

STATE OF NEW YORK

8417

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

AN ACT to amend the executive law, in relation to prohibiting discrimination based on status as a victim or survivor 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 or survivor of domestic violence, to refuse to hire or employ or
13 to bar or to discharge from employment such individual or to discrimi-
14 nate against such individual in compensation or in terms, conditions or
15 privileges of 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 or survivor of domestic violence, in receiving, clas-
21 sifying, disposing or otherwise acting upon applications for its
22 services or in referring an applicant or applicants to an employer or
23 employers.

24 (c) For a labor organization, because of the age, race, creed, color,
25 national origin, sexual orientation, gender identity or expression,
26 military status, sex, disability, predisposing genetic characteristics,
27 familial status, [~~or~~] marital status, or status as a victim or survivor

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

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1 of domestic violence, of any individual, to exclude or to expel from its
2 membership such individual or to discriminate in any way against any of
3 its members or against any employer or any individual employed by an
4 employer.

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

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

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

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

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

1 labor organization shall be liable. Nothing in this section shall imply
2 that an employee must demonstrate the existence of an individual to whom
3 the employee's treatment must be compared. It shall be an affirmative
4 defense to liability under this subdivision that the harassing conduct
5 does not rise above the level of what a reasonable victim of discrimi-
6 nation with the same protected characteristic or characteristics would
7 consider petty slights or trivial inconveniences.

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

11 1-a. It shall be an unlawful discriminatory practice for an employer,
12 labor organization, employment agency or any joint labor-management
13 committee controlling apprentice training programs:

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

17 (b) To deny to or withhold from any person because of race, creed,
18 color, national origin, sexual orientation, gender identity or
19 expression, military status, sex, age, disability, familial status, ~~or~~
20 marital status, or status as a victim or survivor of domestic violence,
21 the right to be admitted to or participate in a guidance program, an
22 apprenticeship training program, on-the-job training program, executive
23 training program, or other occupational training or retraining program;

24 (c) To discriminate against any person in his or her pursuit of such
25 programs or to discriminate against such a person in the terms, condi-
26 tions or privileges of such programs because of race, creed, color,
27 national origin, sexual orientation, gender identity or expression,
28 military status, sex, age, disability, familial status ~~or~~, marital
29 status, or status as a victim or survivor of domestic violence;

30 (d) To print or circulate or cause to be printed or circulated any
31 statement, advertisement or publication, or to use any form of applica-
32 tion for such programs or to make any inquiry in connection with such
33 program which expresses, directly or indirectly, any limitation, spec-
34 ification or discrimination as to race, creed, color, national origin,
35 sexual orientation, gender identity or expression, military status, sex,
36 age, disability, familial status ~~or~~, marital status, or status as a
37 victim or survivor of domestic violence, or any intention to make any
38 such limitation, specification or discrimination, unless based on a bona
39 fide occupational qualification.

40 § 3. Paragraph (a) of subdivision 2 of section 296 of the executive
41 law, as amended by chapter 8 of the laws of 2019, is amended to read as
42 follows:

43 (a) It shall be an unlawful discriminatory practice for any person,
44 being the owner, lessee, proprietor, manager, superintendent, agent or
45 employee of any place of public accommodation, resort or amusement,
46 because of the race, creed, color, national origin, sexual orientation,
47 gender identity or expression, military status, sex, disability ~~or~~,
48 marital status, or status as a victim or survivor of domestic violence,
49 of any person, directly or indirectly, to refuse, withhold from or deny
50 to such person any of the accommodations, advantages, facilities or
51 privileges thereof, including the extension of credit, or, directly or
52 indirectly, to publish, circulate, issue, display, post or mail any
53 written or printed communication, notice or advertisement, to the effect
54 that any of the accommodations, advantages, facilities and privileges of
55 any such place shall be refused, withheld from or denied to any person
56 on account of race, creed, color, national origin, sexual orientation,

1 gender identity or expression, military status, sex, disability or mari-
2 tal status, or that the patronage or custom thereof of any person of or
3 purporting to be of any particular race, creed, color, national origin,
4 sexual orientation, gender identity or expression, military status, sex
5 or marital status, or having a disability is unwelcome, objectionable or
6 not acceptable, desired or solicited.

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

10 (a) To refuse to sell, rent or lease or otherwise to deny to or with-
11 hold from any person or group of persons such housing accommodations
12 because of the race, creed, color, disability, national origin, sexual
13 orientation, gender identity or expression, military status, age, sex,
14 marital status, status as a victim or survivor of domestic violence,
15 lawful source of income or familial status of such person or persons, or
16 to represent that any housing accommodation or land is not available for
17 inspection, sale, rental or lease when in fact it is so available.

18 (b) To discriminate against any person because of his or her race,
19 creed, color, disability, national origin, sexual orientation, gender
20 identity or expression, military status, age, sex, marital status,
21 status as a victim or survivor of domestic violence, lawful source of
22 income or familial status in the terms, conditions or privileges of any
23 publicly-assisted housing accommodations or in the furnishing of facili-
24 ties or services in connection therewith.

25 (c) To cause to be made any written or oral inquiry or record concern-
26 ing the race, creed, color, disability, national origin, sexual orien-
27 tation, gender identity or expression, membership in the reserve armed
28 forces of the United States or in the organized militia of the state,
29 age, sex, marital status, status as a victim or survivor of domestic
30 violence, lawful source of income or familial status of a person seeking
31 to rent or lease any publicly-assisted housing accommodation; provided,
32 however, that nothing in this subdivision shall prohibit a member of the
33 reserve armed forces of the United States or in the organized militia of
34 the state from voluntarily disclosing such membership.

35 (c-1) To print or circulate or cause to be printed or circulated any
36 statement, advertisement or publication, or to use any form of applica-
37 tion for the purchase, rental or lease of such housing accommodation or
38 to make any record or inquiry in connection with the prospective
39 purchase, rental or lease of such a housing accommodation which
40 expresses, directly or indirectly, any limitation, specification or
41 discrimination as to race, creed, color, national origin, sexual orien-
42 tation, gender identity or expression, military status, sex, age, disa-
43 bility, marital status, status as a victim or survivor of domestic
44 violence, lawful source of income or familial status, or any intent to
45 make any such limitation, specification or discrimination.

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

50 3-b. It shall be an unlawful discriminatory practice for any real
51 estate broker, real estate salesperson or employee or agent thereof or
52 any other individual, corporation, partnership or organization for the
53 purpose of inducing a real estate transaction from which any such person
54 or any of its stockholders or members may benefit financially, to repre-
55 sent that a change has occurred or will or may occur in the composition
56 with respect to race, creed, color, national origin, sexual orientation,

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

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

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

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

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

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

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

54 (4) (i) The provisions of subparagraphs one and two of this paragraph
55 shall not apply (1) to the rental of a housing accommodation in a build-
56 ing which contains housing accommodations for not more than two families

1 living independently of each other, if the owner resides in one of such
2 housing accommodations, (2) to the restriction of the rental of all
3 rooms in a housing accommodation to individuals of the same sex or (3)
4 to the rental of a room or rooms in a housing accommodation, if such
5 rental is by the occupant of the housing accommodation or by the owner
6 of the housing accommodation and the owner resides in such housing
7 accommodation or (4) solely with respect to age and familial status to
8 the restriction of the sale, rental or lease of housing accommodations
9 exclusively to persons sixty-two years of age or older and the spouse of
10 any such person, or for housing intended and operated for occupancy by
11 at least one person fifty-five years of age or older per unit. In deter-
12 mining whether housing is intended and operated for occupancy by persons
13 fifty-five years of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607
14 (b) (2) (c)) of the federal Fair Housing Act of 1988, as amended, shall
15 apply. However, such rental property shall no longer be exempt from the
16 provisions of subparagraphs one and two of this paragraph if there is
17 unlawful discriminatory conduct pursuant to subparagraph three of this
18 paragraph.

19 (ii) The provisions of subparagraphs one, two, and three of this para-
20 graph shall not apply (1) to the restriction of the rental of all rooms
21 in a housing accommodation to individuals of the same sex, (2) to the
22 rental of a room or rooms in a housing accommodation, if such rental is
23 by the occupant of the housing accommodation or by the owner of the
24 housing accommodation and the owner resides in such housing accommo-
25 dation, or (3) solely with respect to age and familial status to the
26 restriction of the sale, rental or lease of housing accommodations
27 exclusively to persons sixty-two years of age or older and the spouse of
28 any such person, or for housing intended and operated for occupancy by
29 at least one person fifty-five years of age or older per unit. In deter-
30 mining whether housing is intended and operated for occupancy by persons
31 fifty-five years of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607
32 (b) (2) (c)) of the federal Fair Housing Act of 1988, as amended, shall
33 apply.

34 (b) It shall be an unlawful discriminatory practice for the owner,
35 lessee, sub-lessee, or managing agent of, or other person having the
36 right of ownership or possession of or the right to sell, rent or lease,
37 land or commercial space:

38 (1) To refuse to sell, rent, lease or otherwise deny to or withhold
39 from any person or group of persons land or commercial space because of
40 the race, creed, color, national origin, sexual orientation, gender
41 identity or expression, military status, sex, age, disability, marital
42 status, status as a victim or survivor of domestic violence, or familial
43 status of such person or persons, or to represent that any housing
44 accommodation or land is not available for inspection, sale, rental or
45 lease when in fact it is so available;

46 (2) To discriminate against any person because of race, creed, color,
47 national origin, sexual orientation, gender identity or expression,
48 military status, sex, age, disability, marital status, status as a
49 victim or survivor of domestic violence, or familial status in the
50 terms, conditions or privileges of the sale, rental or lease of any such
51 land or commercial space; or in the furnishing of facilities or services
52 in connection therewith;

53 (3) To print or circulate or cause to be printed or circulated any
54 statement, advertisement or publication, or to use any form of applica-
55 tion for the purchase, rental or lease of such land or commercial space
56 or to make any record or inquiry in connection with the prospective

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

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

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

22 (1) To refuse to sell, rent or lease any housing accommodation, land
23 or commercial space to any person or group of persons or to refuse to
24 negotiate for the sale, rental or lease, of any housing accommodation,
25 land or commercial space to any person or group of persons because of
26 the race, creed, color, national origin, sexual orientation, gender
27 identity or expression, military status, sex, age, disability, marital
28 status, status as a victim or survivor of domestic violence, lawful
29 source of income or familial status of such person or persons, or to
30 represent that any housing accommodation, land or commercial space is
31 not available for inspection, sale, rental or lease when in fact it is
32 so available, or otherwise to deny or withhold any housing accommo-
33 dation, land or commercial space or any facilities of any housing accom-
34 modation, land or commercial space from any person or group of persons
35 because of the race, creed, color, national origin, sexual orientation,
36 gender identity or expression, military status, sex, age, disability,
37 marital status, lawful source of income or familial status of such
38 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 or survivor of domestic violence, lawful source of
49 income or familial status; or any intent to make any such limitation,
50 specification 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 or survivor of domestic
11 violence, lawful source of income or familial status of any individual
12 who is otherwise qualified for membership, to exclude or expel such
13 individual from membership, or to discriminate against such individual
14 in the 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 or survivor of
56 domestic violence, or familial status, of such individual.

1 § 8. Subdivision 13 of section 296 of the executive law, as amended by
2 chapter 8 of the laws of 2019, is amended to read as follows:

3 13. It shall be an unlawful discriminatory practice (i) for any person
4 to boycott or blacklist, or to refuse to buy from, sell to or trade
5 with, or otherwise discriminate against any person, because of the race,
6 creed, color, national origin, sexual orientation, gender identity or
7 expression, military status, sex, status as a victim or survivor of
8 domestic violence, disability, or familial status, or of such person, or
9 of such person's partners, members, stockholders, directors, officers,
10 managers, superintendents, agents, employees, business associates,
11 suppliers or customers, or (ii) for any person wilfully to do any act or
12 refrain from doing any act which enables any such person to take such
13 action. This subdivision shall not apply to:

14 (a) Boycotts connected with labor disputes; or

15 (b) Boycotts to protest unlawful discriminatory practices.

16 § 9. Subdivisions 1, 2 and 3 of section 296-a of the executive law, as
17 amended by chapter 8 of the laws of 2019, are amended to read as
18 follows:

19 1. It shall be an unlawful discriminatory practice for any creditor or
20 any officer, agent or employee thereof:

21 a. In the case of applications for credit with respect to the
22 purchase, acquisition, construction, rehabilitation, repair or mainte-
23 nance of any housing accommodation, land or commercial space to discrim-
24 inate against any such applicant because of the race, creed, color,
25 national origin, sexual orientation, gender identity or expression,
26 military status, age, sex, marital status, status as a victim or survi-
27 vor of domestic violence, disability, or familial status of such appli-
28 cant or applicants or any member, stockholder, director, officer or
29 employee of such applicant or applicants, or of the prospective occu-
30 pants or tenants of such housing accommodation, land or commercial
31 space, in the granting, withholding, extending or renewing, or in the
32 fixing of the rates, terms or conditions of, any such credit;

33 b. To discriminate in the granting, withholding, extending or renew-
34 ing, or in the fixing of the rates, terms or conditions of, any form of
35 credit, on the basis of race, creed, color, national origin, sexual
36 orientation, gender identity or expression, military status, age, sex,
37 marital status, status as a victim or survivor of domestic violence,
38 disability, or familial status;

39 c. To use any form of application for credit or use or make any record
40 or inquiry which expresses, directly or indirectly, any limitation,
41 specification, or discrimination as to race, creed, color, national
42 origin, sexual orientation, gender identity or expression, military
43 status, age, sex, marital status, status as a victim or survivor of
44 domestic violence, disability, or familial status;

45 d. To make any inquiry of an applicant concerning his or her capacity
46 to reproduce, or his or her use or advocacy of any form of birth control
47 or family planning;

48 e. To refuse to consider sources of an applicant's income or to
49 subject an applicant's income to discounting, in whole or in part,
50 because of an applicant's race, creed, color, national origin, sexual
51 orientation, gender identity or expression, military status, age, sex,
52 marital status, status as a victim or survivor of domestic violence,
53 childbearing potential, disability, or familial status;

54 f. To discriminate against a married person because such person
55 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 or survivor of domestic violence,
8 disability, or familial status, (i) an applicant or class of applicants
9 is denied credit in circumstances where other applicants of like overall
10 credit worthiness are granted credit, or (ii) special requirements or
11 conditions, such as requiring co-obligors or reapplication upon
12 marriage, are imposed upon an applicant or class of applicants in
13 circumstances where similar requirements or conditions are not imposed
14 upon other applicants 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 or survivor of domestic
25 violence or disability, or to the likelihood of any group of persons
26 bearing or rearing children, or for that reason receiving diminished or
27 interrupted 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 or survivor 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 or survivor of domestic violence
42 [~~victim 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 or survivor of domestic violence [~~victim status~~], or any
51 intent to make any such limitation, specification or discrimination,
52 unless based upon a bona fide occupational qualification; provided,
53 however, that neither this paragraph nor any provision of this chapter
54 or other law shall be construed to prohibit the department of civil
55 service or the department of personnel of any city containing more than
56 one county from requesting information from applicants for civil service

1 internships or examinations concerning any of the aforementioned charac-
2 teristics, other than sexual orientation, for the purpose of conducting
3 studies to identify and resolve possible problems in recruitment and
4 testing of members of minority groups to [~~insure~~] ensure the fairest
5 possible and equal opportunities for employment in the civil service for
6 all persons, regardless of age, race, creed, color, national origin,
7 sexual orientation, military status, sex, disability, predisposing
8 genetic characteristics, marital status or status as a victim or survi-
9 vor of domestic violence [~~victim-status~~];

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

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

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

20 b. subject an intern to unwelcome harassment based on age, sex, race,
21 creed, color, sexual orientation, military status, disability, predis-
22 posing genetic characteristics, marital status, status as a victim or
23 survivor of domestic violence [~~victim-status~~], [~~or~~] national origin, or
24 where such harassment has the purpose or effect of unreasonably inter-
25 fering with the intern's work performance by creating an intimidating,
26 hostile, or offensive working environment.

27 § 12. This act shall take effect immediately.