

STATE OF NEW YORK

3371--A

Cal. No. 528

2025-2026 Regular Sessions

IN SENATE

January 27, 2025

Introduced by Sens. PERSAUD, CLEARE -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report

AN ACT to amend the executive law and the labor law, in relation to prohibiting discrimination against any individual with an actual or perceived status as a victim of domestic violence, a sex offense, or stalking

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

1 Section 1. Section 292 of the executive law is amended by adding two
2 new subdivisions 43 and 44 to read as follows:

3 43. The term "sex offense" shall mean an offense described in article
4 one hundred thirty of the penal law.

5 44. The term "stalking" shall mean stalking in the fourth degree, as
6 defined in section 120.45; stalking in the third degree, as defined in
7 section 120.50; stalking in the second degree, as defined in section
8 120.55 and/or stalking in the first degree as defined in section 120.60
9 of the penal law.

10 § 2. Subdivision 22 of section 296 of the executive law, as added by
11 chapter 176 of the laws of 2019, is amended to read as follows:

12 22. (a) It shall be an unlawful discriminatory practice for an employ-
13 er or licensing agency, because of any individual's actual or perceived
14 status as a victim of domestic violence, a sex offense, or stalking to
15 refuse to hire or employ or license or to bar or to discharge from
16 employment such individual or to discriminate against such individual in
17 compensation or in terms, conditions or privileges of employment.

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

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1 (b) It shall be an unlawful discriminatory practice for an employer or
2 employment agency to print or circulate or cause to be printed or circu-
3 lated any statement, advertisement or publication, or to use any form of
4 application for employment or to make any inquiry in connection with
5 prospective employment which expresses, directly or indirectly, any
6 limitation, specification or discrimination as to an actual or perceived
7 status as a victim of domestic violence, a sex offense, or stalking, or
8 any intent to make any such limitation, specification or discrimination;
9 provided, however, that no provision of this subdivision shall be
10 construed to prohibit the employer from making any inquiry or obtaining
11 information for the purpose of providing assistance to, or a reasonable
12 accommodation in accordance with the provisions of this subdivision to,
13 a victim of domestic violence, a sex offense, or stalking.

14 (c)(1) It shall be an unlawful discriminatory practice for an employer
15 to refuse to provide a reasonable accommodation to an employee who is
16 known by the employer to be a victim of domestic violence, [~~limited to~~
17 ~~those accommodations set forth in subparagraph two of this paragraph,~~
18 ~~when such employee must be absent from work for a reasonable time,~~] a
19 sex offense, or stalking, where such accommodations would enable such
20 employee to satisfy the essential requisites of a job unless such
21 [~~absence~~] requested accommodations would cause an undue hardship to the
22 employer as set forth in subparagraph three of this paragraph, provided,
23 however that the employer may require an employee to charge any time off
24 pursuant to this section against any leave with pay ordinarily granted,
25 where available, unless otherwise provided for in a collective bargain-
26 ing agreement or existing employee handbook or policy, and any such
27 absence that cannot be charged may be treated as leave without pay. An
28 employee who must be absent from work in accordance with subparagraph
29 two of this paragraph shall be entitled to the continuation of any
30 health insurance coverage provided by the employer, to which the employ-
31 ee is otherwise entitled during any such absence.

32 (2) An employer is required to provide a reasonable accommodation to
33 an employee who is a victim of domestic violence [~~who must be absent~~
34 ~~from work for a reasonable time~~], a sex offense, or stalking in accord-
35 ance with the provisions of subparagraph one of this paragraph, such
36 reasonable accommodation may include, but shall not be limited to,
37 absence from work for a reasonable time for reasons including, but not
38 limited to, the following:

39 (i) Seeking medical attention for injuries caused by domestic violence
40 including for a child who is a victim of domestic violence, a sex
41 offense, or stalking, provided that the employee is not the perpetrator
42 [~~of the domestic violence~~] against the child; or

43 (ii) Obtaining services from a domestic violence shelter, program, or
44 rape crisis center as a result of domestic violence; or

45 (iii) Obtaining psychological counseling related to an incident or
46 incidents of domestic violence, a sex offense, or stalking, including
47 for a child who is a victim [~~of domestic violence~~], provided that the
48 employee is not the perpetrator [~~of the domestic violence~~] against the
49 child; or

50 (iv) Participating in safety planning and taking other actions to
51 increase safety from future incidents of domestic violence, a sex
52 offense, or stalking, including temporary or permanent relocation; or

53 (v) Obtaining legal services, assisting in the prosecution of the
54 offense, or appearing in court in relation to the incident or incidents
55 of domestic violence, a sex offense, or stalking.

1 (3) An employer is required to provide a reasonable accommodation [~~for~~
2 ~~an employee's absence~~] in accordance with the provisions of subpara-
3 graphs one and two of this paragraph unless the employer can demonstrate
4 that the employee's absence would constitute an undue hardship to the
5 employer. A determination of whether such an absence will constitute an
6 undue hardship shall include consideration of factors such as:

7 (i) The overall size of the business, program or enterprise with
8 respect to the number of employees, number and type of facilities, and
9 size of budget; and

10 (ii) The type of operation in which the business, program or enter-
11 prise is engaged, including the composition and structure of the work-
12 force.

13 (4) It shall be an unlawful discriminatory practice for an employer to
14 refuse to or otherwise fail to engage in cooperative dialogue within a
15 reasonable time with an employee who has requested a reasonable accommo-
16 dation under this section.

17 (5) An employee who must be absent from work in accordance with the
18 provisions of subparagraph one of this paragraph shall provide the
19 employer with reasonable advance notice of the employee's absence,
20 unless such advance notice is not feasible.

21 [~~(5)~~] (6) An employee who must be absent from work in accordance with
22 the provisions of subparagraph one of this paragraph and who cannot
23 feasibly give reasonable advance notice of the absence in accordance
24 with subparagraph [~~four~~] five of this paragraph must, within a reason-
25 able time after the absence, provide a certification to the employer
26 when requested by the employer. Any person required by subparagraph one
27 of this paragraph to make reasonable accommodation may require a person
28 requesting reasonable accommodation pursuant to this paragraph to
29 provide certification that the person is a victim of domestic violence,
30 a sex offense, or stalking. Such certification shall be in the form of:

31 (i) A police [~~report~~] or court record indicating that the employee or
32 [~~his or her~~] their child was a victim of domestic violence, a sex
33 offense, or stalking;

34 (ii) [~~A court order protecting or separating the employee or his or~~
35 ~~her child from the perpetrator of an act of domestic violence,~~

36 (iii) Other corroborating evidence, including evidence from the court
37 or prosecuting attorney [~~that the employee appeared in court~~]; [~~or~~

38 (iv) (iii) Documentation from a medical professional, [~~domestic~~
39 ~~violence~~] victim services provider or advocate, health care provider,
40 cultural or religious provider, or counselor that the employee or [~~his~~
41 ~~or her~~] their child was [~~undergoing counseling or treatment for physical~~
42 ~~or mental injuries or abuse resulting in victimization from~~] obtaining
43 assistance for an act of domestic violence, a sex offense, or stalking;
44 or

45 (iv) Documentation from an attorney or any other professional service
46 provider from whom the individual seeking a reasonable accommodation or
47 child has sought assistance in addressing domestic violence, a sex
48 offense, or stalking.

49 [~~(6)~~] (7) Where an employee has a physical or mental disability
50 resulting from an incident or series of incidents of domestic violence,
51 a sex offense, or stalking, such employee shall be treated in the same
52 manner as an employee with any other disability, pursuant to the
53 provisions of this section which provide that discrimination and refusal
54 to provide reasonable accommodation of disability are unlawful discrimi-
55 natory practices.

1 (d) To the extent allowed by law, employers shall maintain the confi-
2 dentiality of any information and documentation regarding an employee's
3 status as a victim of domestic violence, a sex offense, or stalking.

4 § 3. The section heading, paragraph b of subdivision 1 and paragraph c
5 of subdivision 2 of section 201-g of the labor law, the section heading
6 and paragraph c of subdivision 2 as added by section 1 of subpart E of
7 part KK of chapter 57 of the laws of 2018 and paragraph b of subdivision
8 1 as amended by chapter 160 of the laws of 2019, are amended and two new
9 subdivisions 5 and 6 are added to read as follows:

10 Prevention of sexual harassment and responding to domestic violence,
11 sex offenses, and stalking.

12 b. Every employer shall adopt the model sexual harassment prevention
13 policy promulgated pursuant to this subdivision or establish a sexual
14 harassment prevention policy to prevent sexual harassment that equals or
15 exceeds the minimum standards provided by such model sexual harassment
16 prevention policy, which, on and after January first, two thousand twen-
17 ty-seven, shall include guidance on workplace protections for victims of
18 domestic violence, sex offenses, and stalking. Such [~~sexual harassment~~
19 ~~prevention~~] policy shall be provided to all employees in writing as
20 required by subdivision two-a of this section. Such model [~~sexual~~
21 ~~harassment prevention~~] policy shall be publicly available and posted on
22 the websites of both the department and the division of human rights.

23 c. Every employer shall utilize the model sexual harassment prevention
24 training program pursuant to this subdivision or establish a training
25 program for employees to prevent sexual harassment that equals or
26 exceeds the minimum standards provided by such model training. Such
27 sexual harassment prevention training shall be provided to all employees
28 on an annual basis. On and after January first, two thousand twenty-sev-
29 en, any such training program shall include guidance on workplace
30 protections for victims of domestic violence, sex offenses, and stalk-
31 ing.

32 5. On and after January first, two thousand twenty-seven, the depart-
33 ment, in consultation with the division of human rights and the office
34 for the prevention of domestic violence, shall ensure that the model
35 sexual harassment prevention guidance document and sexual harassment
36 prevention policy includes guidance on workplace protections for victims
37 of domestic violence, sex offenses, and stalking, including language
38 that: (i) prohibits discrimination by an employer or employment agency
39 because of an employee or prospective employees status as a victim of
40 domestic violence, a sex offense or stalking in accordance with subdivi-
41 sion twenty-two of section two hundred ninety-six of the executive law;
42 and (ii) prohibits the refusal of an employer to provide a reasonable
43 accommodation to an employee known to the employer to be a victim of
44 domestic violence, a sex offense or stalking in accordance with subdivi-
45 sion twenty-two of section two hundred ninety-six of the executive law.

46 6. On and after January first, two thousand twenty-seven, the annual
47 model sexual harassment training program, mandated by subdivision two of
48 this section, shall include: (i) an explanation of discrimination on the
49 basis of one's status as a victim of domestic violence, a sex offense or
50 stalking consistent with guidance issued by the department in consulta-
51 tion with the division of human rights and office for the prevention of
52 domestic violence; (ii) examples of conduct that would constitute unlaw-
53 ful discrimination because of one's status as a victim of domestic
54 violence, a sex offense or stalking; (iii) information concerning the
55 state statutory provisions concerning discrimination because of one's
56 status as a victim of domestic violence, a sex offense or stalking and

1 remedies available to victims of such discrimination; and (iv) informa-
2 tion concerning employees' rights of redress and all available forums
3 for adjudicating complaints.

4 § 4. This act shall take effect January 1, 2027. Effective immediate-
5 ly, the addition, amendment and/or repeal of any rule or regulation
6 necessary for the implementation of this act on its effective date are
7 authorized to be made and completed on or before such effective date.