STATE OF NEW YORK

3643--A

2019-2020 Regular Sessions

IN ASSEMBLY

January 30, 2019

Introduced by M. of A. SIMOTAS, QUART, PAULIN, SEAWRIGHT, M. G. MILLER, LENTOL, GOTTFRIED, THIELE, CRUZ, STIRPE, SIMON, ZEBROWSKI, CYMBROWITZ, STERN, GLICK, FERNANDEZ, MAGNARELLI, EPSTEIN, BRAUNSTEIN, GALEF, MOSLEY -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil practice law and rules, in relation to the disclosure of certain settlements to the civil rights bureau of the attorney general's office

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

Section 1. The civil practice law and rules is amended by adding a new section 5003-c to read as follows:

§ 5003-c. Settlements related to discrimination, sexual harassment or sexual assault. 1. An individual or institution settling a claim related to allegations of discrimination, sexual harassment or sexual assault shall disclose records of the settlement to the civil rights bureau of the attorney general's office for the purposes of identifying evidence of repeated or persistent unlawful discrimination. For the purposes of this section, the following terms shall have the following meanings:

a. "Claim" shall include any legal cause of action or complaint reported to an individual's employer or filed with a federal, state, or local agency.

b. "Records" shall mean any and all written agreements resolving a claim and any and all written complaints or written reports of the allegations.

c. "Discrimination" shall mean any discriminatory act prohibited under the civil rights law, article fifteen of the executive law or applicable federal or local anti-discrimination laws.

d. "Sexual harassment" shall mean unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct on the basis of

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

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an individual's gender or perceived gender when submission to or rejection of such conduct, explicitly or implicitly, affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment without regard to actual economic injury to or discharge of the individual.

e. "Sexual assault" shall mean unwanted sexual contact.

2. A claimant entering a settlement related to allegations of discrimination, sexual harassment or sexual assault shall be provided with a document describing their rights issued by the attorney general's office and offered the option to request that the civil rights bureau contact them about their claim.

3. The attorney general's office shall maintain confidential records of all information disclosed under this section.

4. Records shall be safeguarded from coming to the knowledge of and from inspection or examination by any person other than the attorney general or other designated officials in the bureau for the performance of their official duties. Authorized persons shall not divulge information contained therein without the written consent of the attorney general. The authorized disclosure of any such information shall not contain any individually identifiable information for a settling plaintiff.

5. An individual or institution which fails to comply with subdivision one or two of this section shall after notice of said failure served by the attorney general by certified mail, return receipt requested, be liable to the state of New York for a fine not to exceed one thousand dollars for each failure to comply after the expiration of the thirty day period following the receipt of the notice from the attorney general, except that the time to comply may be extended by the attorney general. Where the attorney general, after such thirty day period has expired, finds that the failure to comply with subdivision one or two of this section is due to excusable ignorance or inadvertence or other reasonable cause, the attorney general shall waive the fine imposed by this subdivision.

§ 2. This act shall take effect immediately.