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

529

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. DESTITO, COLTON, DINOWITZ, ROBINSON, CYMBROWITZ, WRIGHT, DelMONTE, LANCMAN, WEINSTEIN -- Multi-Sponsored by -- M. of A. ABBATE, ALFANO, BARRA, BOYLAND, CAHILL, CANESTRARI, COOK, FARRELL, GALEF, GLICK, GOTTFRIED, HEASTIE, JACOBS, JAFFEE, JOHN, V. LOPEZ, MAYERSOHN, PHEFFER, P. RIVERA, SWEENEY, TOWNS -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the civil rights law, in relation to providing a civil remedy for victims of bias-related violence or intimidations

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

Section 1. The civil rights law is amended by adding a new section 79-n to read as follows:

S 79-N. BIAS-RELATED VIOLENCE OR INTIMIDATION; CIVIL REMEDY. 1. THE FOLLOWING DEFINITIONS ARE APPLICABLE TO THIS SECTION:

(A) THE TERM "DISABILITY" MEANS A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY LIMITS A MAJOR LIFE ACTIVITY.

(B) THE TERM "AGE" MEANS SIXTY YEARS OF AGE OR MORE.

(C) THE TERM "SEXUAL ORIENTATION" MEANS A PERSON'S ACTUAL OR PERCEIVED HOMOSEXUALITY, HETEROSEXUALITY, OR BISEXUALITY.

(D) THE TERM "GENDER" MEANS A PERSON'S ACTUAL OR PERCEIVED SEX AND SHALL INCLUDE A PERSON'S GENDER IDENTITY OR EXPRESSION.

2. ANY PERSON WHO INTENTIONALLY SELECTS A PERSON OR PROPERTY FOR HARM OR CAUSES DAMAGE TO THE PROPERTY OF ANOTHER OR CAUSES PHYSICAL INJURY OR DEATH TO ANOTHER IN WHOLE OR IN SUBSTANTIAL PART BECAUSE OF A BELIEF OR PERCEPTION REGARDING THE RACE, COLOR, NATIONAL ORIGIN, ANCESTRY, GENDER, RELIGION, RELIGIOUS PRACTICE, AGE, DISABILITY OR SEXUAL ORIENTATION OF A PERSON, REGARDLESS OF WHETHER THE BELIEF OR PERCEPTION IS CORRECT, SHALL BE LIABLE, IN A CIVIL ACTION OR PROCEEDING MAINTAINED BY SUCH INDIVIDUAL OR GROUP OF INDIVIDUALS, FOR INJUNCTIVE RELIEF, DAMAGES, OR ANY OTHER APPROPRIATE RELIEF IN LAW OR EQUITY. IF IT SHALL APPEAR TO THE SATIS-

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

FACTION OF THE COURT OR JUSTICE THAT THE RESPONDENT HAS, IN FACT, VIOLATED THIS SECTION, AN INJUNCTION MAY BE ISSUED BY SUCH COURT OR JUSTICE, ENJOINING AND RESTRAINING ANY FURTHER VIOLATION, WITHOUT REQUIRING PROOF THAT ANY PERSON HAS, IN FACT, BEEN INJURED OR DAMAGED THEREBY.

3. WHENEVER THERE SHALL BE A VIOLATION OF THIS SECTION, AN APPLICATION MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK TO A COURT OR JUSTICE HAVING JURISDICTION FOR AN INJUNCTION TO ENJOIN AND RESTRAIN THE CONTINUANCE OF SUCH ACTIVITY. IN CONNECTION WITH ANY SUCH APPLICATION, THE ATTORNEY GENERAL IS AUTHORIZED TO TAKE PROOF AND DETERMINE THE RELEVANT FACTS AND TO ISSUE SUBPOENAS IN ACCORDANCE WITH THE CIVIL PRACTICE LAW AND RULES.

4. IN ANY SUCH ACTION OR PROCEEDING, THE COURT, IN ITS DISCRETION, MAY ALLOW THE PARTY COMMENCING SUCH ACTION OR PROCEEDING, IF SUCH PARTY PREVAILS, REASONABLE ATTORNEYS' FEES AS PART OF THE COSTS.

S 2. This act shall take effect on the thirtieth day after it shall have become a law.