STATE OF NEW YORK

6930

2021-2022 Regular Sessions

IN SENATE

May 20, 2021

Introduced by Sen. MAY -- 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, in relation to requiring New York state agencies and other state government entities to provide personal assistance services to employees with targeted disabilities

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

Section 1. Section 296 of the executive law is amended by adding a new subdivision 3-c to read as follows:

3-c. (a) In addition to reasonable modifications in policies, practices, or procedures, including other reasonable accommodations for persons with disabilities as otherwise provided in this section, it shall be an unlawful discriminatory practice for any state agency or other government entity acting as an employer to refuse to provide personal assistance services, upon request, to an employee with a targeted disability who requires personal assistance services because of such targeted disability, and who will be able to perform their specific job functions without posing a direct threat to safety once such personal assistance services are provided.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, a state agency or other state government entity acting as an employer shall not be required to provide personal assistance services to an individual requesting such services where:

(i) the requestor is not an employee of such state agency or state government entity;

(ii) the requestor does not have a targeted disability;

(iii) the requestor's targeted disability does not create a need for personal assistance services;

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

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(iv) the requestor is not able to perform the essential functions of their specific job, even if personal assistance services and any other reasonable accommodations under this section are provided; or

(v) providing personal assistance services to the requestor would impose an undue hardship on the agency.

(c) The commissioner shall promulgate rules and regulations:

(i) creating a list of disabilities qualifying as "targeted disabilities" under this subdivision;

(ii) establishing a process by which individuals with targeted disabilities employed or seeking employment at a state agency or other state government entity may apply for personal assistance services;

(iii) establishing a process by which state agencies and other state government entities shall determine whether an individual has a targeted disability that creates a need for personal assistance services under this subdivision; and

(iv) to accomplish anything else deemed relevant and necessary by the commissioner to fulfill the purposes of this subdivision.

(d) The commissioner shall make available on the division's website:

(i) the list of targeted disabilities established pursuant to subparagraph (i) of paragraph (c) of this subdivision; and

(ii) the process by which individuals with targeted disabilities employed or seeking employment at a state agency or other state government entity may apply for personal assistance services pursuant to subparagraph (ii) of paragraph (c) of this subdivision.

(e) For the purposes of this subdivision "personal assistance services" means assistance with performing activities of daily living that an individual would typically perform if they did not have a disability, and that is not otherwise required as a reasonable accommodation under this section, including, but not limited to, assistance with removing and putting on clothing, eating, using a restroom, or ambulating. "Personal assistance services" shall not include performing medical procedures, medical monitoring, or helping a person with a disability perform their specific job functions.

§ 2. This act shall take effect one year after it shall have become a 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.