STATE OF NEW YORK

8497

2021-2022 Regular Sessions

IN ASSEMBLY

November 17, 2021

Introduced by M. of A. GALLAGHER -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to including correctional facilities as publicly-assisted housing accommodations for purposes of the division of human rights

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

Section 1. Legislative intent and findings. Whereas recent judicial opinions have created confusion regarding the status of correctional facilities and law enforcement agencies as subjects of the jurisdiction of the New York human rights law, the legislature hereby finds and declares that law enforcement agencies and correctional facilities are subject to the jurisdiction of the law.

§ 2. Subdivision 10 of section 292 of the executive law, as added by chapter 340 of the laws of 1955, is amended to read as follows:

10. The term "housing accommodation" includes any building, structure, or portion thereof which is used or occupied or is intended, arranged or designed to be used or occupied, as the home, residence or sleeping place of one or more human beings**, including any type of correctional facility**.

§ 3. Section 292 of the executive law is amended by adding three new subdivisions 39, 40, and 41 to read as follows:

39. The term "law enforcement officer" shall mean employees of state or local governments, their agencies, or political subdivisions, who are charged in their official duties with the enforcement of laws and maintenance of public safety and public order, for example by responding to emergency calls, enforcing traffic laws, investigating potential criminal violations, conducting patrols, policing large public gatherings or public transit facilities, and questioning or arresting individuals suspected of criminal activity. Law enforcement officers shall include, without limitation, sheriffs and the employees of sheriff's departments,

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

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town, village, city, county or municipal police officers, security officers employed by transportation authorities, state police and state troopers, and auxiliaries or deputies of any such department or organization, members of the organized militia of the state or any national guard deployed in New York for the purpose of effectuating any kind of public order. For the purposes of this article, services rendered by a law enforcement officer in the course of regular duty shall qualify as public accommodations.

40. The term "law enforcement agency" shall include any employer of law enforcement officers in a public or official capacity. For the purposes of this article, services rendered by a law enforcement agency in the course of regular duty shall qualify as public accommodations.

41. The term "correctional facility" shall include any correctional facility, detention center owned, reception center, residential treatment facility, correctional camp, diagnostic and treatment center, general confinement facility, work release facility, community treatment facility, shock incarceration correctional facility, alcohol and substance abuse treatment facility, alcohol and substance abuse treatment correctional annex, vocational and skills training facility, drug treatment campus, residential mental health treatment unit, and residential rehabilitation unit that is operated or leased by the department of corrections, the state of New York or any local government or political subdivision of the state of New York.

§ 4. 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 correctional facility, law enforcement agency, 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 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 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 or marital status, or having a disability is unwelcome, objectionable or not acceptable, desired or solicited.

§ 5. This act shall take effect immediately.