STATE OF NEW YORK

7350

IN SENATE

January 9, 2018

Introduced by Sen. MURPHY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the executive law, the civil rights law, the education law, the penal law and the criminal procedure law, in relation to prohibiting discrimination based upon pregnancy, union membership, military status, veteran or disabled veteran status; and to amend the military law, in relation to making conforming changes

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

Section 1. Subdivisions 28, 29, 30 and 34 of section 292 of the executive law, subdivisions 28, 29 and 30 as added by chapter 106 of the laws of 2003 and subdivision 34 as added by chapter 80 of the laws of 2009, are amended to read as follows:

28. The term "military status" when used in this article means**:**

(a) a person's participation in the military service of the United States or the military service of the state, including but not limited to, the armed forces of the United States, the army national guard, the air national guard, the New York naval militia, the New York guard, and such additional forces as may be created by the federal or state government as authorized by law[~~.~~

~~**29. The term "reserve armed forces", when used in this article, means**~~]**;**

(b) service in the reserve armed forces of the United States, including service other than permanent, full-time service in the military forces of the United States including but not limited to service in the United States Army Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Air Force Reserve, or the United States Coast Guard Reserve[~~.~~

~~**30. The term "organized militia of the state", when used in this article, means**~~]**; or**

(c) service other than permanent, full-time service in the military forces of the state of New York including but not limited to the New

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

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York army national guard, the New York air national guard, the New York naval militia and the New York guard.

29. The term "veteran or disabled status", when used in this article, means a person, male or female, resident of this state, who served in the active military, naval, or air service of the United States during a period of war, or who has received a compensation rating from the United States department of veterans affairs or from the United States department of defense because of a service connected disability or who was a recipient of the armed forces expeditionary medal, navy expeditionary medal, marine corps expeditionary medal, or global war on terrorism expeditionary medal, and who has been released from such service otherwise than by dishonorable discharge.

30. The term "union membership", when used in this article, means a person, male or female, resident of this state, who is a member of a labor organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning grievances, terms of conditions of employment or of other mutual aid or protection and which is not a company union as defined in section seven hundred one of the labor law.

[~~34~~] **31**. The term "domestic violence victim", when used in this article, means an individual who is a victim of an act which would constitute a family offense pursuant to subdivision one of section eight hundred twelve of the family court act.

§ 2. 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, **pregnancy, union membership,** military status, **veteran or disabled veteran 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, **pregnancy, union membership,** military status, **veteran or disabled veteran 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.

§ 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 discrimination in all or specific fields of human relationships or in specific instances of discrimination because of age, race, creed, color, national origin, sexual orientation, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** sex, disability 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, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** sex, disability or marital status.

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

(a) For an employer or licensing agency, because of an individual's age, race, creed, color, national origin, sexual orientation, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status, 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, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** sex, disability, predisposing genetic characteristics, familial status, 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, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** sex, disability, predisposing genetic characteristics, familial status, 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, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** sex, disability, predisposing genetic characteristics, familial status, 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, 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, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** sex, disability, predisposing genetic characteristics, familial status, or marital status.

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

(b) To deny to or withhold from any person because of race, creed, color, national origin, sexual orientation, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** sex, age, disability, familial status, 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, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** sex, age, disability, familial status 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, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** sex, age, disability, familial status or marital status, or any intention to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.

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

(a) It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement, because of the race, creed, color, national origin, sexual orientation, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** sex, [~~or~~] disability or marital status of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof, including the extension of credit, or, directly or indirectly, to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement, to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of race, creed, color, national origin, sexual orientation, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** sex, [~~or~~] disability or marital status, or that the patronage or custom thereat of any person of or purporting to be of any particular race, creed, color, national origin, sexual orientation, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** sex or marital status, or having a disability is unwelcome, objectionable or not acceptable, desired or solicited.

§ 7. Paragraphs (a), (b), (c) and (c-1) of subdivision 2-a of section 296 of the executive law, paragraphs (a), (b) and (c) as amended and

paragraph (c-1) as added by chapter 106 of the laws of 2003, are amended to read as follows:

(a) To refuse to sell, rent or lease or otherwise to deny to or withhold from any person or group of persons such housing accommodations because of the race, creed, color, disability, national origin, sexual orientation, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** age, sex, 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.

(b) To discriminate against any person because of his or her race, creed, color, disability, national origin, sexual orientation, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** age, sex, marital status, or familial status in the terms, conditions or privileges of any publicly-assisted housing accommodations or in the furnishing of facilities or services in connection therewith.

(c) To cause to be made any written or oral inquiry or record concerning the race, creed, color, disability, national origin, sexual orientation, [~~membership in the reserve armed forces of the United States or in the organized militia of the state~~] **pregnancy, union membership, military status, veteran or disabled veteran status**, age, sex, marital status, or familial status of a person seeking to rent or lease any publicly-assisted housing accommodation; provided, however, that nothing in this subdivision shall prohibit a member of the reserve armed forces of the United States or in the organized militia of the state from voluntarily disclosing such membership.

(c-1) 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, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** sex, age, disability, marital status, or familial status, or any intent to make any such limitation, specification or discrimination.

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

3-b. It shall be an unlawful discriminatory practice for any real estate broker, real estate salesperson or employee or agent thereof or any other individual, corporation, partnership or organization for the purpose of inducing a real estate transaction from which any such person or any of its stockholders or members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, creed, color, national origin, sexual orientation, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** sex, disability, marital status, or familial status of the owners or occupants in the block, neighborhood or area in which the real property is located, and to represent, directly 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, **pregnancy, union membership,** military status, **veteran or disabled veteran 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, **pregnancy, union membership,** military status, **veteran or disabled veteran 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, **pregnancy, union membership,** military status, **veteran or disabled veteran 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, **pregnancy, union membership,** military status, **veteran or disabled veteran 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, rental or lease of housing accommodations exclusively to persons sixty-two years of age or older and the spouse of any such person, or for

housing intended and operated for occupancy by at least one person fifty-five years of age or older per unit. In determining whether housing is intended and operated for occupancy by persons fifty-five years of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the federal Fair Housing Act of 1988, as amended, shall apply.

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

(1) To refuse to sell, rent, lease or otherwise deny to or withhold from any person or group of persons land or commercial space because of the race, creed, color, national origin, sexual orientation, **pregnancy, union membership,** military status, **veteran or disabled veteran 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, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** sex, age, disability, marital status, or familial status in the terms, conditions or privileges of the sale, rental or lease of any such land or commercial space; 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 land or commercial space or to make any record or inquiry in connection with the prospective purchase, rental or lease of such land or commercial space which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, sexual orientation, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** sex, age, disability, marital status, or familial status; or any intent to make any such limitation, specification or discrimination.

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

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

(1) To refuse to sell, rent or lease any housing accommodation, land or commercial space to any person or group of persons or to refuse to negotiate for the sale, rental or lease, of any housing accommodation, land or commercial space to any person or group of persons because of the race, creed, color, national origin, sexual orientation, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** sex, age, disability, marital status, or familial status of such person or persons, or to represent that any housing accommodation, land or

commercial space is not available for inspection, sale, rental or lease when in fact it is so available, or otherwise to deny or withhold any housing accommodation, land or commercial space or any facilities of any housing accommodation, land or commercial space from any person or group of persons because of the race, creed, color, national origin, sexual orientation, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** sex, age, disability, marital status, or familial status of such person or persons.

(2) 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 any housing accommodation, land or commercial space or to make any record or inquiry in connection with the prospective purchase, rental or lease of any housing accommodation, land or commercial space which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, creed, color, national origin, sexual orientation, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** sex, age, disability, marital status, or familial status; or any intent to make any such limitation, specification or discrimination.

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

(d) It shall be an unlawful discriminatory practice for any real estate board, because of the race, creed, color, national origin, sexual orientation, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** age, sex, disability, marital status, or familial status of any individual who is otherwise qualified for membership, to exclude or expel such individual from membership, or to discriminate against such individual in the terms, conditions and privileges of membership in such board.

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

(f) The provisions of this subdivision, as they relate to age, shall 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, **pregnancy, union membership,** military status, **veteran or disabled veteran 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, **pregnancy, union membership,** military status, **veteran or disabled veteran 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~~] **willfully** 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, **pregnancy, union membership,** military status, **veteran or disabled veteran 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, with-

holding, 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 orientation, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** age, sex, marital status, disability, or familial status;

c. To use any form of application for credit or use or make any record or inquiry which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, creed, color, national origin, sexual orientation, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** age, sex, marital status, disability, or familial status;

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

e. To refuse to consider sources of an applicant's income or to subject an applicant's income to discounting, in whole or in part, because of an applicant's race, creed, color, national origin, sexual orientation, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** age, sex, marital status, childbearing potential, disability, or familial status;

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

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

2. Without limiting the generality of subdivision one of this section, it shall be considered discriminatory if, because of an applicant's or class of applicants' race, creed, color, national origin, sexual orientation, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** age, sex, marital status or disability, or familial status, (i) an applicant or class of applicants is denied credit in circumstances where other applicants of like overall credit worthiness are granted credit, or (ii) special requirements or conditions, such as requiring co-obligors or reapplication upon marriage, are imposed upon an applicant or class of applicants in circumstances where similar requirements or conditions are not imposed upon other applicants of like overall credit worthiness.

3. It shall not be considered discriminatory if credit differentiations or decisions are based upon factually supportable, objective differences in applicants' overall credit worthiness, which may include reference to such factors as current income, assets and prior credit history of such applicants, as well as reference to any other relevant factually supportable data; provided, however, that no creditor shall consider, in evaluating the credit worthiness of an applicant, aggregate statistics or assumptions relating to race, creed, color, national origin, sexual orientation, **pregnancy, union membership,** military status, **veteran or disabled veteran status,** sex, marital status or disability, or to the likelihood of any group of persons bearing or rearing children, or for that reason receiving diminished or interrupted income in the future.

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

(b) Subject a domestic worker to unwelcome harassment based on gender, race, religion, sexual orientation, pregnancy, union membership, military status, veteran or disabled veteran status or national origin, where such harassment has the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, or offensive working environment.

§ 15. 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, pregnancy, union membership, military status, veteran or disabled veteran status, 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, pregnancy, union membership as defined in section two hundred ninety-two of the executive law, military status, veteran or disabled veteran status 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, pregnancy, union membership as defined in section two hundred ninety-two of the executive law, military status, veteran or disabled veteran status 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. Paragraphs (a) and (e) of subdivision 3 of section 313 of the education law, as amended by chapter 2 of the laws of 2002, are amended to read as follows:

(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, pregnancy, union membership as defined in section two hundred ninety-two of the executive law, military status, veteran or disabled veteran status 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.

(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**, pregnancy, union membership as defined in section two hundred ninety-two of the executive law, military status, veteran or disabled veteran status as defined in 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. Section 485.00 of the penal law, as added by chapter 107 of the laws of 2000, is amended to read as follows:

§ 485.00 Legislative findings.

The legislature finds and determines as follows: criminal acts involving violence, intimidation and destruction of property based upon bias and prejudice have become more prevalent in New York state in recent years. The intolerable truth is that in these crimes, commonly and justly referred to as "hate crimes", victims are intentionally selected, in whole or in part, because of their race, color, national origin, ancestry, gender, **pregnancy, union membership, military status, veteran or disabled veteran status,** religion, religious practice, age, disability or sexual orientation. Hate crimes do more than threaten the safety and welfare of all citizens. They inflict on victims incalculable physical and emotional damage and tear at the very fabric of free society. Crimes motivated by invidious hatred toward particular groups not only harm individual victims but send a powerful message of intolerance and discrimination to all members of the group to which the victim belongs. Hate crimes can and do intimidate and disrupt entire communities and vitiate the civility that is essential to healthy democratic processes. In a democratic society, citizens cannot be required to approve of the beliefs and practices of others, but must never commit criminal acts on account of them. Current law does not adequately recognize the harm to public order and individual safety that hate crimes cause. Therefore, our laws must be strengthened to provide clear recognition of the gravity of hate crimes and the compelling importance of preventing their recurrence.

Accordingly, the legislature finds and declares that hate crimes should be prosecuted and punished with appropriate severity.

§ 19. Subdivisions 1 and 2 of section 485.05 of the penal law, as added by chapter 107 of the laws of 2000, are amended to read as follows:

1. A person commits a hate crime when he or she commits a specified offense and either:

(a) intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, **pregnancy, union membership, military status, veteran or disabled veteran status,** religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct, or

(b) intentionally commits the act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, **pregnancy, union membership, military status, veteran or disabled veteran status,** religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct.

2. Proof of race, color, national origin, ancestry, gender, **pregnancy, union membership, military status, veteran or disabled veteran status,** religion, religious practice, age, disability or sexual orientation of the defendant, the victim or of both the defendant and the victim does not, by itself, constitute legally sufficient evidence satisfying the people's burden under paragraph (a) or (b) of subdivision one of this section.

§ 20. Subdivision 3 of section 240.30 of the penal law, as amended by chapter 188 of the laws of 2014, is amended to read as follows:

3. With the intent to harass, annoy, threaten or alarm another person, he or she strikes, shoves, kicks, or otherwise subjects another person to physical contact, or attempts or threatens to do the same because of a belief or perception regarding such person's race, color, national origin, ancestry, gender, **pregnancy, union membership, military status, veteran or disabled veteran status,** religion, religious practice, age, disability or sexual orientation, regardless of whether the belief or perception is correct; or

§ 21. The opening paragraph of section 240.31 of the penal law, as amended by chapter 49 of the laws of 2006, is amended to read as follows:

A person is guilty of aggravated harassment in the first degree when with intent to harass, annoy, threaten or alarm another person, because of a belief or perception regarding such person's race, color, national origin, ancestry, gender, **pregnancy, union membership, military status, veteran or disabled veteran status,** religion, religious practice, age, disability or sexual orientation, regardless of whether the belief or perception is correct, he or she:

§ 22. Paragraph (c) of subdivision 7 of section 200.50 of the criminal procedure law, as amended by chapter 7 of the laws of 2007, is amended to read as follows:

(c) in the case of any hate crime, as defined in section 485.05 of the penal law, specifies, as applicable, that the defendant or defendants intentionally selected the person against whom the offense was committed or intended to be committed; or intentionally committed the act or acts constituting the offense, in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, **pregnancy, union membership, military status, veteran or disabled veteran status,** religion, religious practice, age, disability or sexual orientation of a person; and

§ 23. Subdivisions 2 and 3 of section 243-b of the military law, as amended by chapter 404 of the laws of 2015, are amended to read as follows:

2. Notwithstanding any other provision of this chapter or any other law, any member [~~**of the force of the organized militia, as the term is defined subdivision nine of section one of this chapter or reserve armed forces, as that term is defined**~~] **whose military status is described** in **paragraph (c) of** subdivision [~~**twenty-nine**~~] **twenty-eight** of section two hundred ninety-two of the executive law or any member of the armed forces of the United States who missed the application deadline for a scheduled competitive examination for civil service employment by the state

of New York or any of its subdivisions due to military service, as defined in subdivision one of section three hundred one of this chapter or due to a call to active duty, pursuant to 10 USC 101 (d) (1), and is deprived of the opportunity to compete in such examination due to military service, as defined in subdivision one of section three hundred one of this chapter or due to a call to active duty, pursuant to 10 USC 101 (d) (1), shall be provided with an opportunity to compete, under terms and conditions deemed appropriate by the state department of civil service or municipal commission, by way of a special military make-up examination.

3. Notwithstanding any other provision of this chapter or any other law, any member of the force of the organized militia, as the term is defined in subdivision nine of section one of this chapter or reserve armed forces, [~~as that term is defined in~~] **whose military status is described in paragraph (b) of** subdivision [~~twenty-nine~~] **twenty-eight** of section two hundred ninety-two of the executive law or any member of the armed forces of the United States who missed the application deadline for a scheduled competitive examination for civil service employment by the state of New York or any of its subdivisions due to military service, as defined in subdivision one of section three hundred one of this chapter or due to a call to active duty, pursuant to 10 USC 101 (d) (1), and who returns from such duty prior to the administration of such competitive examination shall be granted a waiver of the application requirement and allowed to compete in such upcoming examination.

§ 24. This act shall take effect on the thirtieth day after it shall have become a law; provided, however, that sections nineteen through twenty-two of this act shall take effect on the first of November next succeeding the date on which it shall have become a law.