

2019-2020 Regular Sessions

S E N A T E - A S S E M B L Y

January 10, 2019

IN SENATE -- Introduced by Sens. HOYLMAN, ADDABBO, BAILEY, BENJAMIN, BIAGGI, BRESLIN, BROOKS, CARLUCCI, COMRIE, GAUGHRAN, GIANARIS, GOUNARDES, HARCKHAM, JACKSON, KAMINSKY, KAPLAN, KAVANAGH, KENNEDY, KRUEGER, LIU, MARTINEZ, MAY, MAYER, METZGER, MONTGOMERY, MYRIE, PARKER, PERSAUD, RAMOS, RIVERA, SALAZAR, SANDERS, SAVINO, SEPULVEDA, SERRANO, SKOUFIS, STAVISKY, STEWART-COUSINS, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

IN ASSEMBLY -- Introduced by M. of A. GOTTFRIED, GLICK, O'DONNELL, BRONSON, L. ROSENTHAL, HEASTIE, DINOWITZ, COOK, HEVESI, CAHILL, ENGLEBRIGHT, PAULIN, RYAN, ABINANTI, MOSLEY, ARROYO, PICHARDO, ORTIZ, ROZIC, WEPRIN, BLAKE, STECK, BICHOTTE, HUNTER, CARROLL, D'URSO, JEANPIERRE, DE LA ROSA, WALKER, DICKENS, JAFFEE, SIMON, BURKE, CRUZ, JACOBSON, REYES, FALL, ROMEO -- Multi-Sponsored by -- M. of A. AUBRY, BENEDETTO, BRAUNSTEIN, DenDEKKER, FAHY, GALEF, GUNTHER, HYNDMAN, LIFTON, LUPARDO, MAGNARELLI, OTIS, PEOPLES-STOKES, PERRY, PRETLOW, QUART, RAMOS, RIVERA, SEAWRIGHT, SIMOTAS, SOLAGES, THIELE -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, the civil rights law and the education law, in relation to prohibiting discrimination based on gender identity or expression; and to amend the penal law and the criminal procedure law, in relation to including offenses regarding gender identity or expression within the list of offenses subject to treatment as hate crimes

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

1 Section 1. Legislative findings and intent. The legislature reaffirms
2 that the state has the responsibility to act to assure that every indi-
3 vidual within this state is afforded an equal opportunity to enjoy a
4 full and productive life, and that the failure to provide such equal

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

1 opportunity, whether because of discrimination, prejudice, intolerance
2 or inadequate education, training, housing or health care not only
3 threatens the rights and proper privileges of its inhabitants, but
4 menaces the institutions and foundation of a free democratic state and
5 threatens the peace, order, health, safety and general welfare of the
6 state and its inhabitants.

7 The legislature further finds that many residents of this state have
8 encountered prejudice on account of their gender identity or expression,
9 and that this prejudice has severely limited or actually prevented
10 access to employment, housing and other basic necessities of life, lead-
11 ing to deprivation and suffering. The legislature further recognizes
12 that this prejudice has fostered a general climate of hostility and
13 distrust, leading in some instances to physical violence against those
14 perceived to live in a gender identity or expression which is different
15 from that traditionally associated with the sex assigned to that person
16 at birth.

17 In so doing, the legislature makes clear its action is not intended to
18 promote any particular attitude, course of conduct or way of life. Rath-
19 er its purpose is to ensure that individuals who live in our free socie-
20 ty have the capacity to make their own choices, follow their own beliefs
21 and conduct their own lives as they see fit, consistent with existing
22 law.

23 The legislature further finds that, as court decisions have properly
24 held, New York's sex discrimination laws prohibit discrimination based
25 on gender stereotypes or because an individual has transitioned or
26 intends to transition from one gender to another. This legislation is
27 intended to codify this principle and to ensure that the public under-
28 stands that discrimination on the basis of gender identity and
29 expression is prohibited.

30 § 2. Subdivisions 1 and 2 of section 291 of the executive law, as
31 amended by chapter 196 of the laws of 2010, are amended to read as
32 follows:

33 1. The opportunity to obtain employment without discrimination because
34 of age, race, creed, color, national origin, sexual orientation, GENDER
35 IDENTITY OR EXPRESSION, military status, sex, marital status, or disa-
36 bility, is hereby recognized as and declared to be a civil right.

37 2. The opportunity to obtain education, the use of places of public
38 accommodation and the ownership, use and occupancy of housing accommo-
39 dations and commercial space without discrimination because of age,
40 race, creed, color, national origin, sexual orientation, GENDER IDENTITY
41 OR EXPRESSION, military status, sex, marital status, or disability, as
42 specified in section two hundred ninety-six of this article, is hereby
43 recognized as and declared to be a civil right.

44 § 3. Section 292 of the executive law is amended by adding a new
45 subdivision 35 to read as follows:

46 35. THE TERM "GENDER IDENTITY OR EXPRESSION" MEANS A PERSON'S ACTUAL
47 OR PERCEIVED GENDER-RELATED IDENTITY, APPEARANCE, BEHAVIOR, EXPRESSION,
48 OR OTHER GENDER-RELATED CHARACTERISTIC REGARDLESS OF THE SEX ASSIGNED TO
49 THAT PERSON AT BIRTH, INCLUDING, BUT NOT LIMITED TO, THE STATUS OF BEING
50 TRANSGENDER.

51 § 4. Subdivisions 8 and 9 of section 295 of the executive law, as
52 amended by chapter 106 of the laws of 2003, are amended to read as
53 follows:

54 8. To create such advisory councils, local, regional or state-wide, as
55 in its judgment will aid in effectuating the purposes of this article
56 and of section eleven of article one of the constitution of this state,

1 and the division may empower them to study the problems of discrimi-
2 nation in all or specific fields of human relationships or in specific
3 instances of discrimination because of age, race, creed, color, national
4 origin, sexual orientation, GENDER IDENTITY OR EXPRESSION, military
5 status, sex, disability or marital status and make recommendations to
6 the division for the development of policies and procedures in general
7 and in specific instances. The advisory councils also shall disseminate
8 information about the division's activities to organizations and indi-
9 viduals in their localities. Such advisory councils shall be composed of
10 representative citizens, serving without pay, but with reimbursement for
11 actual and necessary traveling expenses; and the division may make
12 provision for technical and clerical assistance to such councils and for
13 the expenses of such assistance.

14 9. To develop human rights plans and policies for the state and assist
15 in their execution and to make investigations and studies appropriate to
16 effectuate this article and to issue such publications and such results
17 of investigations and research as in its judgement will tend to inform
18 persons of the rights assured and remedies provided under this article,
19 to promote good-will and minimize or eliminate discrimination because of
20 age, race, creed, color, national origin, sexual orientation, GENDER
21 IDENTITY OR EXPRESSION, military status, sex, disability or marital
22 status.

23 § 5. Paragraphs (a), (b), (c) and (d) of subdivision 1 of section 296
24 of the executive law, as amended by chapter 365 of the laws of 2015, are
25 amended to read as follows:

26 (a) For an employer or licensing agency, because of an individual's
27 age, race, creed, color, national origin, sexual orientation, GENDER
28 IDENTITY OR EXPRESSION, military status, sex, disability, predisposing
29 genetic characteristics, familial status, marital status, or domestic
30 violence victim status, to refuse to hire or employ or to bar or to
31 discharge from employment such individual or to discriminate against
32 such individual in compensation or in terms, conditions or privileges of
33 employment.

34 (b) For an employment agency to discriminate against any individual
35 because of age, race, creed, color, national origin, sexual orientation,
36 GENDER IDENTITY OR EXPRESSION, military status, sex, disability, predis-
37 posing genetic characteristics, familial status, or marital status, in
38 receiving, classifying, disposing or otherwise acting upon applications
39 for its services or in referring an applicant or applicants to an
40 employer or employers.

41 (c) For a labor organization, because of the age, race, creed, color,
42 national origin, sexual orientation, GENDER IDENTITY OR EXPRESSION,
43 military status, sex, disability, predisposing genetic characteristics,
44 familial status, or marital status of any individual, to exclude or to
45 expel from its membership such individual or to discriminate in any way
46 against any of its members or against any employer or any individual
47 employed by an employer.

48 (d) For any employer or employment agency to print or circulate or
49 cause to be printed or circulated any statement, advertisement or publi-
50 cation, or to use any form of application for employment or to make any
51 inquiry in connection with prospective employment, which expresses
52 directly or indirectly, any limitation, specification or discrimination
53 as to age, race, creed, color, national origin, sexual orientation,
54 GENDER IDENTITY OR EXPRESSION, military status, sex, disability, predis-
55 posing genetic characteristics, familial status, or marital status, or
56 any intent to make any such limitation, specification or discrimination,

1 unless based upon a bona fide occupational qualification; provided,
2 however, that neither this paragraph nor any provision of this chapter
3 or other law shall be construed to prohibit the department of civil
4 service or the department of personnel of any city containing more than
5 one county from requesting information from applicants for civil service
6 examinations concerning any of the aforementioned characteristics, other
7 than sexual orientation, for the purpose of conducting studies to iden-
8 tify and resolve possible problems in recruitment and testing of members
9 of minority groups to insure the fairest possible and equal opportu-
10 nities for employment in the civil service for all persons, regardless
11 of age, race, creed, color, national origin, sexual orientation OR
12 GENDER IDENTITY OR EXPRESSION, military status, sex, disability, predis-
13 posing genetic characteristics, familial status, or marital status.

14 § 6. Paragraphs (b), (c) and (d) of subdivision 1-a of section 296 of
15 the executive law, as amended by chapter 365 of the laws of 2015, are
16 amended to read as follows:

17 (b) To deny to or withhold from any person because of race, creed,
18 color, national origin, sexual orientation, GENDER IDENTITY OR
19 EXPRESSION, military status, sex, age, disability, familial status, or
20 marital status, the right to be admitted to or participate in a guidance
21 program, an apprenticeship training program, on-the-job training
22 program, executive training program, or other occupational training or
23 retraining program;

24 (c) To discriminate against any person in his or her pursuit of such
25 programs or to discriminate against such a person in the terms, condi-
26 tions or privileges of such programs because of race, creed, color,
27 national origin, sexual orientation, GENDER IDENTITY OR EXPRESSION,
28 military status, sex, age, disability, familial status or marital
29 status;

30 (d) To print or circulate or cause to be printed or circulated any
31 statement, advertisement or publication, or to use any form of applica-
32 tion for such programs or to make any inquiry in connection with such
33 program which expresses, directly or indirectly, any limitation, spec-
34 ification or discrimination as to race, creed, color, national origin,
35 sexual orientation, GENDER IDENTITY OR EXPRESSION, military status, sex,
36 age, disability, familial status or marital status, or any intention to
37 make any such limitation, specification or discrimination, unless based
38 on a bona fide occupational qualification.

39 § 7. Paragraph (a) of subdivision 2 of section 296 of the executive
40 law, as amended by chapter 106 of the laws of 2003, is amended to read
41 as follows:

42 (a) It shall be an unlawful discriminatory practice for any person,
43 being the owner, lessee, proprietor, manager, superintendent, agent or
44 employee of any place of public accommodation, resort or amusement,
45 because of the race, creed, color, national origin, sexual orientation,
46 GENDER IDENTITY OR EXPRESSION, military status, sex, [or] disability or
47 marital status of any person, directly or indirectly, to refuse, with-
48 hold from or deny to such person any of the accommodations, advantages,
49 facilities or privileges thereof, including the extension of credit, or,
50 directly or indirectly, to publish, circulate, issue, display, post or
51 mail any written or printed communication, notice or advertisement, to
52 the effect that any of the accommodations, advantages, facilities and
53 privileges of any such place shall be refused, withheld from or denied
54 to any person on account of race, creed, color, national origin, sexual
55 orientation, GENDER IDENTITY OR EXPRESSION, military status, sex, [or]
56 disability or marital status, or that the patronage or custom thereof of

1 any person of or purporting to be of any particular race, creed, color,
2 national origin, sexual orientation, GENDER IDENTITY OR EXPRESSION,
3 military status, sex or marital status, or having a disability is unwell-
4 come, objectionable or not acceptable, desired or solicited.

5 § 8. Paragraphs (a), (b), (c) and (c-1) of subdivision 2-a of section
6 296 of the executive law, paragraphs (a), (b) and (c) as amended and
7 paragraph (c-1) as added by chapter 106 of the laws of 2003, are amended
8 to read as follows:

9 (a) To refuse to sell, rent or lease or otherwise to deny to or with-
10 hold from any person or group of persons such housing accommodations
11 because of the race, creed, color, disability, national origin, sexual
12 orientation, GENDER IDENTITY OR EXPRESSION, military status, age, sex,
13 marital status, or familial status of such person or persons, or to
14 represent that any housing accommodation or land is not available for
15 inspection, sale, rental or lease when in fact it is so available.

16 (b) To discriminate against any person because of his or her race,
17 creed, color, disability, national origin, sexual orientation, GENDER
18 IDENTITY OR EXPRESSION, military status, age, sex, marital status, or
19 familial status in the terms, conditions or privileges of any publicly-
20 assisted housing accommodations or in the furnishing of facilities or
21 services in connection therewith.

22 (c) To cause to be made any written or oral inquiry or record concern-
23 ing the race, creed, color, disability, national origin, sexual orien-
24 tation, GENDER IDENTITY OR EXPRESSION, membership in the reserve armed
25 forces of the United States or in the organized militia of the state,
26 age, sex, marital status, or familial status of a person seeking to rent
27 or lease any publicly-assisted housing accommodation; provided, however,
28 that nothing in this subdivision shall prohibit a member of the reserve
29 armed forces of the United States or in the organized militia of the
30 state from voluntarily disclosing such membership.

31 (c-1) To print or circulate or cause to be printed or circulated any
32 statement, advertisement or publication, or to use any form of applica-
33 tion for the purchase, rental or lease of such housing accommodation or
34 to make any record or inquiry in connection with the prospective
35 purchase, rental or lease of such a housing accommodation which
36 expresses, directly or indirectly, any limitation, specification or
37 discrimination as to race, creed, color, national origin, sexual orien-
38 tation, GENDER IDENTITY OR EXPRESSION, military status, sex, age, disa-
39 bility, marital status, or familial status, or any intent to make any
40 such limitation, specification or discrimination.

41 § 9. Subdivision 3-b of section 296 of the executive law, as amended
42 by chapter 106 of the laws of 2003, is amended to read as follows:

43 3-b. It shall be an unlawful discriminatory practice for any real
44 estate broker, real estate salesperson or employee or agent thereof or
45 any other individual, corporation, partnership or organization for the
46 purpose of inducing a real estate transaction from which any such person
47 or any of its stockholders or members may benefit financially, to repre-
48 sent that a change has occurred or will or may occur in the composition
49 with respect to race, creed, color, national origin, sexual orientation,
50 GENDER IDENTITY OR EXPRESSION, military status, sex, disability, marital
51 status, or familial status of the owners or occupants in the block,
52 neighborhood or area in which the real property is located, and to
53 represent, directly or indirectly, that this change will or may result
54 in undesirable consequences in the block, neighborhood or area in which
55 the real property is located, including but not limited to the lowering

1 of property values, an increase in criminal or anti-social behavior, or
2 a decline in the quality of schools or other facilities.

3 § 10. Subdivision 4 of section 296 of the executive law, as amended by
4 chapter 106 of the laws of 2003, is amended to read as follows:

5 4. It shall be an unlawful discriminatory practice for an education
6 corporation or association which holds itself out to the public to be
7 non-sectarian and exempt from taxation pursuant to the provisions of
8 article four of the real property tax law to deny the use of its facili-
9 ties to any person otherwise qualified, or to permit the harassment of
10 any student or applicant, by reason of his race, color, religion, disa-
11 bility, national origin, sexual orientation, GENDER IDENTITY OR
12 EXPRESSION, military status, sex, age or marital status, except that any
13 such institution which establishes or maintains a policy of educating
14 persons of one sex exclusively may admit students of only one sex.

15 § 11. Subdivision 5 of section 296 of the executive law, as amended by
16 chapter 106 of the laws of 2003, is amended to read as follows:

17 5. (a) It shall be an unlawful discriminatory practice for the owner,
18 lessee, sub-lessee, assignee, or managing agent of, or other person
19 having the right to sell, rent or lease a housing accommodation,
20 constructed or to be constructed, or any agent or employee thereof:

21 (1) To refuse to sell, rent, lease or otherwise to deny to or withhold
22 from any person or group of persons such a housing accommodation because
23 of the race, creed, color, national origin, sexual orientation, GENDER
24 IDENTITY OR EXPRESSION, military status, sex, age, disability, marital
25 status, or familial status of such person or persons, or to represent
26 that any housing accommodation or land is not available for inspection,
27 sale, rental or lease when in fact it is so available.

28 (2) To discriminate against any person because of race, creed, color,
29 national origin, sexual orientation, GENDER IDENTITY OR EXPRESSION,
30 military status, sex, age, disability, marital status, or familial
31 status in the terms, conditions or privileges of the sale, rental or
32 lease of any such housing accommodation or in the furnishing of facili-
33 ties or services in connection therewith.

34 (3) To print or circulate or cause to be printed or circulated any
35 statement, advertisement or publication, or to use any form of applica-
36 tion for the purchase, rental or lease of such housing accommodation or
37 to make any record or inquiry in connection with the prospective
38 purchase, rental or lease of such a housing accommodation which
39 expresses, directly or indirectly, any limitation, specification or
40 discrimination as to race, creed, color, national origin, sexual orien-
41 tation, GENDER IDENTITY OR EXPRESSION, military status, sex, age, disa-
42 bility, marital status, or familial status, or any intent to make any
43 such limitation, specification or discrimination.

44 The provisions of this paragraph (a) shall not apply (1) to the rental
45 of a housing accommodation in a building which contains housing accommo-
46 dations for not more than two families living independently of each
47 other, if the owner resides in one of such housing accommodations, (2)
48 to the restriction of the rental of all rooms in a housing accommodation
49 to individuals of the same sex or (3) to the rental of a room or rooms
50 in a housing accommodation, if such rental is by the occupant of the
51 housing accommodation or by the owner of the housing accommodation and
52 the owner resides in such housing accommodation or (4) solely with
53 respect to age and familial status to the restriction of the sale,
54 rental or lease of housing accommodations exclusively to persons sixty-
55 two years of age or older and the spouse of any such person, or for
56 housing intended and operated for occupancy by at least one person

1 fifty-five years of age or older per unit. In determining whether hous-
2 ing is intended and operated for occupancy by persons fifty-five years
3 of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the
4 federal Fair Housing Act of 1988, as amended, shall apply.

5 (b) It shall be an unlawful discriminatory practice for the owner,
6 lessee, sub-lessee, or managing agent of, or other person having the
7 right of ownership or possession of or the right to sell, rent or lease,
8 land or commercial space:

9 (1) To refuse to sell, rent, lease or otherwise deny to or withhold
10 from any person or group of persons land or commercial space because of
11 the race, creed, color, national origin, sexual orientation, GENDER
12 IDENTITY OR EXPRESSION, military status, sex, age, disability, marital
13 status, or familial status of such person or persons, or to represent
14 that any housing accommodation or land is not available for inspection,
15 sale, rental or lease when in fact it is so available;

16 (2) To discriminate against any person because of race, creed, color,
17 national origin, sexual orientation, GENDER IDENTITY OR EXPRESSION,
18 military status, sex, age, disability, marital status, or familial
19 status in the terms, conditions or privileges of the sale, rental or
20 lease of any such land or commercial space; or in the furnishing of
21 facilities or services in connection therewith;

22 (3) To print or circulate or cause to be printed or circulated any
23 statement, advertisement or publication, or to use any form of applica-
24 tion for the purchase, rental or lease of such land or commercial space
25 or to make any record or inquiry in connection with the prospective
26 purchase, rental or lease of such land or commercial space which
27 expresses, directly or indirectly, any limitation, specification or
28 discrimination as to race, creed, color, national origin, sexual orien-
29 tation, GENDER IDENTITY OR EXPRESSION, military status, sex, age, disa-
30 bility, marital status, or familial status; or any intent to make any
31 such limitation, specification or discrimination.

32 (4) With respect to age and familial status, the provisions of this
33 paragraph shall not apply to the restriction of the sale, rental or
34 lease of land or commercial space exclusively to persons fifty-five
35 years of age or older and the spouse of any such person, or to the
36 restriction of the sale, rental or lease of land to be used for the
37 construction, or location of housing accommodations exclusively for
38 persons sixty-two years of age or older, or intended and operated for
39 occupancy by at least one person fifty-five years of age or older per
40 unit. In determining whether housing is intended and operated for occu-
41 pancy by persons fifty-five years of age or older, Sec. 807(b) (2) (c)
42 (42 U.S.C. 3607(b) (2) (c)) of the federal Fair Housing Act of 1988, as
43 amended, shall apply.

44 (c) It shall be an unlawful discriminatory practice for any real
45 estate broker, real estate salesperson or employee or agent thereof:

46 (1) To refuse to sell, rent or lease any housing accommodation, land
47 or commercial space to any person or group of persons or to refuse to
48 negotiate for the sale, rental or lease, of any housing accommodation,
49 land or commercial space to any person or group of persons because of
50 the race, creed, color, national origin, sexual orientation, GENDER
51 IDENTITY OR EXPRESSION, military status, sex, age, disability, marital
52 status, or familial status of such person or persons, or to represent
53 that any housing accommodation, land or commercial space is not avail-
54 able for inspection, sale, rental or lease when in fact it is so avail-
55 able, or otherwise to deny or withhold any housing accommodation, land
56 or commercial space or any facilities of any housing accommodation, land

1 or commercial space from any person or group of persons because of the
2 race, creed, color, national origin, sexual orientation, GENDER IDENTITY
3 OR EXPRESSION, military status, sex, age, disability, marital status, or
4 familial status of such person or persons.

5 (2) To print or circulate or cause to be printed or circulated any
6 statement, advertisement or publication, or to use any form of applica-
7 tion for the purchase, rental or lease of any housing accommodation,
8 land or commercial space or to make any record or inquiry in connection
9 with the prospective purchase, rental or lease of any housing accommo-
10 dation, land or commercial space which expresses, directly or indirect-
11 ly, any limitation, specification, or discrimination as to race, creed,
12 color, national origin, sexual orientation, GENDER IDENTITY OR
13 EXPRESSION, military status, sex, age, disability, marital status, or
14 familial status; or any intent to make any such limitation, specifica-
15 tion or discrimination.

16 (3) With respect to age and familial status, the provisions of this
17 paragraph shall not apply to the restriction of the sale, rental or
18 lease of any HOUSING ACCOMMODATION, land or commercial space exclusively
19 to persons fifty-five years of age or older and the spouse of any such
20 person, or to the restriction of the sale, rental or lease of any hous-
21 ing accommodation or land to be used for the construction or location of
22 housing accommodations for persons sixty-two years of age or older, or
23 intended and operated for occupancy by at least one person fifty-five
24 years of age or older per unit. In determining whether housing is
25 intended and operated for occupancy by persons fifty-five years of age
26 or older, Sec. 807 (b) (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the
27 federal Fair Housing Act of 1988, as amended, shall apply.

28 (d) It shall be an unlawful discriminatory practice for any real
29 estate board, because of the race, creed, color, national origin, sexual
30 orientation, GENDER IDENTITY OR EXPRESSION, military status, age, sex,
31 disability, marital status, or familial status of any individual who is
32 otherwise qualified for membership, to exclude or expel such individual
33 from membership, or to discriminate against such individual in the
34 terms, conditions and privileges of membership in such board.

35 (e) It shall be an unlawful discriminatory practice for the owner,
36 proprietor or managing agent of, or other person having the right to
37 provide care and services in, a private proprietary nursing home, conva-
38 lescent home, or home for adults, or an intermediate care facility, as
39 defined in section two of the social services law, heretofore
40 constructed, or to be constructed, or any agent or employee thereof, to
41 refuse to provide services and care in such home or facility to any
42 individual or to discriminate against any individual in the terms,
43 conditions, and privileges of such services and care solely because such
44 individual is a blind person. For purposes of this paragraph, a "blind
45 person" shall mean a person who is registered as a blind person with the
46 commission for the visually handicapped and who meets the definition of
47 a "blind person" pursuant to section three of chapter four hundred
48 fifteen of the laws of nineteen hundred thirteen entitled "An act to
49 establish a state commission for improving the condition of the blind of
50 the state of New York, and making an appropriation therefor".

51 (f) The provisions of this subdivision, as they relate to age, shall
52 not apply to persons under the age of eighteen years.

53 (g) It shall be an unlawful discriminatory practice for any person
54 offering or providing housing accommodations, land or commercial space
55 as described in paragraphs (a), (b), and (c) of this subdivision to make
56 or cause to be made any written or oral inquiry or record concerning

1 membership of any person in the state organized militia in relation to
2 the purchase, rental or lease of such housing accommodation, land, or
3 commercial space, provided, however, that nothing in this subdivision
4 shall prohibit a member of the state organized militia from voluntarily
5 disclosing such membership.

6 § 12. Paragraph (a) of subdivision 9 of section 296 of the executive
7 law, as amended by chapter 365 of the laws of 2015, is amended to read
8 as follows:

9 (a) It shall be an unlawful discriminatory practice for any fire
10 department or fire company therein, through any member or members there-
11 of, officers, board of fire commissioners or other body or office having
12 power of appointment of volunteer firefighters, directly or indirectly,
13 by ritualistic practice, constitutional or by-law prescription, by tacit
14 agreement among its members, or otherwise, to deny to any individual
15 membership in any volunteer fire department or fire company therein, or
16 to expel or discriminate against any volunteer member of a fire depart-
17 ment or fire company therein, because of the race, creed, color,
18 national origin, sexual orientation, GENDER IDENTITY OR EXPRESSION,
19 military status, sex, marital status, or familial status, of such indi-
20 vidual.

21 § 13. Subdivision 13 of section 296 of the executive law, as amended
22 by chapter 365 of the laws of 2015, is amended to read as follows:

23 13. It shall be an unlawful discriminatory practice (i) for any person
24 to boycott or blacklist, or to refuse to buy from, sell to or trade
25 with, or otherwise discriminate against any person, because of the race,
26 creed, color, national origin, sexual orientation, GENDER IDENTITY OR
27 EXPRESSION, military status, sex, disability, or familial status, of
28 such person, or of such person's partners, members, stockholders, direc-
29 tors, officers, managers, superintendents, agents, employees, business
30 associates, suppliers or customers, or (ii) for any person wilfully to
31 do any act or refrain from doing any act which enables any such person
32 to take such action. This subdivision shall not apply to:

33 (a) Boycotts connected with labor disputes; or

34 (b) Boycotts to protest unlawful discriminatory practices.

35 § 14. Subdivisions 1, 2 and 3 of section 296-a of the executive law,
36 as amended by chapter 106 of the laws of 2003, are amended to read as
37 follows:

38 1. It shall be an unlawful discriminatory practice for any creditor or
39 any officer, agent or employee thereof:

40 a. In the case of applications for credit with respect to the
41 purchase, acquisition, construction, rehabilitation, repair or mainte-
42 nance of any housing accommodation, land or commercial space to discrim-
43 inate against any such applicant because of the race, creed, color,
44 national origin, sexual orientation, GENDER IDENTITY OR EXPRESSION,
45 military status, age, sex, marital status, disability, or familial
46 status of such applicant or applicants or any member, stockholder,
47 director, officer or employee of such applicant or applicants, or of the
48 prospective occupants or tenants of such housing accommodation, land or
49 commercial space, in the granting, withholding, extending or renewing,
50 or in the fixing of the rates, terms or conditions of, any such credit;

51 b. To discriminate in the granting, withholding, extending or renew-
52 ing, or in the fixing of the rates, terms or conditions of, any form of
53 credit, on the basis of race, creed, color, national origin, sexual
54 orientation, GENDER IDENTITY OR EXPRESSION, military status, age, sex,
55 marital status, disability, or familial status;

1 c. To use any form of application for credit or use or make any record
2 or inquiry which expresses, directly or indirectly, any limitation,
3 specification, or discrimination as to race, creed, color, national
4 origin, sexual orientation, GENDER IDENTITY OR EXPRESSION, military
5 status, age, sex, marital status, disability, or familial status;

6 d. To make any inquiry of an applicant concerning his or her capacity
7 to reproduce, or his or her use or advocacy of any form of birth control
8 or family planning;

9 e. To refuse to consider sources of an applicant's income or to
10 subject an applicant's income to discounting, in whole or in part,
11 because of an applicant's race, creed, color, national origin, sexual
12 orientation, GENDER IDENTITY OR EXPRESSION, military status, age, sex,
13 marital status, childbearing potential, disability, or familial status;

14 f. To discriminate against a married person because such person
15 neither uses nor is known by the surname of his or her spouse.

16 This paragraph shall not apply to any situation where the use of a
17 surname would constitute or result in a criminal act.

18 2. Without limiting the generality of subdivision one of this section,
19 it shall be considered discriminatory if, because of an applicant's or
20 class of applicants' race, creed, color, national origin, sexual orien-
21 tation, GENDER IDENTITY OR EXPRESSION, military status, age, sex, mari-
22 tal status or disability, or familial status, (i) an applicant or class
23 of applicants is denied credit in circumstances where other applicants
24 of like overall credit worthiness are granted credit, or (ii) special
25 requirements or conditions, such as requiring co-obligors or reapplica-
26 tion upon marriage, are imposed upon an applicant or class of applicants
27 in circumstances where similar requirements or conditions are not
28 imposed upon other applicants of like overall credit worthiness.

29 3. It shall not be considered discriminatory if credit differen-
30 tiations or decisions are based upon factually supportable, objective
31 differences in applicants' overall credit worthiness, which may include
32 reference to such factors as current income, assets and prior credit
33 history of such applicants, as well as reference to any other relevant
34 factually supportable data; provided, however, that no creditor shall
35 consider, in evaluating the credit worthiness of an applicant, aggregate
36 statistics or assumptions relating to race, creed, color, national
37 origin, sexual orientation, GENDER IDENTITY OR EXPRESSION, military
38 status, sex, marital status or disability, or to the likelihood of any
39 group of persons bearing or rearing children, or for that reason receiv-
40 ing diminished or interrupted income in the future.

41 § 15. Paragraph (b) of subdivision 2 of section 296-b of the executive
42 law, as added by chapter 481 of the laws of 2010, is amended to read as
43 follows:

44 (b) Subject a domestic worker to unwelcome harassment based on gender,
45 race, religion, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION or
46 national origin, where such harassment has the purpose or effect of
47 unreasonably interfering with an individual's work performance by creat-
48 ing an intimidating, hostile, or offensive working environment.

49 § 16. Section 40-c of the civil rights law, as amended by chapter 2 of
50 the laws of 2002, is amended to read as follows:

51 § 40-c. Discrimination. 1. All persons within the jurisdiction of this
52 state shall be entitled to the equal protection of the laws of this
53 state or any subdivision thereof.

54 2. No person shall, because of race, creed, color, national origin,
55 sex, marital status, sexual orientation, GENDER IDENTITY OR EXPRESSION,
56 or disability, as such term is defined in section two hundred ninety-two

1 of the executive law, be subjected to any discrimination in his or her
2 civil rights, or to any harassment, as defined in section 240.25 of the
3 penal law, in the exercise thereof, by any other person or by any firm,
4 corporation or institution, or by the state or any agency or subdivision
5 of the state.

6 § 17. Paragraph (a) of subdivision 1 of section 313 of the education
7 law, as amended by chapter 2 of the laws of 2002, is amended to read as
8 follows:

9 (a) It is hereby declared to be the policy of the state that the Amer-
10 ican ideal of equality of opportunity requires that students, otherwise
11 qualified, be admitted to educational institutions and be given access
12 to all the educational programs and courses operated or provided by such
13 institutions without regard to race, color, sex, religion, creed, mari-
14 tal status, age, sexual orientation as defined in section two hundred
15 ninety-two of the executive law, GENDER IDENTITY OR EXPRESSION AS
16 DEFINED IN SECTION TWO HUNDRED NINETY-TWO OF THE EXECUTIVE LAW, or
17 national origin, except that, with regard to religious or denominational
18 educational institutions, students, otherwise qualified, shall have the
19 equal opportunity to attend therein without discrimination because of
20 race, color, sex, marital status, age, sexual orientation as defined in
21 section two hundred ninety-two of the executive law, GENDER IDENTITY OR
22 EXPRESSION AS DEFINED IN SECTION TWO HUNDRED NINETY-TWO OF THE EXECUTIVE
23 LAW, or national origin. It is a fundamental American right for members
24 of various religious faiths to establish and maintain educational insti-
25 tutions exclusively or primarily for students of their own religious
26 faith or to effectuate the religious principles in furtherance of which
27 they are maintained. Nothing herein contained shall impair or abridge
28 that right.

29 § 18. Subdivision 3 of section 313 of the education law, as amended by
30 chapter 2 of the laws of 2002, is amended to read as follows:

31 (3) Unfair educational practices. It shall be an unfair educational
32 practice for an educational institution after September fifteenth, nine-
33 teen hundred forty-eight:

34 (a) To exclude or limit or otherwise discriminate against any person
35 or persons seeking admission as students to such institution or to any
36 educational program or course operated or provided by such institution
37 because of race, religion, creed, sex, color, marital status, age, sexu-
38 al orientation as defined in section two hundred ninety-two of the exec-
39 utive law, GENDER IDENTITY OR EXPRESSION AS DEFINED IN SECTION TWO
40 HUNDRED NINETY-TWO OF THE EXECUTIVE LAW, or national origin; except that
41 nothing in this section shall be deemed to affect, in any way, the right
42 of a religious or denominational educational institution to select its
43 students exclusively or primarily from members of such religion or
44 denomination or from giving preference in such selection to such members
45 or to make such selection of its students as is calculated by such
46 institution to promote the religious principles for which it is estab-
47 lished or maintained. Nothing herein contained shall impair or abridge
48 the right of an independent institution, which establishes or maintains
49 a policy of educating persons of one sex exclusively, to admit students
50 of only one sex.

51 (b) To penalize any individual because he or she has initiated, testi-
52 fied, participated or assisted in any proceedings under this section.

53 (c) To accept any endowment or gift of money or property conditioned
54 upon teaching the doctrine of supremacy of any particular race.

55 (d) With respect to any individual who withdraws from attendance to
56 serve on active duty in the armed forces of the United States in time of

1 war, including any individual who withdrew from attendance on or after
2 August second, nineteen hundred ninety to serve on active duty in the
3 armed forces of the United States in the Persian Gulf conflict: (i) to
4 deny or limit the readmission of such individual to such institution or
5 to any educational program or course operated or provided by such insti-
6 tution because of such withdrawal from attendance or because of the
7 failure to complete any educational program or course due to such with-
8 drawal; (ii) to impose any academic penalty on such person because of
9 such withdrawal or because of the failure to complete any educational
10 program or course due to such withdrawal; (iii) to reduce or eliminate
11 any financial aid award granted to such individual which could not be
12 used, in whole or part, because of such withdrawal or because of the
13 failure to complete any educational program or course due to such with-
14 drawal; or (iv) to fail to provide a credit or refund of tuition and
15 fees paid by such individual for any semester, term or quarter not
16 completed because of such withdrawal or because of the failure to
17 complete any program or course due to such withdrawal.

18 (e) It shall not be an unfair educational practice for any educational
19 institution to use criteria other than race, religion, creed, sex,
20 color, marital status, age, sexual orientation as defined in section two
21 hundred ninety-two of the executive law, GENDER IDENTITY OR EXPRESSION
22 AS DEFINED IN SECTION TWO HUNDRED NINETY-TWO OF THE EXECUTIVE LAW, or
23 national origin in the admission of students to such institution or to
24 any of the educational programs and courses operated or provided by such
25 institution.

26 § 19. Section 485.00 of the penal law, as added by chapter 107 of the
27 laws of 2000, is amended to read as follows:

28 § 485.00 Legislative findings.

29 The legislature finds and determines as follows: criminal acts involv-
30 ing violence, intimidation and destruction of property based upon bias
31 and prejudice have become more prevalent in New York state in recent
32 years. The intolerable truth is that in these crimes, commonly and
33 justly referred to as "hate crimes", victims are intentionally selected,
34 in whole or in part, because of their race, color, national origin,
35 ancestry, gender, GENDER IDENTITY OR EXPRESSION, religion, religious
36 practice, age, disability or sexual orientation. Hate crimes do more
37 than threaten the safety and welfare of all citizens. They inflict on
38 victims incalculable physical and emotional damage and tear at the very
39 fabric of free society. Crimes motivated by invidious hatred toward
40 particular groups not only harm individual victims but send a powerful
41 message of intolerance and discrimination to all members of the group to
42 which the victim belongs. Hate crimes can and do intimidate and disrupt
43 entire communities and vitiate the civility that is essential to healthy
44 democratic processes. In a democratic society, citizens cannot be
45 required to approve of the beliefs and practices of others, but must
46 never commit criminal acts on account of them. Current law does not
47 adequately recognize the harm to public order and individual safety that
48 hate crimes cause. Therefore, our laws must be strengthened to provide
49 clear recognition of the gravity of hate crimes and the compelling
50 importance of preventing their recurrence.

51 Accordingly, the legislature finds and declares that hate crimes
52 should be prosecuted and punished with appropriate severity.

53 § 20. Subdivisions 1, 2 and 4 of section 485.05 of the penal law, as
54 added by chapter 107 of the laws of 2000, are amended to read as
55 follows:

1 1. A person commits a hate crime when he or she commits a specified
2 offense and either:

3 (a) intentionally selects the person against whom the offense is
4 committed or intended to be committed in whole or in substantial part
5 because of a belief or perception regarding the race, color, national
6 origin, ancestry, gender, GENDER IDENTITY OR EXPRESSION, religion, reli-
7 gious practice, age, disability or sexual orientation of a person,
8 regardless of whether the belief or perception is correct, or

9 (b) intentionally commits the act or acts constituting the offense in
10 whole or in substantial part because of a belief or perception regarding
11 the race, color, national origin, ancestry, gender, GENDER IDENTITY OR
12 EXPRESSION, religion, religious practice, age, disability or sexual
13 orientation of a person, regardless of whether the belief or perception
14 is correct.

15 2. Proof of race, color, national origin, ancestry, gender, GENDER
16 IDENTITY OR EXPRESSION, religion, religious practice, age, disability or
17 sexual orientation of the defendant, the victim or of both the defendant
18 and the victim does not, by itself, constitute legally sufficient
19 evidence satisfying the people's burden under paragraph (a) or (b) of
20 subdivision one of this section.

21 4. For purposes of this section:

22 (a) the term "age" means sixty years old or more;

23 (b) the term "disability" means a physical or mental impairment that
24 substantially limits a major life activity[.];

25 (c) THE TERM "GENDER IDENTITY OR EXPRESSION" MEANS A PERSON'S ACTUAL
26 OR PERCEIVED GENDER-RELATED IDENTITY, APPEARANCE, BEHAVIOR, EXPRESSION,
27 OR OTHER GENDER-RELATED CHARACTERISTIC REGARDLESS OF THE SEX ASSIGNED TO
28 THAT PERSON AT BIRTH, INCLUDING, BUT NOT LIMITED TO, THE STATUS OF BEING
29 TRANSGENDER.

30 § 21. Subdivision 3 of section 240.30 of the penal law, as amended by
31 chapter 188 of the laws of 2014, is amended to read as follows:

32 3. With the intent to harass, annoy, threaten or alarm another person,
33 he or she strikes, shoves, kicks, or otherwise subjects another person
34 to physical contact, or attempts or threatens to do the same because of
35 a belief or perception regarding such person's race, color, national
36 origin, ancestry, gender, GENDER IDENTITY OR EXPRESSION, religion, reli-
37 gious practice, age, disability or sexual orientation, regardless of
38 whether the belief or perception is correct; or

39 § 22. The opening paragraph of section 240.31 of the penal law, as
40 amended by chapter 49 of the laws of 2006, is amended to read as
41 follows:

42 A person is guilty of aggravated harassment in the first degree when
43 with intent to harass, annoy, threaten or alarm another person, because
44 of a belief or perception regarding such person's race, color, national
45 origin, ancestry, gender, GENDER IDENTITY OR EXPRESSION, religion, reli-
46 gious practice, age, disability or sexual orientation, regardless of
47 whether the belief or perception is correct, he or she:

48 § 23. Section 240.00 of the penal law is amended by adding a new
49 subdivision 7 to read as follows:

50 7. "GENDER IDENTITY OR EXPRESSION" MEANS A PERSON'S ACTUAL OR
51 PERCEIVED GENDER-RELATED IDENTITY, APPEARANCE, BEHAVIOR, EXPRESSION, OR
52 OTHER GENDER-RELATED CHARACTERISTIC REGARDLESS OF THE SEX ASSIGNED TO
53 THAT PERSON AT BIRTH, INCLUDING, BUT NOT LIMITED TO, THE STATUS OF BEING
54 TRANSGENDER.

1 § 24. Paragraph (c) of subdivision 7 of section 200.50 of the criminal
2 procedure law, as amended by chapter 7 of the laws of 2007, is amended
3 to read as follows:

4 (c) in the case of any hate crime, as defined in section 485.05 of the
5 penal law, specifies, as applicable, that the defendant or defendants
6 intentionally selected the person against whom the offense was committed
7 or intended to be committed; or intentionally committed the act or acts
8 constituting the offense, in whole or in substantial part because of a
9 belief or perception regarding the race, color, national origin, ances-
10 try, gender, GENDER IDENTITY OR EXPRESSION, religion, religious prac-
11 tice, age, disability or sexual orientation of a person; and

12 § 25. This act shall take effect on the thirtieth day after it shall
13 have become a law; provided, however, that sections nineteen through
14 twenty-four of this act shall take effect on the first of November next
15 succeeding the date on which it shall have become a law.