

# STATE OF NEW YORK

3340

2021-2022 Regular Sessions

## IN ASSEMBLY

January 22, 2021

Introduced by M. of A. STECK -- Multi-Sponsored by -- M. of A. GOTTFRIED  
-- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to unpaid leave of absence as a reasonable accommodation under the state's human rights law

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

1 Section 1. Subdivision 21-e of section 292 of the executive law, as  
2 amended by chapter 369 of the laws of 2015, is amended to read as  
3 follows:

4 21-e. (a) The term "reasonable accommodation" means actions taken  
5 which permit an employee, prospective employee or member with a disabili-  
6 ty, or a pregnancy-related condition, to perform in a reasonable manner  
7 the activities involved in the job or occupation sought or held and  
8 include, but are not limited to, provision of an accessible worksite,  
9 acquisition or modification of equipment, support services for persons  
10 with impaired hearing or vision, job restructuring and modified work  
11 schedules; provided, however, that such actions do not impose an undue  
12 hardship on the business, program or enterprise of the entity from which  
13 action is requested.

14 (b) The term "reasonable accommodation" shall also mean an unpaid  
15 leave of absence to allow an employee to recover from an episodic  
16 manifestation of a disability, provided that the employee provides the  
17 employer with medical certification that such leave of absence is  
18 medically necessary for that purpose and advises the employer of the  
19 approximate date the employee will be able to return to work. An indefi-  
20 nite leave of absence is not permissible under this subdivision.

21 (c) To determine the appropriate reasonable accommodation, it may be  
22 necessary for the covered entity to initiate an informal, interactive  
23 process with the individual with a disability in need of accommodation  
24 aimed at defining the employee's precise needs and minimizing any impact

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

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1 of the accommodation on the employee's work. This process should identi-  
2 fy the precise limitations resulting from the disability and potential  
3 reasonable accommodations that could overcome those limitations, includ-  
4 ing the length of any leave of absence provided for in paragraph (b) of  
5 this subdivision. As part of the interactive process, consistent with  
6 the purpose of the interactive process, and to facilitate agreement  
7 between the employer and the employee as to the reasonable accommo-  
8 dation, the employer may request (1) to have the employee's physician  
9 respond in a reasonable time to a reasonable number of non-burdensome  
10 questions concerning the employee's medical condition or (2) be examined  
11 by a medical doctor of the employer's choosing.

12 § 2. This act shall take effect immediately.