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

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2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. CAHILL, GLICK, PAULIN, CUSICK, KELLNER -- Multi-Sponsored by -- M. of A. BOYLAND, DINOWITZ, GALEF, GOTTFRIED, HEASTIE, 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:

Section 1. Legislative intent. With the enactment of chapter 988 of the laws of 1974, the legislature began to extend to people with disabilities guarantees that such individuals would not be discriminated against on the basis of their disability in employment, use of public accommodations and in a broad range of other areas and activities subject to the requirements of the human rights provisions of the executive law. The federal Americans with Disabilities Act, enacted in 1990, has extended similar protections throughout the nation. While current state requirements are consistent with those adopted by the Congress in the Americans with Disabilities Act, the federal statute explicitly includes a number of requirements which are implicit in state law. The legislature adopts this measure to reiterate this state's commitment to assuring people with disabilities full access under state law to all of the rights and remedies to which they are entitled under the Americans with Disabilities Act, consistent with current policies and practices of the state division of human rights, and to continue New York's preeminent role as a leader in guaranteeing equal rights and opportunities to all of its citizens.

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

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

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35. THE TERM "PUBLIC ENTITY" MEANS THE STATE OR ANY POLITICAL SUBDIVISION THEREOF AND ANY DEPARTMENT, AGENCY, SPECIAL PURPOSE DISTRICT OR OTHER INSTRUMENTALITY OF THE STATE OR LOCAL GOVERNMENT.

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

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

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

S 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.