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2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. CAHILL, GLICK, PAULIN, CUSICK, GREENE -- Multi-Sponsored by -- M. of A. BOYLAND, CHRISTENSEN, DIAZ, DINOWITZ, GALEF, GOTTFRIED, HEASTIE, JOHN, LIFTON, LUPARDO, MCENENY, ORTIZ, PHEFFER, ROSENTHAL, WEISENBERG, WRIGHT -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to clarifying the scope of protections against discrimination on the basis of disability in the area of government services

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

1 Section 1. Legislative intent. With the enactment of chapter 988 of
2 the laws of 1974, the legislature began to extend to people with disa-
3 bilities guarantees that such individuals would not be discriminated
4 against on the basis of their disability in employment, use of public
5 accommodations and in a broad range of other areas and activities
6 subject to the requirements of the human rights provisions of the execu-
7 tive law. The federal Americans with Disabilities Act, enacted in 1990,
8 has extended similar protections throughout the nation. While current
9 state requirements are consistent with those adopted by the Congress in
10 the Americans with Disabilities Act, the federal statute explicitly
11 includes a number of requirements which are implicit in state law. The
12 legislature adopts this measure to reiterate this state's commitment to
13 assuring people with disabilities full access under state law to all of
14 the rights and remedies to which they are entitled under the Americans
15 with Disabilities Act, consistent with current policies and practices of
16 the state division of human rights, and to continue New York's preemi-
17 nent role as a leader in guaranteeing equal rights and opportunities to
18 all of its citizens.
19 S 2. Section 292 of the executive law is amended by adding a new
20 subdivision 34 to read as follows:

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

LBD00627-01-9

1 34. THE TERM "PUBLIC ENTITY" MEANS THE STATE OR ANY POLITICAL SUBDIVI-
2 SION THEREOF AND ANY DEPARTMENT, AGENCY, SPECIAL PURPOSE DISTRICT OR
3 OTHER INSTRUMENTALITY OF THE STATE OR LOCAL GOVERNMENT.

4 S 3. Section 296 of the executive law is amended by adding two new
5 subdivisions 3-c and 3-d to read as follows:

6 3-C. IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR ANY PUBLIC
7 ENTITY TO EXCLUDE A PERSON WITH A DISABILITY WHO MEETS THE ESSENTIAL
8 ELIGIBILITY REQUIREMENTS FROM PARTICIPATION IN OR DENY SUCH PERSON THE
9 BENEFITS OF SERVICES, PROGRAMS, OR ACTIVITIES OF A PUBLIC ENTITY SOLELY
10 BY REASON OF SUCH DISABILITY OR TO SUBJECT SUCH PERSON WITH A DISABILITY
11 TO DISCRIMINATION BY ANY SUCH ENTITY.

12 3-D. IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR A PUBLIC
13 ENTITY TO REFUSE TO MAKE REASONABLE MODIFICATIONS TO RULES, POLICIES, OR
14 PRACTICES, TO REFUSE TO REMOVE ARCHITECTURAL, COMMUNICATION, OR TRANS-
15 PORTATION BARRIERS, OR TO REFUSE TO PROVIDE AUXILIARY AIDS AND SERVICES,
16 INCLUDING BUT NOT LIMITED TO SUPPORT SERVICES FOR PEOPLE WITH IMPAIRED
17 HEARING OR VISION AND ACQUISITION OR MODIFICATION OF EQUIPMENT OR
18 DEVICES, TO A PERSON WITH A DISABILITY WHO MEETS THE ESSENTIAL ELIGIBIL-
19 ITY REQUIREMENTS WHICH WILL ALLOW SUCH AN INDIVIDUAL TO RECEIVE SERVICES
20 OR PARTICIPATE IN PROGRAMS OR ACTIVITIES PROVIDED BY A PUBLIC ENTITY IN
21 THE MOST INTEGRATED MANNER POSSIBLE.

22 S 4. This act shall take effect on the first of January next succeed-
23 ing the date on which it shall have become a law.