STATE OF NEW YORK

4279

2021-2022 Regular Sessions

IN SENATE

February 3, 2021

Introduced by Sens. RIVERA, SALAZAR, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law, the election law, the public officers law, the tax law, the general obligations law, the education law, the alcoholic beverage control law, the general city law, chapter 882 of the laws of 1953, establishing a compact with the state of New Jersey for the elimination of criminal and corrupt practices in the handling of waterborne freight within the port of New York district, the public health law, the general business law, the real property law, the judiciary law, the social services law and the correction law, in relation to enacting the "New York is home act" to establish New York state citizenship, regardless of federal immigration status, and requiring the provision of certain rights of such citizenship; to repeal section 131-k of the social services law relating to illegal aliens

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

Section 1. Short title. This act shall be known and may be cited as the "New York is home act".

§ 2. Legislative findings. The legislature hereby finds that New York is home to over 19.5 million individuals, including workers, consumers, students, neighbors and taxpayers. The wellbeing of this state is inextricably linked to the wellbeing of all these New Yorkers. These New Yorkers share a common destiny and common dreams: a thriving New York state replete with healthy families, healthy communities and striving businesses. New York is home to these individuals, regardless of their federal immigration status.

This act addresses the compelling need to lift up all state residents, upon whom this state's society, vibrancy, health and economic growth depend. Our state recognizes the value of those who contribute to and make our state home.

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

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It also makes economic sense to enable all New Yorkers, who are present in and a part of the fabric of our state, to contribute fully to our state revenue, to participate in our state conversations, and to access benefits that are the foundation of a healthy, thriving New York state. Although the futures of many New Yorkers are undeniably circumscribed by current federal immigration law, many of those New Yorkers also enjoy an inchoate federal permission to be here, and this state enables them to make our state their home, as well. Many of these New Yorkers pay taxes, with approximately $744 million paid in state and local taxes each year. However, current state law prevents them from accessing equal higher education opportunities, health care benefits and professional licenses. Denying New Yorkers these benefits means denying the state its full potential to succeed.

The state of New York respects the exclusive province of the federal government to regulate immigration and the flow of immigrants into and out of our country. However, this state retains and asserts its historic authority to define its citizenry, and to affirmatively provide state and local public benefits to citizens of the state of New York. The state seeks to provide such benefits to all of its citizens, irrespective of that individual's eligibility for the same under federal law or pursuant to federal funding. There is nothing in this act that should be deemed to conflict with federal law.

§ 3. The executive law is amended by adding a new article 14-A to read as follows:

ARTICLE 14-A

NEW YORK STATE CITIZENSHIP

Section 275. Definitions.

275-a. State citizenship; administration.

275-b. Eligibility criteria.

275-c. Acceptability; benefits.

275-d. State agency review.

275-e. Severability.

275-f. Local laws.

§ 275. Definitions. As used in this article:

1. "New York state citizen" or "citizen" shall mean any individual who satisfies the requirements of subdivision one of section two hundred seventy-five-c of this article.

2. "New York state identification card" shall mean the physical identification card that a citizen is eligible to receive, and which includes that citizen's New York state identification number and such card's date of issuance.

3. "New York state identification number" shall mean the unique identification number that a citizen is assigned by the office and which appears on such citizen's New York state identification card.

4. "Office" shall mean the office for new Americans established by section ninety-four-b of this chapter.

§ 275-a. State citizenship; administration. 1. The provisions of this article shall be administered by the office. The office shall:

(a) recognize the New York state citizenship of any individual described in subdivision one of section two hundred seventy-five-b of this article, and grant and renew New York state citizenship to any individual who meets the criteria set forth in subdivision two of section two hundred seventy-five-b of this article;

(b) grant a New York state identification card and New York state identification number to any citizen;

(c) grant a renewed New York state identification card and New York state identification number to any citizen described in subdivision one of section two hundred seventy-five-b of this article, and to any citizen described in subdivision two of section two hundred seventy-five-b of this article, who demonstrates that they continue to satisfy the criteria set forth therein;

(d) promulgate rules and regulations to effect the purposes of this article; and

(e) establish, publicize and administer procedures to grant New York state citizenship, New York state identification cards and New York state identification numbers.

2. New York state citizenship shall be a continuing status that shall end when an individual is no longer a resident of the state. The New York state identification card and New York state identification number shall be valid for a period of five years after the date of issuance.

§ 275-b. Eligibility criteria. Any individual, regardless of his or her immigration status, who meets either of the following requirements shall be deemed to be a citizen:

1. is a resident of the state who is a citizen of the United States; or

2. is adjudged by the office to satisfy all of the following criteria:

(a) has proof of identity;

(b) has been a resident of the state for not less than three years;

(c) has paid state resident personal income taxes, pursuant to article twenty-two of the tax law, for a period of not less than three taxable years; provided however, that such requirement shall not apply to individuals who are students, primary caregivers, unable to work due to disability, unemployed or otherwise not required pursuant to such article of the tax law to report his or her income;

(d) has pledged to abide by the laws of the state and to uphold the provisions of the state constitution; and

(e) has attested to his or her willingness to serve on jury duty, pursuant to article sixteen of the judiciary law, and to continue to pay any taxes required to be paid by him or her pursuant to any provision of state or local law.

3. (a) The state shall not retain originals or copies of records provided by an applicant to prove identity or residency or other eligibility requirements of state citizenship.

(b) To the maximum extent allowed by applicable federal and state law, information collected about applicants for state citizenship shall be treated as confidential and shall not be disclosed to government entities or private parties unless such disclosure is:

(i) authorized in writing by the individual to whom such information pertains, or if such individual is a minor or is otherwise not legally competent, by such individual's parent or legal guardian; or

(ii) so ordered by a court of competent jurisdiction.

§ 275-c. Acceptability; benefits. 1. Except as otherwise provided by federal law, a New York state identification card shall be accepted and be deemed to be valid government identification where a state drivers' license would be accepted, and the New York state identification number shall be accepted for use in substitution for a social security number.

2. Any person in possession of a valid New York state identification card shall not be disqualified from eligibility for any of the following state benefits by virtue of his or her lack of documentation of federal immigration status:

(a) any license, permit, certificate or grant of permission, as defined in paragraph c of subdivision one of section 3-503 of the general obligations law and required by the laws of this state, its political subdivisions or instrumentalities as a condition for the lawful practice of any occupation, employment, trade, vocation, business or profession, and issued by the state or any political subdivision thereof;

(b) the ability to register for and vote at state and local elections, as provided in section 5-100 of the election law;

(c) public health benefits;

(d) a drivers' license, pursuant to section five hundred two of the vehicle and traffic law; and

(e) benefits governed by articles thirteen and fourteen of the education law, such as general awards, academic performance awards and student loans for higher education; assistance under the higher education opportunity programs and the collegiate science and technology entry program; financial aid opportunities for students of the state university of New York, the city university of New York and community colleges; and the New York state college choice tuition savings program.

3. Nothing in this section shall be deemed to deprive any individual of any benefit received by him or her pursuant to law prior to the effective date of this article.

§ 275-d. State agency review. All state agencies shall review their rules and regulations to make sure they are consistent with this article, and make such necessary changes within one hundred eighty days of the effective date of this article.

§ 275-e. Severability. If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 275-f. Local laws. This article shall not prevent the establishment, continuing in effect or enforcement of any law or regulation of any political subdivision of the state that protects the rights or fosters the integration of New York state citizens in a manner not inconsistent with the provisions of this article.

§ 4. Subdivision 1 of section 5-102 of the election law is amended to read as follows:

1. No person shall be qualified to register for and vote at any election unless he or she is a citizen of the United States or he or she possesses a New York state identification card, and is or will be, on the day of such election, eighteen years of age or over, and a resident of this state and of the county, city or village for a minimum of thirty days next preceding such election.

§ 5. Subdivision 1 of section 3 of the public officers law, as amended by chapter 251 of the laws of 2014, is amended to read as follows:

1. No person shall be capable of holding a civil office who shall not, at the time he or she shall be chosen thereto, have attained the age of eighteen years, except that in the case of youth boards, youth commissions, recreation commissions, or community boards in the city of New York only, members of such boards or commissions may be under the age of eighteen years, but must have attained the age of sixteen years on or before appointment to such youth board, youth commission, recreation commission, or community board in the city of New York, be a citizen of the United States or a New York state citizen, a resident of the state,

and if it be a local office, a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen, or within which the electors electing him or her reside, or within which his or her official functions are required to be exercised, or who shall have been or shall be convicted of a violation of the selective draft act of the United States, enacted May eighteenth, nineteen hundred seventeen, or the acts amendatory or supplemental thereto, or of the federal selective training and service act of nineteen hundred forty or the acts amendatory thereof or supplemental thereto.

§ 6. Subparagraphs vii and viii of paragraph (b) of subdivision 2 of section 89 of the public officers law, as amended by section 2 of part GGG of chapter 59 of the laws of 2019, are amended and two new subparagraphs ix and x are added to read as follows:

vii. disclosure of electronic contact information, such as an e-mail address or a social network username, that has been collected from a taxpayer under section one hundred four of the real property tax law; [~~or~~]

viii. disclosure of law enforcement arrest or booking photographs of an individual, unless public release of such photographs will serve a specific law enforcement purpose and disclosure is not precluded by any state or federal laws[~~.~~]**;**

ix. disclosure of information used to obtain New York state citizenship on a New York state identification card including but not limited to names, addresses and identifying information of recipients or applicants of such citizenship or cards, and any information that could reasonably be expected to lead to such disclosure; or

x. disclosure of information when disclosure would result in identification of people who are New York state citizens.

§ 7. Subdivision 2 of section 5 of the tax law, as amended by chapter 170 of the laws of 1994, is amended to read as follows:

2. Requiring information. Notwithstanding any other provision of law, every covered agency shall, as part of the procedure for granting, renewing, amending, supplementing or restating the license of any person or at the time the covered agency contracts to purchase or purchases goods or services or leases real or personal property from any person, require that each such person provide to the covered agency such person's federal social security account number [~~or~~]**,** federal employer identification number **or New York state identification number**, or [~~both~~] **all** such numbers when such person has [~~both~~] **more than one** such [~~numbers~~] **number**, or, where such person does not have such number or numbers, the reason or reasons why such person does not have such number or numbers. Such numbers or reasons shall be obtained by such covered agency as part of the administration of the taxes administered by the commissioner for the purpose of establishing the identification of persons affected by such taxes.

§ 8. Subparagraph 3 of paragraph (a) of subdivision 3 of section 5 of the tax law, as amended by chapter 170 of the laws of 1994, is amended to read as follows:

(3) federal social security account number [~~or~~]**,** federal employer identification number **or New York state identification number**, or [~~both~~] **all** such numbers where such person has [~~both~~] **more than one** such [~~numbers~~] **number**, or the reason or reasons, furnished by such person, why such person does not have such number or numbers.

§ 9. The opening paragraph of subdivision 2 of section 3-503 of the general obligations law, as amended by chapter 398 of the laws of 1997, is amended to read as follows:

Every applicant for a license or renewal thereof shall provide his or her social security number **or, if he or she does not have a social security number, his or her New York state identification number** on the application. Additionally, every applicant for a license or renewal thereof shall certify in the application in a written statement under oath, duly sworn and subscribed, that as of the date the application is filed he or she is (or is not) under obligation to pay child support and that if he or she is under such an obligation, that he or she does (or does not) meet one of the following requirements:

§ 10. Paragraph (f) of subdivision 6 of section 6506 of the education law, as amended by chapter 133 of the laws of 1982, is amended to read as follows:

(f) Citizenship or immigration status: be a United States citizen [~~or~~], an alien lawfully admitted for permanent residence in the United States **or a New York state citizen**;

§ 11. Subdivision 6 of section 6524 of the education law, as amended by chapter 379 of the laws of 2008, is amended to read as follows:

(6) Citizenship or immigration status: be a United States citizen [~~or~~], an alien lawfully admitted for permanent residence in the United States[~~; provided, however that the board of regents may grant a three year waiver for an alien physician to practice in an area which has been designated by the department as medically underserved, except that the board of regents may grant an additional extension not to exceed six years to an alien physician to enable him or her to secure citizenship or permanent resident status, provided such status is being actively pursued; and provided further that the board of regents may grant an additional three year waiver, and at its expiration, an extension for a period not to exceed six additional years, for the holder of an H-1b visa, an O-1 visa, or an equivalent or successor visa thereto~~] **or a New York state citizen**;

§ 12. Subdivision 6 of section 6554 of the education law, as amended by chapter 133 of the laws of 1982, is amended to read as follows:

(6) Citizenship or immigration status: be a United States citizen [~~or~~], an alien lawfully admitted for permanent residence in the United States **or a New York state citizen**;

§ 13. Subdivision 6 of section 6604 of the education law, as amended by chapter 403 of the laws of 2002, is amended to read as follows:

(6) Citizenship or immigration status: be a United States citizen [~~or~~], an alien lawfully admitted for permanent residence in the United States[~~; provided, however, that the board of regents may grant a three year waiver for an alien to practice in an area which has been designated a federal dental health professions shortage area, except that the board of regents may grant an additional extension not to exceed six years to an alien to enable him or her to secure citizenship or permanent resident status, provided such status is being actively pursued~~] **or a New York state citizen**;

§ 14. Subdivision 7 of section 6604-b of the education law, as added by chapter 537 of the laws of 2008, is amended to read as follows:

7. In order to be eligible for a restricted dental faculty license an applicant must be a United States citizen [~~or~~], an alien lawfully admitted for permanent residence in the United States[~~; provided, however, that the department may grant a three year waiver for an alien who otherwise meets all other requirements for a restricted dental faculty license except that the department may grant an additional extension not to exceed six years to an alien to enable him or her to secure citizenship or permanent resident status, provided such status is being active-~~

~~ly pursued. No current faculty member shall be displaced by the holder of a restricted dental faculty license~~] or a New York state citizen.

§ 15. Subdivision 6 of section 6609 of the education law, as amended by chapter 403 of the laws of 2002, is amended to read as follows:

(6) Citizenship or immigration status: be a United States citizen [~~or~~], an alien lawfully admitted for permanent residence in the United States[~~; provided, however, that the board of regents may grant a three year waiver for an alien to practice in an area which has been designated a federal dental health professions shortage area, except that the board of regents may grant an additional extension not to exceed six years to an alien to enable him or her to secure citizenship or permanent resident status, provided such status is being actively pursued~~] or a New York state citizen;

§ 16. Subdivision 6 of section 6704 of the education law, as amended by chapter 201 of the laws of 2007, is amended to read as follows:

(6) Citizenship or immigration status: be a United States citizen [~~or~~], an alien lawfully admitted for permanent residence in the United States[~~; provided, however that the board of regents may grant a one-time three-year waiver for a veterinarian who otherwise meets the requirements of this article and who has accepted an offer to practice veterinary medicine in a county in the state which the department has certified as having a shortage of qualified applicants to fill existing vacancies in veterinary medicine, and provided further that the board of regents may grant an extension of such three-year waiver of not more than one year~~] or a New York state citizen;

§ 17. Subdivision 6 of section 6711 of the education law, as amended by chapter 80 of the laws of 2000, is amended to read as follows:

6. Citizenship or immigration status: be a United States citizen [~~or~~], an alien lawfully admitted for permanent residence in the United States[~~; provided, however that the board of regents may grant a one-time three-year waiver for an animal health technician who otherwise meets the requirements of this article and provided further that the board of regents may grant an extension of such three-year waiver of not more than one year~~] or a New York state citizen;

§ 18. Subdivision 1 of section 6711-a of the education law, as amended by chapter 333 of the laws of 1990, is amended to read as follows:

1. Eligibility. Persons shall be eligible for a limited permit who fulfill all requirements for a license as a veterinary technician except those relating to the examination [~~and citizenship or permanent residence in the United States~~].

§ 19. Paragraph 6 of subdivision 1 of section 6805 of the education law, as amended by chapter 133 of the laws of 1982, is amended to read as follows:

(6) Citizenship or immigration status: be a United States citizen [~~or~~], an alien lawfully admitted for permanent residence in the United States or a New York state citizen;

§ 20. Subdivision 6 of section 6955 of the education law, as added by chapter 327 of the laws of 1992, is amended to read as follows:

6. Citizenship or immigration status: be a United States citizen [~~or~~], an alien lawfully admitted for permanent residence in the United States or a New York state citizen.

§ 21. Paragraph 6 of subdivision 1 of section 7206 of the education law, as amended by chapter 133 of the laws of 1982, is amended to read as follows:

(6) Citizenship or immigration status: be a United States citizen [~~or~~], an alien lawfully admitted for permanent residence in the United States **or a New York state citizen**;

§ 22. Paragraph 6 of subdivision 1 of section 7206-a of the education law, as amended by chapter 322 of the laws of 2019, is amended to read as follows:

(6) Citizenship or immigration status: be a United States citizen [~~or~~], an alien lawfully admitted for permanent residence in the United States **or a New York state citizen**;

§ 23. Paragraph 6 of subdivision 1 of section 7324 of the education law, as amended by chapter 133 of the laws of 1982, is amended to read as follows:

(6) Citizenship or immigration status: be a United States citizen [~~or~~], an alien lawfully admitted for permanent residence in the United States **or a New York state citizen**;

§ 24. Paragraph 6 of subdivision 1 of section 7504 of the education law, as amended by chapter 133 of the laws of 1982, is amended to read as follows:

(6) Citizenship or immigration status: be a United States citizen [~~or~~], an alien lawfully admitted for permanent residence in the United States **or a New York state citizen**;

§ 25. Subdivision 5 of section 7804 of the education law, as amended by chapter 230 of the laws of 1997, is amended to read as follows:

(5) Citizenship or immigration status: be a United States citizen [~~or~~], an alien lawfully admitted for permanent residence in the United States **or a New York state citizen**;

§ 26. Subdivisions 3 and 4 of section 126 of the alcoholic beverage control law, subdivision 3 as added by chapter 133 of the laws of 1982 and subdivision 4 as amended by section 50 of subpart B of part C of chapter 62 of the laws of 2011, are amended to read as follows:

3. A person who is not a citizen of the United States [~~or~~], an alien lawfully admitted for permanent residence in the United States **or a New York state citizen**.

4. A copartnership or a corporation, unless each member of the partnership, or each of the principal officers and directors of the corporation, is a citizen of the United States [~~or~~], an alien lawfully admitted for permanent residence in the United States **or a New York state citizen**, not less than twenty-one years of age, and has not been convicted of any felony or any of the misdemeanors, specified in section eleven hundred forty-six of the former penal law as in force and effect immediately prior to September first, nineteen hundred sixty-seven, or of an offense defined in section 230.20 or 230.40 of the penal law, or if so convicted has received, subsequent to such conviction, an executive pardon therefor removing this disability a certificate of good conduct granted by the department of corrections and community supervision, or a certificate of relief from disabilities granted by the department of corrections and community supervision or a court of this state pursuant to the provisions of article twenty-three of the correction law to remove the disability under this section because of such conviction; provided however that a corporation which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and more than one-half of its directors are citizens of the United States [~~or~~], aliens lawfully admitted for permanent residence in the United States **or New York state citizens**; and provided further that a corporation organized under the not-for-profit corporation law or the education law which otherwise conforms to the

requirements of this section and chapter may be licensed if each of its principal officers and more than one-half of its directors are not less than twenty-one years of age and none of its directors are less than eighteen years of age; and provided further that a corporation organized under the not-for-profit corporation law or the education law and located on the premises of a college as defined by section two of the education law which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and each of its directors are not less than eighteen years of age.

§ 27. Section 10 of the general city law, as amended by chapter 133 of the laws of 1982, is amended to read as follows:

§ 10. Licenses to adult blind persons. The mayor of any city shall have the power to issue a license to any adult blind person for the vending of goods, or newspapers in such places as he **or she** may set aside for this purpose. The license shall be issued for a term of one year and no charge shall be made for the license. A license shall not be issued to a blind person unless he or she is a resident for three years in the city in which application for such license is made**,** and is a citizen of the United States [~~**or**~~]**,** an alien lawfully admitted for permanent residence in the United States **or a New York state citizen**.

This license shall be revocable only for cause.

§ 28. Paragraphs (a) and (c) of subdivision 2 of article X of section 1 of part I of chapter 882 of the laws of 1953, establishing a compact with the state of New Jersey for the elimination of criminal and corrupt practices in the handling of waterborne freight within the port of New York district, are amended to read as follows:

(a) The full name, residence, business address (if any), place and date of birth**,** and **the** social security number **or the New York state identification number** of the applicant;

(c) The citizenship of the applicant and, if he **or she** is a naturalized citizen of the United States, the court and date of his **or her** naturalization**, or if he or she is a New York state citizen, the date of issuance of his or her New York state identification card**; and

§ 29. Paragraph (a) of subdivision 2 of section 3421 of the public health law, as amended by chapter 534 of the laws of 1983, is amended to read as follows:

(a) is a citizen of the United States [~~**or**~~]**,** an alien lawfully admitted for permanent residence in the United States **or a New York state citizen**;

§ 30. Section 41 of the general business law, as amended by chapter 321 of the laws of 1983, is amended to read as follows:

§ 41. Licenses, how obtained; penalty for carrying on business without license. The mayor or such local licensing authority may from time to time grant, under his **or her** hand and the official seal of his **or her** office, to such citizens **of the United States**, [~~**or**~~] aliens lawfully admitted for permanent residence in the United States **or New York state citizens**, as he **or she** shall deem proper and who shall produce to him **or her** satisfactory evidence of their good character, a license authorizing such person to carry on the business of a collateral loan broker, which license shall designate the house in which such person shall carry on said business, and no person, corporation, partnership or firm shall carry on the business of a collateral loan broker without being duly licensed, nor in any other house than the one designated in said license, under a penalty of one hundred dollars for each day he**, she** or they shall exercise or carry on said business without such license or at any other house than the one so designated. Any person receiving such

license shall pay therefor the sum of five hundred dollars for the use of the city yearly where such business is to be conducted in a city with a population of more than one million persons, and where the business is to be conducted elsewhere the fee for such license shall not exceed two hundred fifty dollars yearly, and every such license shall expire one year from the date thereof, and may be renewed on application to the mayor or local licensing authority each and every year on payment of the same sum and upon performance of the other conditions herein contained. Every person so licensed shall, at the time of receiving such license, file with the mayor or such local licensing authority granting the same a bond to the local authorities, to be executed by the person so licensed and by two responsible sureties, in the penal sum of ten thousand dollars, to be approved by such mayor or local licensing authority, which bond shall be conditioned for the faithful performance of the duties and obligations pertaining to the business so licensed, and the mayor or such local licensing authority shall have full power and authority to revoke such license for cause.

§ 31. Section 460 of the judiciary law, as amended by chapter 226 of the laws of 1985, is amended to read as follows:

§ 460. Examination and admission of attorneys. An applicant for admission to practice as an attorney or counsellor in this state, must be examined and licensed to practice as prescribed in this chapter and in the rules of the court of appeals. Race, creed, color, national origin, alienage [~~or~~]**,** sex**, status as a New York state citizen or federal immigration card** shall constitute no cause for refusing any person examination or admission to practice.

§ 32. Paragraphs (a), (b), (c), (d) and (h) of subdivision 1 of section 296 of the executive law, paragraphs (a), (b), (c) and (d) as amended by chapter 8 and paragraph (a) as separately amended by chapter 176 of the laws of 2019, and paragraph (h) as amended by chapter 161 of the laws of 2019, 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, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, **status as a New York state citizen,** familial status, marital status, or status as a victim of domestic violence, 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, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, **status as a New York state citizen,** 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, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, **status as a New York state citizen,** 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, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, **status as a New York state citizen,** 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 or gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, or marital status.

(h) For an employer, licensing agency, employment agency or labor organization to subject any individual to harassment because of an individual's age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, **status as a New York state citizen,** familial status, marital status, domestic violence victim status, or because the individual has opposed any practices forbidden under this article or because the individual has filed a complaint, testified or assisted in any proceeding under this article, regardless of whether such harassment would be considered severe or pervasive under precedent applied to harassment claims. Such harassment is an unlawful discriminatory practice when it subjects an individual to inferior terms, conditions or privileges of employment because of the individual's membership in one or more of these protected categories. The fact that such individual did not make a complaint about the harassment to such employer, licensing agency, employment agency or labor organization shall not be determinative of whether such employer, licensing agency, employment agency or labor organization shall be liable. Nothing in this section shall imply that an employee must demonstrate the existence of an individual to whom the employee's treatment must be compared. It shall be an affirmative defense to liability under this subdivision that the harassing conduct does not rise above the level of what a reasonable victim of discrimination with the same protected characteristic or characteristics would consider petty slights or trivial inconveniences.

§ 33. Paragraphs (b), (c) and (d) of subdivision 1-a of section 296 of the executive law, as amended by chapter 8 of the laws of 2019, are amended to read as follows:

(b) To deny to or withhold from any person because of race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, age, disability, **status as a New York state citizen,** 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, condi-

tions or privileges of such programs because of race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, age, disability, **status as a New York state citizen,** 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, gender identity or expression, military status, sex, age, disability, **status as a New York state citizen,** familial status or marital status, or any intention to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.

§ 34. Paragraph (a) of subdivision 2 of section 296 of the executive law, as amended by chapter 8 of the laws of 2019, 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, gender identity or expression, military status, sex, disability**, status as a New York state citizen** 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, gender identity or expression, military status, sex, disability**, status as a New York state citizen** 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, gender identity or expression, military status, sex**, status as a New York state citizen** or marital status, or having a disability is unwelcome, objectionable or not acceptable, desired or solicited.

§ 35. 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 by section 3 of part T of chapter 56 of the laws of 2019, 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, gender identity or expression, military status, age, sex, **status as a New York state citizen,** marital status, lawful source of income 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, gender identity or expression, military status, age, sex, **status as a New York state citizen,** marital status, lawful source of income 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, gender identity or expression, membership in the reserve armed forces of the United States or in the organized militia of the state, age, sex, **status as a New York state citizen,** marital status, lawful source of income 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, gender identity or expression, military status, sex, age, disability, **status as a New York state citizen,** marital status, lawful source of income or familial status, or any intent to make any such limitation, specification or discrimination.

§ 36. Subdivisions 3-b and 4 of section 296 of the executive law, as amended by chapter 8 and subdivision 4 as separately amended by chapter 116 of the laws of 2019, are 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, gender identity or expression, military status, sex, disability, **status as a New York state citizen,** 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.

4. It shall be an unlawful discriminatory practice for an educational institution 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, **status as a New York state citizen,** national origin, sexual orientation, gender identity or expression, military 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.

§ 37. Subdivision 5 of section 296 of the executive law, as amended by chapter 8 of the laws of 2019, subparagraphs 1, 2 and 3 of paragraph (a) as amended by section 4, subparagraphs 1 and 2 of paragraph (c) as amended by section 5, and paragraph (d) as amended by section 6 of part T of chapter 56 of the laws of 2019, 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, gender identity or expression, military status, sex, age, disability, **status as a New York state citizen,** marital status, lawful source of income 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, gender identity or expression, military status, sex, age, disability, **status as a New York state citizen,** marital status, lawful source of income 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, gender identity or expression, military status, sex, age, disability, **status as a New York state citizen,** marital status, lawful source of income 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, gender identity or expression, military status, sex, age, disability, **status as a New York state citizen,** 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, gender identity or expression, military status, sex, age, disability, **status as a New York state citizen,** 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, gender identity or expression, military status, sex, age, disability, **status as a New York state citizen,** 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, gender identity or expression, military status, sex, age, disability, **status as a New York state citizen,** marital status, lawful source of income 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, gender identity or expression, military status, sex, age, disability, **status as a New York state citizen,** marital status, lawful source of income 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, gender identity or expression, military status, sex, age, disability, **status as a New York state citizen,** marital status, lawful source of income 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, gender identity or expression, military status, age, sex, disability, **status as a New York state citizen,** marital status, lawful source of income 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.

§ 38. Paragraph (a) of subdivision 9 of section 296 of the executive law, as amended by chapter 8 of the laws of 2019, 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, gender identity or expression, military status, sex, **status as a New York state citizen,** marital status, or familial status, of such individual.

§ 39. Subdivision 13 of section 296 of the executive law, as amended by chapter 8 of the laws of 2019, 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, gender identity or expression, military status, sex, disability, **status as a New York state citizen,** 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 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.

§ 40. Subdivisions 1, 2 and 3 of section 296-a of the executive law, as amended by chapter 8 of the laws of 2019, 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, gender identity or expression, military status, age, sex, marital status, disability, **status as a New York state citizen,** 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, withholding, 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, gender identity or expression, military status, age, sex, marital status, disability, **status as a New York state citizen,** 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, gender identity or expression, military status, age, sex, marital status, disability, **status as a New York state citizen,** 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, gender identity or expression, military status, age, sex, marital status, childbearing potential, disability, **status as a New York state citizen,** 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, gender identity or expression, military status, age, sex, marital status or disability, **status as a New York state citizen,** 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, gender identity or expression, military status, sex, marital status or disability, **status as a New York state citizen,** 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.

§ 41. Paragraph (c) of subdivision 1 of section 122 of the social services law, as amended by chapter 214 of the laws of 1998, the opening paragraph as amended by chapter 672 of the laws of 2019, is amended to read as follows:

(c) The following persons, not described in paragraph (a) or (b) of this subdivision, shall, if otherwise eligible, be eligible for safety net assistance and medical assistance[~~, except that medical assistance shall be limited to care and services (not including care and services related to an organ transplant procedure) necessary for the treatment of an emergency medical condition as that term is defined in section 1903 of the federal social security act unless and until federal financial participation is available for the costs of providing medical assistance provided, however, that any such person who, on the fourth day of August, nineteen hundred ninety-seven was residing in a residential health care facility licensed by the department of health or in a resi-~~

~~dential facility licensed, operated or funded by the office of mental health or the office for people with developmental disabilities, and was in receipt of a medical assistance authorization based on a finding that he or she was~~] (i) a person permanently residing in the United States under color of law [~~shall, if otherwise eligible, be eligible for medical assistance and provided, further, that any such person who, on the fourth day of August, nineteen hundred ninety-seven, was diagnosed as having AIDS, as defined in subdivision one of section two thousand seven hundred eighty of the public health law, and was in receipt of medical assistance authorization pursuant to title eleven of article five of this chapter based on a finding that he or she was a person permanently residing in the United States under color of law shall, if otherwise eligible, be eligible for medical assistance:~~

~~(i) a qualified alien who entered the United States less than five years earlier or for less than five years has had a status within the meaning of the term "qualified alien" as defined in section 431 of the federal personal responsibility and work opportunity reconciliation act of 1996 (8 U.S. Code 1641), as amended, if such entry occurred on or after the twenty-second day of August, nineteen hundred ninety-six; and~~

~~(ii) an alien whose status is not within the meaning of the term "qualified alien" as defined in section 431 of the federal personal responsibility and work opportunity reconciliation act of 1996 (8 U.S. Code 1641), as amended, but who is otherwise permanently residing in the United States under color of law~~], and (ii) New York state citizens if otherwise eligible shall only be eligible for medical assistance.

§ 42. Section 131-k of the social services law is REPEALED.

§ 43. The correction law is amended by adding a new section 71-b to read as follows:

§ 71-b. Persons not to be detained. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "Civil immigration detainer" shall mean a detainer issued pursuant to 8 C.F.R. 287.7.

(b) "Administrative warrant" shall mean an immigration warrant of arrest, order to detain or release aliens, notice of custody determination, notice to appear, removal order, warrant of removal, or any other document issued by an immigration agent that can form the basis for an individual's arrest or detention for a civil immigration purpose.

(c) "Law enforcement officer" shall mean all officers, employees and persons otherwise paid by or acting as agents of any municipal, county or state police department or department of corrections.

(d) "Federal immigration authorities" shall mean any officer, employee or person otherwise paid by or acting as an agent of United States immigration and customs enforcement or any division thereof or any other officer, employee or person otherwise paid by or acting as an agent of the United States Department of Homeland Security who is charged with enforcement of the civil provisions of the immigration and nationality act.

(e) "Facility" shall mean any facility owned or leased by the state, staffed by personnel paid by the state, or used primarily for the conduct of state business, including but not limited to any prison or jail owned or operated by any government entity under the state's jurisdiction.

2. (a) Law enforcement officers shall not honor a civil immigration detainer or administrative warrant from federal immigration officials by:

(i) holding a person beyond the time when such person would otherwise be released from custody; or

(ii) expending time or resources responding to inquiries or communicating with federal immigration authorities of such person's incarceration status, release dates, court appearance dates, or any other information related to an individual in custody unless such a response or communication is required or protected by law.

(b) Unless an immigration agent has a valid and properly issued criminal warrant, or law enforcement officials have a legitimate law enforcement purpose that is not related to the enforcement of immigration law, law enforcement officers shall not permit any federal immigration official to:

(i) have access to any person in their custody; or

(ii) have access to any facility owned or operated by the state, or by any municipality within the state, for the purpose of investigating potential violations of the civil immigration law.

3. Nothing in this section shall affect the obligation of law enforcement officers to maintain the confidentiality of any information obtained pursuant to subdivision two of this section.

4. Nothing in this section shall be construed to confer any authority on any entity to hold persons on civil immigration detainers beyond the authority, if any, that existed prior to the effective date of this section.

5. This section supersedes all conflicting policies, rules, procedures and practices of the state. Nothing in this section shall be construed to prohibit any state agency from cooperating with federal immigration authorities when required under federal law. Nothing in this section shall be interpreted or applied so as to create any power, duty or obligation in conflict with any federal, state or local law.

6. Nothing contained in this section or in the administration or application hereof shall be construed as creating any private right of action on the part of any persons or entity against the state or the department.

7. Annually on or before December thirty-first, the department shall post a report on the department's website that includes the following information for the preceding twelve month period:

(a) the number of civil immigration detainers received from federal immigration authorities;

(b) the number of persons held pursuant to civil immigration detainers beyond the time when such persons would otherwise be released from the department's custody;

(c) the number of persons transferred to the custody of federal immigration authorities pursuant to civil immigration detainers; and

(d) the justification and legal authority for the transfer of any individual to the custody of federal immigration authorities.

8. For the purpose of this section, any reference to a statute, rule, or regulation shall be deemed to include any successor provision.

§ 44. The executive law is amended by adding a new section 243-a to read as follows:

§ 243-a. Persons not to be detained. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "Civil immigration detainer" shall mean a detainer issued pursuant to 8 C.F.R. 287.7.

(b) "Administrative warrant" shall mean an immigration warrant of arrest, order to detain or release aliens, notice of custody determination, notice to appear, removal order, warrant of removal, or any

other document issued by an immigration agent that can form the basis for an individual's arrest or detention for a civil immigration purpose.

(c) "Probation officer" shall mean any officer, employee or person otherwise paid by or acting as an agent of the office of probation and correctional alternatives, or any county or municipal probation department.

(d) "Federal immigration authorities" shall mean any officer, employee or person otherwise paid by or acting as an agent of United States immigration and customs enforcement or any division thereof or any other officer, employee or person otherwise paid by or acting as an agent of the United States Department of Homeland Security who is charged with enforcement of the civil provisions of the immigration and nationality act.

(e) "Facility" shall mean any facility owned or leased by the state, staffed by personnel paid by the state, or used primarily for the conduct of state business, including but not limited to any prison or jail owned or operated by any government entity under the state's jurisdiction.

2. (a) Probation officers shall not honor a civil immigration detainer or administrative warrant from federal immigration officials by:

(i) holding a person beyond the time when such person would otherwise be released from custody; or

(ii) expending time or resources responding to inquiries or communicating with federal immigration authorities of such person's incarceration status, release dates, court appearance dates, or any other information related to an individual in custody unless such a response or communication is required or protected by law.

(b) Unless an immigration agent has a valid and properly issued criminal warrant, or law enforcement officials have a legitimate law enforcement purpose that is not related to the enforcement of immigration law, probation officers shall not permit any federal immigration official to:

(i) have access to any person in their custody; or

(ii) have access to any facility owned or operated by the state, or by any municipality within the state, for the purpose of investigating potential violations of the civil immigration law.

(c) Unless an immigration agent has a valid and properly issued criminal warrant, or probation officers have a legitimate law enforcement purpose that is not related to the enforcement of immigration law, no probation officer shall

(i) provide any detainee, inmate or booking lists to federal immigration officials; or

(ii) expend time or resources responding to inquiries or communicating with federal immigration officials, regarding any person's incarceration status, probation status, release date, court appearance dates or any other information, unless such response or communications is required or protected by law.

3. Nothing in this section shall affect the obligation of probation officers to maintain the confidentiality of any information obtained pursuant to subdivision two of this section.

4. Nothing in this section shall be construed to confer any authority on any entity to hold persons on civil immigration detainers beyond the authority, if any, that existed prior to the effective date of this section.

5. This section supersedes all conflicting policies, rules, procedures and practices of the state. Nothing in this section shall be construed to prohibit any state agency from cooperating with federal immigration

authorities when required under federal law. Nothing in this section shall be interpreted or applied so as to create any power, duty or obligation in conflict with any federal, state or local law.

6. Nothing contained in this section or in the administration or application hereof shall be construed as creating any private right of action on the part of any persons or entity against the state or the office.

7. Annually on or before December thirty-first, the department shall post a report on the office's website that includes the following information for the preceding twelve month period:

(a) the number of civil immigration detainers received from federal immigration authorities;

(b) the number of persons held pursuant to civil immigration detainers beyond the time when such persons would otherwise be released from the office's custody;

(c) the number of persons transferred to the custody of federal immigration authorities pursuant to civil immigration detainers; and

(d) the justification and legal authority for the transfer of any individual to the custody of federal immigration authorities.

8. For the purpose of this section, any reference to a statute, rule, or regulation shall be deemed to include any successor provision.

§ 45. The executive law is amended by adding a new section 223-a to read as follows:

§ 223-a. Prohibition on racial profiling. 1. For the purposes of this section, "racial profiling" shall mean the practice of a law enforcement officer or agency relying, to any degree, on race, ethnicity, national origin, or religion in selecting which individual to subject to routine or spontaneous investigatory activities or in deciding upon the scope and substance of law enforcement activity following the initial investigatory procedure, except when there is trustworthy information, relevant to the locality and timeframe, that links a person of a particular race, ethnicity, national origin, or religion to an identified criminal incident or scheme.

2. The superintendent of state police and members of the division of state police shall not engage in racial profiling.

3. The division of state police shall maintain adequate policies and procedures designed to eliminate racial profiling and cease existing practices that permit racial profiling. Policies and procedures shall include:

(a) a prohibition on racial profiling;

(b) training on racial profiling issues as part of state police training;

(c) the collection of relevant data;

(d) procedures for receiving, investigating and responding meaningfully to complaints alleging racial profiling by members of the division of state police; and

(e) any other policies and procedures the superintendent determines to be necessary to eliminate racial profiling.

4. An individual injured by racial profiling may enforce this section in a civil action for declaratory or injunctive relief, upon proof that the routine or spontaneous investigatory activities of members of the division of state police have had a disparate impact on racial, ethnic, or religious minorities and shall constitute prima facie evidence of a violation of this section. In any action or proceeding to enforce this section, the court may allow a prevailing plaintiff reasonable attor-

ney's fees as part of the costs and may include expert fees as part of the attorney's fee.

§ 46. The provisions of this act shall not be construed to conflict with any provision of federal law, rule or regulation, and in any circumstance in which a conflict may exist, the appropriate federal law, rule or regulation shall be controlling.

§ 47. This act shall take effect on the first of January next succeeding the date on which it shall have become a law, provided that the amendments made to section 7206-a of the education law by section twenty-two of this act shall take effect on the same date and in the same manner as chapter 322 of the laws of 2019, takes effect; provided, further, section twenty-eight of this act shall take effect upon the enactment into law by the state of New Jersey of legislation having an identical effect with such section, but if the state of New Jersey shall have already enacted such legislation, section twenty-eight of this act shall take effect on the effective date of this act; provided that the office for new Americans shall notify the legislative bill drafting commission upon the occurrence of the enactment of such legislation by the state of New Jersey in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.