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

6333

2009-2010 Regular Sessions

I N A S S E M B L Y

March 2, 2009

Introduced by M. of A. BARRA -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law and the civil rights law, in relation to prohibiting discrimination based on family responsibilities

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 106 of the laws of 2003, are amended to read as follows:

1. The opportunity to obtain employment without discrimination because of age, race, creed, color, national origin, sexual orientation, military status, sex, FAMILY RESPONSIBILITIES or marital status 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, military status, sex, FAMILY RESPONSIBILITIES or marital status, as specified in section two hundred ninety-six of this article, is hereby recognized as and declared to be a civil right.

S 2. Section 292 of the executive law is amended by adding a new subdivision 34 to read as follows:

34. THE TERM "FAMILY RESPONSIBILITIES", WHEN USED IN THIS ARTICLE, MEANS THE LEGAL RESPONSIBILITY TO CARE FOR A CHILD.

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

8. To create such advisory councils, local, regional or state-wide, as in its judgment will aid in effectuating the purposes of this article and of section eleven of article one of the constitution of this state, and the division may empower them to study the problems of discrimi-

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

LBD07250-01-9

nation in all or specific fields of human relationships or in specific instances of discrimination because of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, FAMILY RESPONSIBILITIES or marital status and make recommendations to the division for the development of policies and procedures in general and in specific instances. The advisory councils also shall disseminate information about the division's activities to organizations and individuals in their localities. Such advisory councils shall be composed of representative citizens, serving without pay, but with reimbursement for actual and necessary traveling expenses; and the division may make provision for technical and clerical assistance to such councils and for the expenses of such assistance.

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

S 4. Paragraphs (a), (b), (c) and (d) of subdivision 1 of section 296 of the executive law, as amended by chapter 75 of the laws of 2005, are amended to read as follows:

(a) For an employer or licensing agency, because of the age, race, creed, color, national origin, sexual orientation, military status, sex, disability, FAMILY RESPONSIBILITIES, predisposing genetic characteristics, or marital status of any individual, to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment.

(b) For an employment agency to discriminate against any individual because of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, FAMILY RESPONSIBILITIES, predisposing genetic characteristics, or marital status, in receiving, classifying, disposing or otherwise acting upon applications for its services or in referring an applicant or applicants to an employer or employers.

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

(d) For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses directly or indirectly, any limitation, specification or discrimination as to age, race, creed, color, national origin, sexual orientation, military status, sex, disability, FAMILY RESPONSIBILITIES, predisposing genetic characteristics, or marital status, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification; provided, however, that neither this paragraph nor any provision of this chapter or other law shall be construed to prohibit the department of civil service or the department of personnel of any city containing more than one county from requesting information from applicants for civil service examinations concerning

any of the aforementioned characteristics, other than sexual orientation AND FAMILY RESPONSIBILITIES, for the purpose of conducting studies to identify and resolve possible problems in recruitment and testing of members of minority groups to insure the fairest possible and equal opportunities for employment in the civil service for all persons, regardless of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, FAMILY RESPONSIBILITIES, predisposing genetic characteristics, or marital status.

S 5. Paragraphs (b), (c) and (d) of subdivision 1-a of section 296 of the executive law, as amended by chapter 106 of the laws of 2003, are amended to read as follows:

(b) To deny to or withhold from any person because of race, creed, color, national origin, sexual orientation, military status, sex, age, disability, FAMILY RESPONSIBILITIES or marital status, the right to be admitted to or participate in a guidance program, an apprenticeship training program, on-the-job training program, executive training program, or other occupational training or retraining program;

(c) To discriminate against any person in his or her pursuit of such programs or to discriminate against such a person in the terms, conditions or privileges of such programs because of race, creed, color, national origin, sexual orientation, military status, sex, age, disability, FAMILY RESPONSIBILITIES or marital status;

(d) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for such programs or to make any inquiry in connection with such program which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, sexual orientation, military status, sex, age, disability, FAMILY RESPONSIBILITIES or marital status, or any intention to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.

S 6. Subdivision 2 of section 40-c of the civil rights law, as amended by chapter 2 of the laws of 2002, is amended to read as follows:

2. No person shall, because of race, creed, color, national origin, sex, marital status, sexual orientation, FAMILY RESPONSIBILITIES, AS SUCH TERM IS DEFINED IN SUBDIVISION THIRTY-FOUR OF SECTION TWO HUNDRED NINETY-TWO OF THE EXECUTIVE LAW 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.

S 7. This act shall take effect immediately.