

STATE OF NEW YORK

10246

IN ASSEMBLY

March 26, 2018

Introduced by M. of A. DINOWITZ -- 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 genetic information

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

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

1. The opportunity to obtain employment without discrimination because of age, race, creed, color, national origin, sexual orientation, genetic information, military status, sex, marital status, or disability, is hereby recognized as and declared to be a civil right.

2. The opportunity to obtain education, the use of places of public accommodation and the ownership, use and occupancy of housing accommodations and commercial space without discrimination because of age, race, creed, color, national origin, sexual orientation, genetic information, military status, sex, marital status, or disability, as specified in section two hundred ninety-six of this article, is hereby recognized as and declared to be a civil right.

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

35. (a) The term "genetic information" means, with respect to any individual, information about any of the following:

(1) the individual's genetic tests;

(2) the genetic tests of family members of the individual; and

(3) the manifestation of a disease or disorder in family members of the individual.

(b) The term "genetic information" includes any request for, or receipt of, genetic services, or participation in clinical research that includes genetic services, by an individual or any family member of the individual.

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

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1 (c) The term "genetic information" shall not include information about
2 the sex or age of any individual.

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

6 8. To create such advisory councils, local, regional or state-wide, as
7 in its judgment will aid in effectuating the purposes of this article
8 and of section eleven of article one of the constitution of this state,
9 and the division may empower them to study the problems of discrimi-
10 nation in all or specific fields of human relationships or in specific
11 instances of discrimination because of age, race, creed, color, national
12 origin, sexual orientation, genetic information, military status, sex,
13 disability or marital status and make recommendations to the division
14 for the development of policies and procedures in general and in specif-
15 ic instances. The advisory councils also shall disseminate information
16 about the division's activities to organizations and individuals in
17 their localities. Such advisory councils shall be composed of represen-
18 tative citizens, serving without pay, but with reimbursement for actual
19 and necessary traveling expenses; and the division may make provision
20 for technical and clerical assistance to such councils and for the
21 expenses of such assistance.

22 9. To develop human rights plans and policies for the state and assist
23 in their execution and to make investigations and studies appropriate to
24 effectuate this article and to issue such publications and such results
25 of investigations and research as in its judgement will tend to inform
26 persons of the rights assured and remedies provided under this article,
27 to promote good-will and minimize or eliminate discrimination because of
28 age, race, creed, color, national origin, sexual orientation, genetic
29 information, military status, sex, disability or marital status.

30 § 4. Paragraphs (a), (b), (c) and (d) of subdivision 1 of section 296
31 of the executive law, as amended by chapter 365 of the laws of 2015, are
32 amended to read as follows:

33 (a) For an employer or licensing agency, because of an individual's
34 age, race, creed, color, national origin, sexual orientation, genetic
35 information, military status, sex, disability, predisposing genetic
36 characteristics, familial status, marital status, or domestic violence
37 victim status, to refuse to hire or employ or to bar or to discharge
38 from employment such individual or to discriminate against such individ-
39 ual in compensation or in terms, conditions or privileges of employment.

40 (b) For an employment agency to discriminate against any individual
41 because of age, race, creed, color, national origin, sexual orientation,
42 genetic information, military status, sex, disability, predisposing
43 genetic characteristics, familial status, or marital status, in receiv-
44 ing, classifying, disposing or otherwise acting upon applications for
45 its services or in referring an applicant or applicants to an employer
46 or employers.

47 (c) For a labor organization, because of the age, race, creed, color,
48 national origin, sexual orientation, genetic information, military
49 status, sex, disability, predisposing genetic characteristics, familial
50 status, or marital status of any individual, to exclude or to expel from
51 its membership such individual or to discriminate in any way against any
52 of its members or against any employer or any individual employed by an
53 employer.

54 (d) For any employer or employment agency to print or circulate or
55 cause to be printed or circulated any statement, advertisement or publi-
56 cation, or to use any form of application for employment or to make any

1 inquiry in connection with prospective employment, which expresses
2 directly or indirectly, any limitation, specification or discrimination
3 as to age, race, creed, color, national origin, sexual orientation,
4 genetic information, military status, sex, disability, predisposing
5 genetic characteristics, familial status, or marital status, or any
6 intent to make any such limitation, specification or discrimination,
7 unless based upon a bona fide occupational qualification; provided,
8 however, that neither this paragraph nor any provision of this chapter
9 or other law shall be construed to prohibit the department of civil
10 service or the department of personnel of any city containing more than
11 one county from requesting information from applicants for civil service
12 examinations concerning any of the aforementioned characteristics, other
13 than sexual orientation, for the purpose of conducting studies to iden-
14 tify and resolve possible problems in recruitment and testing of members
15 of minority groups to insure the fairest possible and equal opportu-
16 nities for employment in the civil service for all persons, regardless
17 of age, race, creed, color, national origin, sexual orientation, genetic
18 information, military status, sex, disability, predisposing genetic
19 characteristics, familial status, or marital status.

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

23 (b) To deny to or withhold from any person because of race, creed,
24 color, national origin, sexual orientation, genetic information, mili-
25 tary status, sex, age, disability, familial status, or marital status,
26 the right to be admitted to or participate in a guidance program, an
27 apprenticeship training program, on-the-job training program, executive
28 training program, or other occupational training or retraining program;

29 (c) To discriminate against any person in his or her pursuit of such
30 programs or to discriminate against such a person in the terms, condi-
31 tions or privileges of such programs because of race, creed, color,
32 national origin, sexual orientation, genetic information, military
33 status, sex, age, disability, familial status or marital status;

34 (d) 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 such programs or to make any inquiry in connection with such
37 program which expresses, directly or indirectly, any limitation, spec-
38 ification or discrimination as to race, creed, color, national origin,
39 sexual orientation, genetic information, military status, sex, age,
40 disability, familial status or marital status, or any intention to make
41 any such limitation, specification or discrimination, unless based on a
42 bona fide occupational qualification.

43 § 6. Paragraph (a) of subdivision 2 of section 296 of the executive
44 law, as amended by chapter 106 of the laws of 2003, is amended to read
45 as follows:

46 (a) It shall be an unlawful discriminatory practice for any person,
47 being the owner, lessee, proprietor, manager, superintendent, agent or
48 employee of any place of public accommodation, resort or amusement,
49 because of the race, creed, color, national origin, sexual orientation,
50 genetic information, military status, sex, [✗] disability or marital
51 status of any person, directly or indirectly, to refuse, withhold from
52 or deny to such person any of the accommodations, advantages, facilities
53 or privileges thereof, including the extension of credit, or, directly
54 or indirectly, to publish, circulate, issue, display, post or mail any
55 written or printed communication, notice or advertisement, to the effect
56 that any of the accommodations, advantages, facilities and privileges of

1 any such place shall be refused, withheld from or denied to any person
2 on account of race, creed, color, national origin, sexual orientation,
3 genetic information, military status, sex, [~~or~~] disability or marital
4 status, or that the patronage or custom thereof of any person of or
5 purporting to be of any particular race, creed, color, national origin,
6 sexual orientation, genetic information, military status, sex or marital
7 status, or having a disability is unwelcome, objectionable or not
8 acceptable, desired or solicited.

9 § 7. Paragraphs (a), (b), (c) and (c-1) of subdivision 2-a of section
10 296 of the executive law, paragraphs (a), (b) and (c) as amended and
11 paragraph (c-1) as added by chapter 106 of the laws of 2003, are amended
12 to read as follows:

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

20 (b) To discriminate against any person because of his or her race,
21 creed, color, disability, national origin, sexual orientation, genetic
22 information, military status, age, sex, marital status, or familial
23 status in the terms, conditions or privileges of any publicly-assisted
24 housing accommodations or in the furnishing of facilities or services in
25 connection therewith.

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

35 (c-1) To print or circulate or cause to be printed or circulated any
36 statement, advertisement or publication, or to use any form of applica-
37 tion for the purchase, rental or lease of such housing accommodation or
38 to make any record or inquiry in connection with the prospective
39 purchase, rental or lease of such a housing accommodation which
40 expresses, directly or indirectly, any limitation, specification or
41 discrimination as to race, creed, color, national origin, sexual orien-
42 tation, genetic information, military status, sex, age, disability,
43 marital status, or familial status, or any intent to make any such limi-
44 tation, specification or discrimination.

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

47 3-b. It shall be an unlawful discriminatory practice for any real
48 estate broker, real estate salesperson or employee or agent thereof or
49 any other individual, corporation, partnership or organization for the
50 purpose of inducing a real estate transaction from which any such person
51 or any of its stockholders or members may benefit financially, to repre-
52 sent that a change has occurred or will or may occur in the composition
53 with respect to race, creed, color, national origin, sexual orientation,
54 genetic information, military status, sex, disability, marital status,
55 or familial status of the owners or occupants in the block, neighborhood
56 or area in which the real property is located, and to represent, direct-

ly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including but not limited to the lowering of property values, an increase in criminal or anti-social behavior, or a decline in the quality of schools or other facilities.

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

4. It shall be an unlawful discriminatory practice for an education corporation or association which holds itself out to the public to be non-sectarian and exempt from taxation pursuant to the provisions of article four of the real property tax law to deny the use of its facilities to any person otherwise qualified, or to permit the harassment of any student or applicant, by reason of his race, color, religion, disability, national origin, sexual orientation, genetic information, military status, sex, age or marital status, except that any such institution which establishes or maintains a policy of educating persons of one sex exclusively may admit students of only one sex.

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

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

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

(2) To discriminate against any person because of race, creed, color, national origin, sexual orientation, genetic information, military status, sex, age, disability, marital status, or familial status in the terms, conditions or privileges of the sale, rental or lease of any such housing accommodation or in the furnishing of facilities or services in connection therewith.

(3) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of such housing accommodation or to make any record or inquiry in connection with the prospective purchase, rental or lease of such a housing accommodation which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, sexual orientation, genetic information, military status, sex, age, disability, marital status, or familial status, or any intent to make any such limitation, specification or discrimination.

The provisions of this paragraph ~~(a)~~ shall not apply (1) to the rental of a housing accommodation in a building which contains housing accommodations for not more than two families living independently of each other, if the owner resides in one of such housing accommodations, (2) to the restriction of the rental of all rooms in a housing accommodation to individuals of the same sex or (3) to the rental of a room or rooms in a housing accommodation, if such rental is by the occupant of the housing accommodation or by the owner of the housing accommodation and the owner resides in such housing accommodation or (4) solely with respect to age and familial status to the restriction of the sale,

1 rental or lease of housing accommodations exclusively to persons sixty-
2 two years of age or older and the spouse of any such person, or for
3 housing intended and operated for occupancy by at least one person
4 fifty-five years of age or older per unit. In determining whether hous-
5 ing is intended and operated for occupancy by persons fifty-five years
6 of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the
7 federal Fair Housing Act of 1988, as amended, shall apply.

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

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

19 (2) To discriminate against any person because of race, creed, color,
20 national origin, sexual orientation, genetic information, military
21 status, sex, age, disability, marital status, or familial status in the
22 terms, conditions or privileges of the sale, rental or lease of any such
23 land or commercial space; or in the furnishing of facilities or services
24 in connection therewith;

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

35 (4) With respect to age and familial status, the provisions of this
36 paragraph shall not apply to the restriction of the sale, rental or
37 lease of land or commercial space exclusively to persons fifty-five
38 years of age or older and the spouse of any such person, or to the
39 restriction of the sale, rental or lease of land to be used for the
40 construction, or location of housing accommodations exclusively for
41 persons sixty-two years of age or older, or intended and operated for
42 occupancy by at least one person fifty-five years of age or older per
43 unit. In determining whether housing is intended and operated for occu-
44 pancy by persons fifty-five years of age or older, Sec. 807(b) (2) (c)
45 (42 U.S.C. 3607(b) (2) (c)) of the federal Fair Housing Act of 1988, as
46 amended, shall apply.

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

49 (1) To refuse to sell, rent or lease any housing accommodation, land
50 or commercial space to any person or group of persons or to refuse to
51 negotiate for the sale, rental or lease, of any housing accommodation,
52 land or commercial space to any person or group of persons because of
53 the race, creed, color, national origin, sexual orientation, genetic
54 information, military status, sex, age, disability, marital status, or
55 familial status of such person or persons, or to represent that any
56 housing accommodation, land or commercial space is not available for

1 inspection, sale, rental or lease when in fact it is so available, or
2 otherwise to deny or withhold any housing accommodation, land or commer-
3 cial space or any facilities of any housing accommodation, land or
4 commercial space from any person or group of persons because of the
5 race, creed, color, national origin, sexual orientation, genetic infor-
6 mation, military status, sex, age, disability, marital status, or fami-
7 lial status of such person or persons.

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

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

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

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

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

(g) It shall be an unlawful discriminatory practice for any person offering or providing housing accommodations, land or commercial space as described in paragraphs (a), (b), and (c) of this subdivision to make or cause to be made any written or oral inquiry or record concerning membership of any person in the state organized militia in relation to the purchase, rental or lease of such housing accommodation, land, or commercial space, provided, however, that nothing in this subdivision shall prohibit a member of the state organized militia from voluntarily disclosing such membership.

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

(a) It shall be an unlawful discriminatory practice for any fire department or fire company therein, through any member or members thereof, officers, board of fire commissioners or other body or office having power of appointment of volunteer firefighters, directly or indirectly, by ritualistic practice, constitutional or by-law prescription, by tacit agreement among its members, or otherwise, to deny to any individual membership in any volunteer fire department or fire company therein, or to expel or discriminate against any volunteer member of a fire department or fire company therein, because of the race, creed, color, national origin, sexual orientation, genetic information, military status, sex, marital status, or familial status, of such individual.

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

13. It shall be an unlawful discriminatory practice (i) for any person to boycott or blacklist, or to refuse to buy from, sell to or trade with, or otherwise discriminate against any person, because of the race, creed, color, national origin, sexual orientation, genetic information, military status, sex, disability, or familial status, of such person, or of such person's partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers or customers, or (ii) for any person wilfully to do any act or refrain from doing any act which enables any such person to take such action. This subdivision shall not apply to:

(a) Boycotts connected with labor disputes; or

(b) Boycotts to protest unlawful discriminatory practices.

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

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

a. In the case of applications for credit with respect to the purchase, acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, land or commercial space to discriminate against any such applicant because of the race, creed, color, national origin, sexual orientation, genetic information, military status, age, sex, marital status, disability, or familial status of such applicant or applicants or any member, stockholder, director, officer or employee of such applicant or applicants, or of the prospective occupants or tenants of such housing accommodation, land or commercial space, in the granting, withholding, extending or renewing, or in the fixing of the rates, terms or conditions of, any such credit;

b. To discriminate in the granting, withholding, extending or renewing, or in the fixing of the rates, terms or conditions of, any form of credit, on the basis of race, creed, color, national origin, sexual

1 orientation, genetic information, military status, age, sex, marital
2 status, disability, or familial status;

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

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

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

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

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

20 2. Without limiting the generality of subdivision one of this section,
21 it shall be considered discriminatory if, because of an applicant's or
22 class of applicants' race, creed, color, national origin, sexual orien-
23 tation, genetic information, military status, age, sex, marital status
24 or disability, or familial status, (i) an applicant or class of appli-
25 cants is denied credit in circumstances where other applicants of like
26 overall credit worthiness are granted credit, or (ii) special require-
27 ments or conditions, such as requiring co-obligors or reapplication upon
28 marriage, are imposed upon an applicant or class of applicants in
29 circumstances where similar requirements or conditions are not imposed
30 upon other applicants of like overall credit worthiness.

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

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

46 (b) Subject a domestic worker to unwelcome harassment based on gender,
47 race, religion, sexual orientation, genetic information or national
48 origin, where such harassment has the purpose or effect of unreasonably
49 interfering with an individual's work performance by creating an intim-
50 idating, hostile, or offensive working environment.

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

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

2. No person shall, because of race, creed, color, national origin, sex, marital status, sexual orientation, genetic information, or disability, as such term is defined in section two hundred ninety-two of the executive law, be subjected to any discrimination in his or her civil rights, or to any harassment, as defined in section 240.25 of the penal law, in the exercise thereof, by any other person or by any firm, corporation or institution, or by the state or any agency or subdivision of the state.

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

(a) It is hereby declared to be the policy of the state that the American ideal of equality of opportunity requires that students, otherwise qualified, be admitted to educational institutions and be given access to all the educational programs and courses operated or provided by such institutions without regard to race, color, sex, religion, creed, marital status, age, sexual orientation as defined in section two hundred ninety-two of the executive law, genetic information as defined in section two hundred ninety-two of the executive law, or national origin, except that, with regard to religious or denominational educational institutions, students, otherwise qualified, shall have the equal opportunity to attend therein without discrimination because of race, color, sex, marital status, age, sexual orientation as defined in section two hundred ninety-two of the executive law, genetic information as defined in section two hundred ninety-two of the executive law, or national origin. It is a fundamental American right for members of various religious faiths to establish and maintain educational institutions exclusively or primarily for students of their own religious faith or to effectuate the religious principles in furtherance of which they are maintained. Nothing herein contained shall impair or abridge that right.

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

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

(a) To exclude or limit or otherwise discriminate against any person or persons seeking admission as students to such institution or to any educational program or course operated or provided by such institution because of race, religion, creed, sex, color, marital status, age, sexual orientation as defined in section two hundred ninety-two of the executive law, genetic information as defined in section two hundred ninety-two of the executive law, or national origin; except that nothing in this section shall be deemed to affect, in any way, the right of a religious or denominational educational institution to select its students exclusively or primarily from members of such religion or denomination or from giving preference in such selection to such members or to make such selection of its students as is calculated by such institution to promote the religious principles for which it is established or maintained. Nothing herein contained shall impair or abridge the right of an independent institution, which establishes or maintains a policy of educating persons of one sex exclusively, to admit students of only one sex.

(b) To penalize any individual because he or she has initiated, testified, participated or assisted in any proceedings under this section.

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

(d) With respect to any individual who withdraws from attendance to serve on active duty in the armed forces of the United States in time of war, including any individual who withdrew from attendance on or after August second, nineteen hundred ninety to serve on active duty in the armed forces of the United States in the Persian Gulf conflict: (i) to deny or limit the readmission of such individual to such institution or to any educational program or course operated or provided by such institution because of such withdrawal from attendance or because of the failure to complete any educational program or course due to such withdrawal; (ii) to impose any academic penalty on such person because of such withdrawal or because of the failure to complete any educational program or course due to such withdrawal; (iii) to reduce or eliminate any financial aid award granted to such individual which could not be used, in whole or part, because of such withdrawal or because of the failure to complete any educational program or course due to such withdrawal; or (iv) to fail to provide a credit or refund of tuition and fees paid by such individual for any semester, term or quarter not completed because of such withdrawal or because of the failure to complete any program or course due to such withdrawal.

(e) It shall not be an unfair educational practice for any educational institution to use criteria other than race, religion, creed, sex, color, marital status, age, sexual orientation as defined in section two hundred ninety-two of the executive law, genetic information as defined section two hundred ninety-two of the executive law, or national origin in the admission of students to such institution or to any of the educational programs and courses operated or provided by such institution.

§ 18. This act shall take effect on the thirtieth day after it shall have become a law.