

STATE OF NEW YORK

8417--B

IN SENATE

February 28, 2022

Introduced by Sen. PERSAUD -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to prohibiting discrimination based on status as a victim of domestic violence

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

1 Section 1. Subdivision 1 of section 296 of the executive law, as
2 amended by chapter 365 of the laws of 2015, paragraphs (a), (b), (c) and
3 (d) as amended by chapter 8 of the laws of 2019, paragraph (h) as
4 amended by chapter 161 of the laws of 2019, paragraph (a) as separately
5 amended by chapter 176 of the laws of 2019, is amended to read as
6 follows:

7 1. It shall be an unlawful discriminatory practice:

8 (a) For an employer or licensing agency, because of an individual's
9 age, race, creed, color, national origin, sexual orientation, gender
10 identity or expression, military status, sex, disability, predisposing
11 genetic characteristics, familial status, marital status, or status as a
12 victim of domestic violence, to refuse to hire or employ or to bar or to
13 discharge from employment such individual or to discriminate against
14 such individual in compensation or in terms, conditions or privileges of
15 employment.

16 (b) For an employment agency to discriminate against any individual
17 because of age, race, creed, color, national origin, sexual orientation,
18 gender identity or expression, military status, sex, disability, predis-
19 posing genetic characteristics, familial status, ~~[or]~~ marital status, or
20 status as a victim of domestic violence, in receiving, classifying,
21 disposing or otherwise acting upon applications for its services or in
22 referring an applicant or applicants to an employer or employers.

23 (c) For a labor organization, because of the age, race, creed, color,
24 national origin, sexual orientation, gender identity or expression,

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

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1 military status, sex, disability, predisposing genetic characteristics,
2 familial status, [~~ex~~] marital status, or status as a victim of domestic
3 violence, of any individual, to exclude or to expel from its membership
4 such individual or to discriminate in any way against any of its members
5 or against any employer or any individual employed by an employer.

6 (d) For any employer or employment agency to print or circulate or
7 cause to be printed or circulated any statement, advertisement or publi-
8 cation, or to use any form of application for employment or to make any
9 inquiry in connection with prospective employment, which expresses
10 directly or indirectly, any limitation, specification or discrimination
11 as to age, race, creed, color, national origin, sexual orientation,
12 gender identity or expression, military status, sex, disability, predis-
13 posing genetic characteristics, familial status, [~~ex~~] marital status, or
14 status as a victim of domestic violence, or any intent to make any such
15 limitation, specification or discrimination, unless based upon a bona
16 fide occupational qualification; provided, however, that neither this
17 paragraph nor any provision of this chapter or other law shall be
18 construed to prohibit the department of civil service or the department
19 of personnel of any city containing more than one county from requesting
20 information from applicants for civil service examinations concerning
21 any of the aforementioned characteristics, other than sexual orien-
22 tation, for the purpose of conducting studies to identify and resolve
23 possible problems in recruitment and testing of members of minority
24 groups to [~~insure~~] ensure the fairest possible and equal opportunities
25 for employment in the civil service for all persons, regardless of age,
26 race, creed, color, national origin, sexual orientation or gender iden-
27 tity or expression, military status, sex, disability, predisposing
28 genetic characteristics, familial status, or marital status.

29 (e) For any employer, labor organization or employment agency to
30 discharge, expel or otherwise discriminate against any person because he
31 or she has opposed any practices forbidden under this article or because
32 he or she has filed a complaint, testified or assisted in any proceeding
33 under this article.

34 (f) Nothing in this subdivision shall affect any restrictions upon the
35 activities of persons licensed by the state liquor authority with
36 respect to persons under twenty-one years of age.

37 (g) For an employer to compel an employee who is pregnant to take a
38 leave of absence, unless the employee is prevented by such pregnancy
39 from performing the activities involved in the job or occupation in a
40 reasonable manner.

41 (h) For an employer, licensing agency, employment agency or labor
42 organization to subject any individual to harassment because of an indi-
43 vidual's age, race, creed, color, national origin, sexual orientation,
44 gender identity or expression, military status, sex, disability, predis-
45 posing genetic characteristics, familial status, marital status, status
46 as a victim of domestic violence [~~victim status~~], or because the indi-
47 vidual has opposed any practices forbidden under this article or because
48 the individual has filed a complaint, testified or assisted in any
49 proceeding under this article, regardless of whether such harassment
50 would be considered severe or pervasive under precedent applied to
51 harassment claims. Such harassment is an unlawful discriminatory prac-
52 tice when it subjects an individual to inferior terms, conditions or
53 privileges of employment because of the individual's membership in one
54 or more of these protected categories. The fact that such individual did
55 not make a complaint about the harassment to such employer, licensing
56 agency, employment agency or labor organization shall not be determina-

tive 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.

§ 2. Subdivision 1-a of section 296 of the executive law, as amended by chapter 365 of the laws of 2015, paragraphs (b), (c) and (d) as amended by chapter 8 of the laws of 2019, is amended to read as follows:

1-a. It shall be an unlawful discriminatory practice for an employer, labor organization, employment agency or any joint labor-management committee controlling apprentice training programs:

(a) To select persons for an apprentice training program registered with the state of New York on any basis other than their qualifications, as determined by objective criteria which permit review;

(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, familial status, ~~or~~ marital status, or status as a victim of domestic violence, 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, gender identity or expression, military status, sex, age, disability, familial status ~~or~~, marital status, or status as a victim of domestic violence;

(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, familial status ~~or~~, marital status, or status as a victim of domestic violence, or any intention to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.

§ 3. 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 ~~or~~, marital status, or status as a victim of domestic violence, 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

1 of race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability or marital status, or that the patronage or custom thereof 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 or marital status, or having a disability is unwelcome, objectionable or not acceptable, desired or solicited.

8 § 4. Paragraphs (a), (b), (c) and (c-1) of subdivision 2-a of section 9 296 of the executive law, as amended by section 3 of part T of chapter 10 56 of the laws of 2019, are amended to read as follows:

11 (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, marital status, status as a victim of domestic violence, 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.

19 (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, marital status, status as a victim of domestic violence, 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.

26 (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, marital status, status as a victim of domestic violence, 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.

36 (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, marital status, status as a victim of domestic violence, lawful source of income or familial status, or any intent to make any such limitation, specification or discrimination.

47 § 5. Subdivisions 3-b and 4 of section 296 of the executive law, as amended by chapter 8 of the laws of 2019, subdivision 4 as separately amended by chapter 116 of the laws of 2019, are amended to read as follows:

51 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

1 with respect to race, creed, color, national origin, sexual orientation,
2 gender identity or expression, military status, sex, disability, marital
3 status, status as a victim of domestic violence, or familial status of
4 the owners or occupants in the block, neighborhood or area in which the
5 real property is located, and to represent, directly or indirectly, that
6 this change will or may result in undesirable consequences in the block,
7 neighborhood or area in which the real property is located, including
8 but not limited to the lowering of property values, an increase in crim-
9 inal or anti-social behavior, or a decline in the quality of schools or
10 other facilities.

11 4. It shall be an unlawful discriminatory practice for an educational
12 institution to deny the use of its facilities to any person otherwise
13 qualified, or to permit the harassment of any student or applicant, by
14 reason of his race, color, religion, disability, national origin, sexual
15 orientation, gender identity or expression, military status, sex, age
16 ~~[ex]~~, marital status, or status as a victim of domestic violence, except
17 that any such institution which establishes or maintains a policy of
18 educating persons of one sex exclusively may admit students of only one
19 sex.

20 § 6. Subdivision 5 of section 296 of the executive law, as amended by
21 chapter 8 of the laws of 2019, paragraph (a) as amended by chapter 300
22 of the laws of 2021, subparagraphs 1 and 2 of paragraph (c) as amended
23 by section 5 and paragraph (d) as amended by section 6 of part T of
24 chapter 56 of the laws of 2019, is amended to read as follows:

25 5. (a) It shall be an unlawful discriminatory practice for the owner,
26 lessee, sub-lessee, assignee, or managing agent of, or other person
27 having the right to sell, rent or lease a housing accommodation,
28 constructed or to be constructed, or any agent or employee thereof:

29 (1) To refuse to sell, rent, lease or otherwise to deny to or withhold
30 from any person or group of persons such a housing accommodation because
31 of the race, creed, color, national origin, sexual orientation, gender
32 identity or expression, military status, sex, age, disability, marital
33 status, status as a victim of domestic violence, lawful source of income
34 or familial status of such person or persons, or to represent that any
35 housing accommodation or land is not available for inspection, sale,
36 rental or lease when in fact it is so available.

37 (2) To discriminate against any person because of race, creed, color,
38 national origin, sexual orientation, gender identity or expression,
39 military status, sex, age, disability, marital status, status as a
40 victim of domestic violence, lawful source of income or familial status
41 in the terms, conditions or privileges of the sale, rental or lease of
42 any such housing accommodation or in the furnishing of facilities or
43 services in connection therewith.

44 (3) To print or circulate or cause to be printed or circulated any
45 statement, advertisement or publication, or to use any form of applica-
46 tion for the purchase, rental or lease of such housing accommodation or
47 to make any record or inquiry in connection with the prospective
48 purchase, rental or lease of such a housing accommodation which
49 expresses, directly or indirectly, any limitation, specification or
50 discrimination as to race, creed, color, national origin, sexual orien-
51 tation, gender identity or expression, military status, sex, age, disa-
52 bility, marital status, status as a victim of domestic violence, lawful
53 source of income or familial status, or any intent to make any such
54 limitation, specification or discrimination.

55 (4) (i) The provisions of subparagraphs one and two of this paragraph
56 shall not apply (1) to the rental of a housing accommodation in a build-

ing 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. However, such rental property shall no longer be exempt from the provisions of subparagraphs one and two of this paragraph if there is unlawful discriminatory conduct pursuant to subparagraph three of this paragraph.

(ii) The provisions of subparagraphs one, two, and three of this paragraph shall not apply (1) to the restriction of the rental of all rooms in a housing accommodation to individuals of the same sex, (2) 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 (3) 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, marital status, status as a victim of domestic violence, 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, marital status, status as a victim of domestic violence, 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

1 or to make any record or inquiry in connection with the prospective
2 purchase, rental or lease of such land or commercial space which
3 expresses, directly or indirectly, any limitation, specification or
4 discrimination as to race, creed, color, national origin, sexual orien-
5 tation, gender identity or expression, military status, sex, age, disa-
6 bility, marital status, status as a victim of domestic violence, or
7 familial status; or any intent to make any such limitation, specifica-
8 tion or discrimination.

9 (4) With respect to age and familial status, the provisions of this
10 paragraph shall not apply to the restriction of the sale, rental or
11 lease of land or commercial space exclusively to persons fifty-five
12 years of age or older and the spouse of any such person, or to the
13 restriction of the sale, rental or lease of land to be used for the
14 construction, or location of housing accommodations exclusively for
15 persons sixty-two years of age or older, or intended and operated for
16 occupancy by at least one person fifty-five years of age or older per
17 unit. In determining whether housing is intended and operated for occu-
18 pancy by persons fifty-five years of age or older, Sec. 807(b) (2) (c)
19 (42 U.S.C. 3607(b) (2) (c)) of the federal Fair Housing Act of 1988, as
20 amended, shall apply.

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

23 (1) To refuse to sell, rent or lease any housing accommodation, land
24 or commercial space to any person or group of persons or to refuse to
25 negotiate for the sale, rental or lease, of any housing accommodation,
26 land or commercial space to any person or group of persons because of
27 the race, creed, color, national origin, sexual orientation, gender
28 identity or expression, military status, sex, age, disability, marital
29 status, status as a victim of domestic violence, lawful source of income
30 or familial status of such person or persons, or to represent that any
31 housing accommodation, land or commercial space is not available for
32 inspection, sale, rental or lease when in fact it is so available, or
33 otherwise to deny or withhold any housing accommodation, land or commer-
34 cial space or any facilities of any housing accommodation, land or
35 commercial space from any person or group of persons because of the
36 race, creed, color, national origin, sexual orientation, gender identity
37 or expression, military status, sex, age, disability, marital status,
38 lawful source of income or familial status of such person or persons.

39 (2) To print or circulate or cause to be printed or circulated any
40 statement, advertisement or publication, or to use any form of applica-
41 tion for the purchase, rental or lease of any housing accommodation,
42 land or commercial space or to make any record or inquiry in connection
43 with the prospective purchase, rental or lease of any housing accommo-
44 dation, land or commercial space which expresses, directly or indirect-
45 ly, any limitation, specification, or discrimination as to race, creed,
46 color, national origin, sexual orientation, gender identity or
47 expression, military status, sex, age, disability, marital status,
48 status as a victim of domestic violence, lawful source of income or
49 familial status; or any intent to make any such limitation, specifica-
50 tion or discrimination.

51 (3) With respect to age and familial status, the provisions of this
52 paragraph shall not apply to the restriction of the sale, rental or
53 lease of any housing accommodation, land or commercial space exclusively
54 to persons fifty-five years of age or older and the spouse of any such
55 person, or to the restriction of the sale, rental or lease of any hous-
56 ing accommodation or land to be used for the construction or location of

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

7 (d) It shall be an unlawful discriminatory practice for any real
8 estate board, because of the race, creed, color, national origin, sexual
9 orientation, gender identity or expression, military status, age, sex,
10 disability, marital status, status as a victim of domestic violence,
11 lawful source of income or familial status of any individual who is
12 otherwise qualified for membership, to exclude or expel such individual
13 from membership, or to discriminate against such individual in the
14 terms, conditions and privileges of membership in such board.

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

31 (f) The provisions of this subdivision, as they relate to age, shall
32 not apply to persons under the age of eighteen years.

33 (g) It shall be an unlawful discriminatory practice for any person
34 offering or providing housing accommodations, land or commercial space
35 as described in paragraphs (a), (b), and (c) of this subdivision to make
36 or cause to be made any written or oral inquiry or record concerning
37 membership of any person in the state organized militia in relation to
38 the purchase, rental or lease of such housing accommodation, land, or
39 commercial space, provided, however, that nothing in this subdivision
40 shall prohibit a member of the state organized militia from voluntarily
41 disclosing such membership.

42 § 7. Paragraph (a) of subdivision 9 of section 296 of the executive
43 law, as amended by chapter 8 of the laws of 2019, is amended to read as
44 follows:

45 (a) It shall be an unlawful discriminatory practice for any fire
46 department or fire company therein, through any member or members there-
47 of, officers, board of fire commissioners or other body or office having
48 power of appointment of volunteer firefighters, directly or indirectly,
49 by ritualistic practice, constitutional or by-law prescription, by tacit
50 agreement among its members, or otherwise, to deny to any individual
51 membership in any volunteer fire department or fire company therein, or
52 to expel or discriminate against any volunteer member of a fire depart-
53 ment or fire company therein, because of the race, creed, color,
54 national origin, sexual orientation, gender identity or expression,
55 military status, sex, marital status, status as a victim of domestic
56 violence, or familial status, of such individual.

§ 8. 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, status as a victim of domestic violence, disability, or familial status, or 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.

§ 9. 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, status as a victim of domestic violence, 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, 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, status as a victim of domestic violence, 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, gender identity or expression, military status, age, sex, marital status, status as a victim of domestic violence, 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, gender identity or expression, military status, age, sex, marital status, status as a victim of domestic violence, 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.

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

3 2. Without limiting the generality of subdivision one of this section,
4 it shall be considered discriminatory if, because of an applicant's or
5 class of applicants' race, creed, color, national origin, sexual orien-
6 tation, gender identity or expression, military status, age, sex, mari-
7 tal status [~~or~~], status as a victim of domestic violence, disability, or
8 familial status, (i) an applicant or class of applicants is denied cred-
9 it in circumstances where other applicants of like overall credit
10 worthiness are granted credit, or (ii) special requirements or condi-
11 tions, such as requiring co-obligors or reapplication upon marriage, are
12 imposed upon an applicant or class of applicants in circumstances where
13 similar requirements or conditions are not imposed upon other applicants
14 of like overall credit worthiness.

15 3. It shall not be considered discriminatory if credit differen-
16 tiations or decisions are based upon factually supportable, objective
17 differences in applicants' overall credit worthiness, which may include
18 reference to such factors as current income, assets and prior credit
19 history of such applicants, as well as reference to any other relevant
20 factually supportable data; provided, however, that no creditor shall
21 consider, in evaluating the credit worthiness of an applicant, aggregate
22 statistics or assumptions relating to race, creed, color, national
23 origin, sexual orientation, gender identity or expression, military
24 status, sex, marital status, status as a victim of domestic violence or
25 disability, or to the likelihood of any group of persons bearing or
26 rearing children, or for that reason receiving diminished or interrupted
27 income in the future.

28 § 10. Subdivision 2 of section 296-c of the executive law, as added by
29 chapter 97 of the laws of 2014, is amended to read as follows:

30 2. It shall be an unlawful discriminatory practice for an employer to:

31 a. refuse to hire or employ or to bar or to discharge from internship
32 an intern or to discriminate against such intern in terms, conditions or
33 privileges of employment as an intern because of the intern's age, race,
34 creed, color, national origin, sexual orientation, military status, sex,
35 disability, predisposing genetic characteristics, marital status, or
36 status as a victim of domestic violence [~~victim status~~];

37 b. discriminate against an intern in receiving, classifying, disposing
38 or otherwise acting upon applications for internships because of the
39 intern's age, race, creed, color, national origin, sexual orientation,
40 military status, sex, disability, predisposing genetic characteristics,
41 marital status, or status as a victim of domestic violence [~~victim~~
42 ~~status~~];

43 c. print or circulate or cause to be printed or circulated any state-
44 ment, advertisement or publication, or to use any form of application
45 for employment as an intern or to make any inquiry in connection with
46 prospective employment, which expresses directly or indirectly, any
47 limitation, specification or discrimination as to age, race, creed,
48 color, national origin, sexual orientation, military status, sex, disa-
49 bility, predisposing genetic characteristics, marital status or status
50 as a victim of domestic violence [~~victim status~~], or any intent to make
51 any such limitation, specification or discrimination, unless based upon
52 a bona fide occupational qualification; provided, however, that neither
53 this paragraph nor any provision of this chapter or other law shall be
54 construed to prohibit the department of civil service or the department
55 of personnel of any city containing more than one county from requesting
56 information from applicants for civil service internships or examina-

tions 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~~ ensure 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, military status, sex, disability, predisposing genetic characteristics, marital status or status as a victim of domestic violence [~~victim status~~];

d. to discharge, expel or otherwise discriminate against any person because he or she has opposed any practices forbidden under this article or because he or she has filed a complaint, testified or assisted in any proceeding under this article; or

e. to compel an intern who is pregnant to take a leave of absence, unless the intern is prevented by such pregnancy from performing the activities involved in the job or occupation in a reasonable manner.

§ 11. Paragraph b of subdivision 3 of section 296-c of the executive law, as added by chapter 97 of the laws of 2014, is amended to read as follows:

b. subject an intern to unwelcome harassment based on age, sex, race, creed, color, sexual orientation, military status, disability, predisposing genetic characteristics, marital status, status as a victim of domestic violence [~~victim status~~], [~~or~~] national origin, or where such harassment has the purpose or effect of unreasonably interfering with the intern's work performance by creating an intimidating, hostile, or offensive working environment.

§ 12. This act shall take effect immediately.