domestic violence, sex offenses and stalking); Westchester County Code §§ 700.02, 700.03 (same). Illinois and Oregon have also passed laws prohibiting employment discrimination against victims of domestic or sexual violence, as well as providing them with reasonable accommodations, so they can perform their jobs while keeping safe. See 320 Ill. Comp. Stat. 180/1-180/45; Or. Rev. Stat. §§ 659A.290, 659A.885.