

# STATE OF NEW YORK

4959

2023-2024 Regular Sessions

## IN ASSEMBLY

February 27, 2023

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

AN ACT to amend the executive law, in relation to prohibiting housing discrimination based on criminal legal system involvement

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

1 Section 1. This act shall be known and may be cited as the "housing  
2 for an equitable reentry and opportunity (HERO) act".

3 § 2. Section 292 of the executive law is amended by adding a new  
4 subdivision 42 to read as follows:

5 42. The term "criminal legal system involvement" shall mean informa-  
6 tion regarding an individual's conviction, arrest, charge, or citation  
7 for an offense, participation in a diversion or deferral of judgment  
8 program, record of an offense that has been sealed, expunged, vacated,  
9 or pardoned, a youthful offender adjudication, or a juvenile delinquency  
10 determination.

11 § 3. Paragraphs (a), (b), (c), and (c-1) of subdivision 2-a of section  
12 296 of the executive law, as separately amended by chapters 202 and 748  
13 of the laws of 2022, are amended to read as follows:

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

23 (b) To discriminate against any person because of his or her race,  
24 creed, color, disability, national origin, citizenship or immigration  
25 status, sexual orientation, gender identity or expression, military

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

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1 status, age, sex, marital status, status as a victim of domestic  
2 violence, lawful source of income, criminal legal system involvement or  
3 familial status in the terms, conditions or privileges of any publicly-  
4 assisted housing accommodations or in the furnishing of facilities or  
5 services in connection therewith.

6 (c) To cause to be made any written or oral inquiry or record concern-  
7 ing the race, creed, color, disability, national origin, citizenship or  
8 immigration status, sexual orientation, gender identity or expression,  
9 membership in the reserve armed forces of the United States or in the  
10 organized militia of the state, age, sex, marital status, status as a  
11 victim of domestic violence, lawful source of income, criminal legal  
12 system involvement or familial status of a person seeking to rent or  
13 lease any publicly-assisted housing accommodation; provided, however,  
14 that nothing in this subdivision shall prohibit a member of the reserve  
15 armed forces of the United States or in the organized militia of the  
16 state from voluntarily disclosing such membership.

17 (c-1) To print or circulate or cause to be printed or circulated any  
18 statement, advertisement or publication, or to use any form of applica-  
19 tion for the purchase, rental or lease of such housing accommodation or  
20 to make any record or inquiry in connection with the prospective  
21 purchase, rental or lease of such a housing accommodation which  
22 expresses, directly or indirectly, any limitation, specification or  
23 discrimination as to race, creed, color, national origin, citizenship or  
24 immigration status, sexual orientation, gender identity or expression,  
25 military status, sex, age, disability, marital status, status as a  
26 victim of domestic violence, lawful source of income, criminal legal  
27 system involvement or familial status, or any intent to make any such  
28 limitation, specification or discrimination.

29 § 4. Paragraph (a) of subdivision 5 of section 296 of the executive  
30 law, as separately amended by chapters 202 and 748 of the laws of 2022,  
31 is amended to read as follows:

32 (a) It shall be an unlawful discriminatory practice for the owner,  
33 lessee, sub-lessee, assignee, or managing agent of, or other person  
34 having the right to sell, rent or lease a housing accommodation,  
35 constructed or to be constructed, or any agent or employee thereof:

36 (1) To refuse to sell, rent, lease or otherwise to deny to or withhold  
37 from any person or group of persons such a housing accommodation because  
38 of the race, creed, color, national origin, citizenship or immigration  
39 status, sexual orientation, gender identity or expression, military  
40 status, sex, age, disability, marital status, status as a victim of  
41 domestic violence, lawful source of income, criminal legal system  
42 involvement or familial status of such person or persons, or to repre-  
43 sent that any housing accommodation or land is not available for  
44 inspection, sale, rental or lease when in fact it is so available.

45 (2) To discriminate against any person because of race, creed, color,  
46 national origin, citizenship or immigration status, sexual orientation,  
47 gender identity or expression, military status, sex, age, disability,  
48 marital status, status as a victim of domestic violence, lawful source  
49 of income, criminal legal system involvement or familial status in the  
50 terms, conditions or privileges of the sale, rental or lease of any such  
51 housing accommodation or in the furnishing of facilities or services in  
52 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 housing accommodation or  
56 to make any record or inquiry in connection with the prospective

1 purchase, rental or lease of such a housing accommodation which  
2 expresses, directly or indirectly, any limitation, specification or  
3 discrimination as to race, creed, color, national origin, citizenship or  
4 immigration status, sexual orientation, gender identity or expression,  
5 military status, sex, age, disability, marital status, status as a  
6 victim of domestic violence, lawful source of income, criminal legal  
7 system involvement or familial status, or any intent to make any such  
8 limitation, specification or discrimination.

9 (4) (i) The provisions of subparagraphs one and two of this paragraph  
10 shall not apply (1) to the rental of a housing accommodation in a build-  
11 ing which contains housing accommodations for not more than two families  
12 living independently of each other, if the owner resides in one of such  
13 housing accommodations, (2) to the restriction of the rental of all  
14 rooms in a housing accommodation to individuals of the same sex or (3)  
15 to the rental of a room or rooms in a housing accommodation, if such  
16 rental is by the occupant of the housing accommodation or by the owner  
17 of the housing accommodation and the owner resides in such housing  
18 accommodation or (4) solely with respect to age and familial status to  
19 the restriction of the sale, rental or lease of housing accommodations  
20 exclusively to persons sixty-two years of age or older and the spouse of  
21 any such person, or for housing intended and operated for occupancy by  
22 at least one person fifty-five years of age or older per unit. In deter-  
23 mining whether housing is intended and operated for occupancy by persons  
24 fifty-five years of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607  
25 (b) (2) (c)) of the federal Fair Housing Act of 1988, as amended, shall  
26 apply. However, such rental property shall no longer be exempt from the  
27 provisions of subparagraphs one and two of this paragraph if there is  
28 unlawful discriminatory conduct pursuant to subparagraph three of this  
29 paragraph.

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

45 § 5. Severability. If any provision of this act, or any application of  
46 any provision of this act, is held to be invalid, that shall not affect  
47 the validity or effectiveness of any other provision of this act, or of  
48 any other application of any provision of this act, which can be given  
49 effect without that provision or application; and to that end, the  
50 provisions and applications of this act are severable.

51 § 6. This act shall take effect on the one hundred eightieth day after  
52 it shall have become a law.