

# STATE OF NEW YORK

1971

2001-2002 Regular Sessions

## IN ASSEMBLY

January 17, 2001

Introduced by M. of A. SANDERS, GLICK, GOTTFRIED, DINAPOLI, GRANNIS, BRENNAN, CLARK, ARROYO, BRAGMAN -- Multi-Sponsored by -- M. of A. ALFANO, AUBRY, BOYLAND, CANESTRARI, CHRISTENSEN, A. COHEN, M. COHEN, COOK, DAVIS, DIAZ, DINOWITZ, ENGLEBRIGHT, ERRIGO, ESPAILLAT, EVE, FARRELL, GALEF, GIANARIS, GREEN, GREENE, HOYT, JACOBS, JOHN, LAFAYETTE, LAVELLE, LOPEZ, LUSTER, MATUSOW, MCENENY, McLAUGHLIN, MILLMAN, MORELLE, NORMAN, ORTIZ, PERRY, PHEFFER, PRETLOW, RAVITZ, RHODD-CUMMINGS, P. RIVERA, SCARBOROUGH, SIDIKMAN, SPANO, STRINGER, E. C. SULLIVAN, SWEENEY, TOWNS, VANN, WEINSTEIN, WEISENBERG, WEPRIN, WRIGHT -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, the civil rights law and the education law, in relation to prohibiting discrimination based on sexual orientation

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

1 Section 1. Legislative findings and intent. The legislature reaffirms  
2 that the state has the responsibility to act to assure that every indi-  
3 vidual within this state is afforded an equal opportunity to enjoy a  
4 full and productive life, and that the failure to provide such equal  
5 opportunity, whether because of discrimination, prejudice, intolerance  
6 or inadequate education, training, housing or health care not only  
7 threatens the rights and proper privileges of its inhabitants, but  
8 menaces the institutions and foundation of a free democratic state and  
9 threatens the peace, order, health, safety and general welfare of the  
10 state and its inhabitants.

11 The legislature further finds that many residents of this state have  
12 encountered prejudice on account of their sexual orientation, and that  
13 this prejudice has severely limited or actually prevented access to  
14 employment, housing and other basic necessities of life, leading to  
15 deprivation and suffering. The legislature further recognizes that this  
16 prejudice has fostered a general climate of hostility and distrust,

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

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1 leading in some instances to physical violence against those perceived  
2 to be homosexual or bisexual.

3 In so doing, the legislature makes clear its action is not intended to  
4 promote any particular attitude, course of conduct or way of life. Rath-  
5 er its purpose is to ensure that individuals who live in our free socie-  
6 ty have the capacity to make their own choices, follow their own beliefs  
7 and conduct their own lives as they see fit, consistent with existing  
8 law.

9 Nothing in this legislation should be construed to create, add, alter  
10 or abolish any right to marry that may exist under the constitution of  
11 the United States, or this state and/or the laws of this state.

12 § 2. Subdivisions 1 and 2 of section 291 of the executive law, as  
13 amended by chapter 803 of the laws of 1975, are amended to read as  
14 follows:

15 1. The opportunity to obtain employment without discrimination because  
16 of age, race, creed, color, national origin, sexual orientation, sex or  
17 marital status is hereby recognized as and declared to be a civil right.

18 2. The opportunity to obtain education, the use of places of public  
19 accommodation and the ownership, use and occupancy of housing accommo-  
20 dations and commercial space without discrimination because of age,  
21 race, creed, color, national origin, sexual orientation, sex or marital  
22 status, as specified in section two hundred ninety-six of this article,  
23 is hereby recognized as and declared to be a civil right.

24 § 3. Section 292 of the executive law is amended by adding a new  
25 subdivision 27 to read as follows:

26 27. The term "sexual orientation" means heterosexuality, homosexuali-  
27 ty, bisexuality or asexuality, whether actual or perceived. However,  
28 nothing contained herein shall be construed to protect conduct otherwise  
29 proscribed by law.

30 § 4. Subdivisions 8 and 9 of section 295 of the executive law, as  
31 amended by chapter 113 of the laws of 1978, are amended to read as  
32 follows:

33 8. To create such advisory councils, local, regional or state-wide, as  
34 in its judgment will aid in effectuating the purposes of this article  
35 and of section eleven of article one of the constitution of this state,  
36 and the division may empower them to study the problems of discrimi-  
37 nation in all or specific fields of human relationships or in specific  
38 instances of discrimination because of age, race, creed, color, national  
39 origin, sexual orientation, sex, disability or marital status and make  
40 recommendations to the division for the development of policies and  
41 procedures in general and in specific instances. The advisory councils  
42 also shall disseminate information about the division's activities to  
43 organizations and individuals in their localities. Such advisory coun-  
44 cils shall be composed of representative citizens, serving without pay,  
45 but with reimbursement for actual and necessary traveling expenses; and  
46 the division may make provision for technical and clerical assistance to  
47 such councils and for the expenses of such assistance.

48 9. To develop human rights plans and policies for the state and assist  
49 in their execution and to make investigations and studies appropriate to  
50 effectuate this article and to issue such publications and such results  
51 of investigations and research as in its judgement will tend to inform  
52 persons of the rights assured and remedies provided under this article,  
53 to promote good-will and minimize or eliminate discrimination because of  
54 age, race, creed, color, national origin, sexual orientation, sex, disa-  
55 bility or marital status.

1 § 5. Paragraphs (a), (b), (c) and (d) of subdivision 1 of section 296  
2 of the executive law, as amended by chapter 204 of the laws of 1996, are  
3 amended to read as follows:

4 (a) For an employer or licensing agency, because of the age, race,  
5 creed, color, national origin, sexual orientation, sex, disability,  
6 genetic predisposition or carrier status, or marital status of any indi-  
7 vidual, to refuse to hire or employ or to bar or to discharge from  
8 employment such individual or to discriminate against such individual in  
9 compensation or in terms, conditions or privileges of employment.

10 (b) For an employment agency to discriminate against any individual  
11 because of age, race, creed, color, national origin, sexual orientation,  
12 sex, disability, genetic predisposition or carrier status, or marital  
13 status, in receiving, classifying, disposing or otherwise acting upon  
14 applications for its services or in referring an applicant or applicants  
15 to an employer or employers.

16 (c) For a labor organization, because of the age, race, creed, color,  
17 national origin, sexual orientation, sex, disability, genetic predispo-  
18 sition or carrier status, or marital status of any individual, to  
19 exclude or to expel from its membership such individual or to discrimi-  
20 nate in any way against any of its members or against any employer or  
21 any individual employed by an employer.

22 (d) For any employer or employment agency to print or circulate or  
23 cause to be printed or circulated any statement, advertisement or publi-  
24 cation, or to use any form of application for employment or to make any  
25 inquiry in connection with prospective employment, which expresses  
26 directly or indirectly, any limitation, specification or discrimination  
27 as to age, race, creed, color [or], national origin, sexual orientation,  
28 sex, disability, genetic predisposition or carrier status, or marital  
29 status, or any intent to make any such limitation, specification or  
30 discrimination, unless based upon a bona fide occupational qualifica-  
31 tion; provided, however, that neither this paragraph nor any provision  
32 of this chapter or other law shall be construed to prohibit the depart-  
33 ment of civil service or the department of personnel of any city  
34 containing more than one county from requesting information from appli-  
35 cants for civil service examinations concerning any of the aforemen-  
36 tioned characteristics, other than sexual orientation, for the purpose  
37 of conducting studies to identify and resolve possible problems in  
38 recruitment and testing of members of minority groups to insure the  
39 fairest possible and equal opportunities for employment in the civil  
40 service for all persons, regardless of age, race, creed, color, national  
41 origin, sexual orientation, sex, disability, genetic predisposition or  
42 carrier status, or marital status.

43 § 6. Paragraphs (b), (c) and (d) of subdivision 1-a of section 296 of  
44 the executive law, paragraphs (b) and (d) as amended by chapter 414 of  
45 the laws of 1984 and paragraph (c) as amended by chapter 166 of the laws  
46 of 2000, are amended to read as follows:

47 (b) To deny to or withhold from any person because of race, creed,  
48 color, national origin, sexual orientation, sex, age, disability, or  
49 marital status, the right to be admitted to or participate in a guidance  
50 program, an apprenticeship training program, on-the-job training  
51 program, executive training program, or other occupational training or  
52 retraining program;

53 (c) To discriminate against any person in his or her pursuit of such  
54 programs or to discriminate against such a person in the terms, condi-  
55 tions or privileges of such programs because of race, creed, color,

1 national origin, sexual orientation, sex, age, disability<sup>Vf</sup> or marital  
2 status;

3 (d) To print or circulate or cause to be printed or circulated any  
4 statement, advertisement or publication, or to use any form of applica-  
5 tion for such programs or to make any inquiry in connection with such  
6 program which expresses, directly or indirectly, any limitation, spec-  
7 ification or discrimination as to race, creed, color, national origin,  
8 sexual orientation, sex, age, disability or marital status, or any  
9 intention to make any such limitation, specification or discrimination,  
10 unless based on a bona fide occupational qualification.

11 § 7. Paragraph (a) of subdivision 2 of section 296 of the executive  
12 law, as amended by chapter 803 of the laws of 1975, is amended to read  
13 as follows:

14 (a) It shall be an unlawful discriminatory practice for any person,  
15 being the owner, lessee, proprietor, manager, superintendent, agent or  
16 employee of any place of public accommodation, resort or amusement,  
17 because of the race, creed, color, national origin, sexual orientation,  
18 sex, or disability or marital status of any person, directly or indi-  
19 rectly, to refuse, withhold, from or deny to such person any of the  
20 accommodations, advantages, facilities or privileges thereof, including  
21 the extension of credit, or, directly or indirectly, to publish, circu-  
22 late, issue, display, post or mail any written or printed communication,  
23 notice or advertisement, to the effect that any of the accommodations,  
24 advantages, facilities and privileges of any such place shall be  
25 refused, withheld from or denied to any person on account of race,  
26 creed, color, national origin, sexual orientation, sex, or disability or  
27 marital status, or that the patronage or custom thereof of any person of  
28 or purporting to be of any particular race, creed, color, national  
29 origin, sexual orientation, sex or marital status, or having a disabili-  
30 ty is unwelcome, objectionable or not acceptable, desired or solicited.

31 § 8. Paragraphs (a), (b) and (c) of subdivision 2-a of section 296 of  
32 the executive law, paragraphs (a) and (c) as amended by section 2 of  
33 part D of chapter 405 of the laws of 1999 and paragraph (b) as amended  
34 by chapter 166 of the laws of 2000, are amended to read as follows:

35 (a) To refuse to sell, rent or lease or otherwise to deny to or with-  
36 hold from any person or group of persons such housing accommodations  
37 because of the race, creed, color, disability, national origin, sexual  
38 orientation, age, sex, marital status, or familial status of such person  
39 or persons, or to represent that any housing accommodation or land is  
40 not available for inspection, sale, rental or lease when in fact it is  
41 so available.

42 (b) To discriminate against any person because of his or her race,  
43 creed, color, disability, national origin, sexual orientation, age, sex,  
44 marital status, or familial status in the terms, conditions or privi-  
45 leges of any publicly-assisted housing accommodations or in the furnish-  
46 ing of facilities or services in connection therewith.

47 (c) To cause to be made any written or oral inquiry or record concern-  
48 ing the race, creed, color, disability, national origin, sexual orien-  
49 tation, age, sex, marital status, or familial status of a person seeking  
50 to rent or lease any publicly-assisted housing accommodation.

51 § 9. Subdivision 3-b of section 296 of the executive law, as amended  
52 by chapter 166 of the laws of 2000, is amended to read as follows:

53 3-b. It shall be an unlawful discriminatory practice for any real  
54 estate broker, real estate salesperson or employee or agent thereof or  
55 any other individual, corporation, partnership or organization for the  
56 purpose of inducing a real estate transaction from which any such person

1 or any of its stockholders or members may benefit financially, to repre-  
2 sent that a change has occurred or will or may occur in the composition  
3 with respect to race, creed, color, national origin, sexual orientation,  
4 sex, disability, marital status, or familial status of the owners or  
5 occupants in the block, neighborhood or area in which the real property  
6 is located, and to represent, directly or indirectly, that this change  
7 will or may result in undesirable consequences in the block, neighbor-  
8 hood or area in which the real property is located, including but not  
9 limited to the lowering of property values, an increase in criminal or  
10 anti-social behavior, or a decline in the quality of schools or other  
11 facilities.

12 § 10. Subdivision 4 of section 296 of the executive law, as amended by  
13 chapter 730 of the laws of 1977, is amended to read as follows:

14 4. It shall be an unlawful discriminatory practice for an education  
15 corporation or association which holds itself out to the public to be  
16 non-sectarian and exempt from taxation pursuant to the provisions of  
17 article four of the real property tax law to deny the use of its facili-  
18 ties to any person otherwise qualified, by reason of his race, color,  
19 religion, disability, national origin, sexual orientation, age or mari-  
20 tal status.

21 § 11. Subdivision 5 of section 296 of the executive law, as amended by  
22 chapter 730 of the laws of 1977, paragraphs (a) and (c) as amended by  
23 chapter 368 of the laws of 1991, subparagraph 1 and the closing para-  
24 graph of paragraph (a) as amended by section 4 of part D of chapter 405  
25 of the laws of 1999, paragraph (b) as amended by chapter 657 of the laws  
26 of 1983, subparagraphs 1 and 2 of paragraph (b) and the opening para-  
27 graph of paragraph (c) as amended by chapter 166 of the laws of 2000,  
28 subparagraphs 3 and 4 of paragraph (b) as amended by section 5 of part D  
29 of chapter 405 of the laws of 1999, subparagraph 3 of paragraph (c) as  
30 amended by section 6 of part D of chapter 405 of the laws of 1999 and  
31 paragraph (d) as amended by section 7 of part D of chapter 405 of the  
32 laws of 1999, is amended to read as follows:

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

37 (1) To refuse to sell, rent, lease or otherwise to deny to or withhold  
38 from any person or group of persons such a housing accommodation because  
39 of the race, creed, color, national origin, sexual orientation, sex,  
40 age, disability, marital status, or familial status of such person or  
41 persons, or to represent that any housing accommodation or land is not  
42 available for inspection, sale, rental or lease when in fact it is so  
43 available.

44 (2) To discriminate against any person because of race, creed, color,  
45 national origin, sexual orientation, sex, age, disability, marital  
46 status, or familial status in the terms, conditions or privileges of the  
47 sale, rental or lease of any such housing accommodation or in the  
48 furnishing of facilities or services in connection therewith.

49 (3) To print or circulate or cause to be printed or circulated any  
50 statement, advertisement or publication, or to use any form of applica-  
51 tion for the purchase, rental or lease of such housing accommodation or  
52 to make any record or inquiry in connection with the prospective  
53 purchase, rental or lease of such a housing accommodation which  
54 expresses, directly or indirectly, any limitation, specification or  
55 discrimination as to race, creed, color, national origin, sexual orien-

1 tation, sex, age, disability, marital status, or familial status, or any  
2 intent to make any such limitation, specification or discrimination.

3 The provisions of this paragraph (a) shall not apply (1) to the rental  
4 of a housing accommodation in a building which contains housing accommo-  
5 dations for not more than two families living independently of each  
6 other, if the owner resides in one of such housing accommodations, (2)  
7 to the restriction of the rental of all rooms in a housing accommodation  
8 to individuals of the same sex or (3) to the rental of a room or rooms  
9 in a housing accommodation, if such rental is by the occupant of the  
10 housing accommodation or by the owner of the housing accommodation and  
11 the owner resides in such housing accommodation or (4) solely with  
12 respect to age and familial status to the restriction of the sale,  
13 rental or lease of housing accommodations exclusively to persons sixty-  
14 two years of age or older and the spouse of any such person, or for  
15 housing intended and operated for occupancy by at least one person  
16 fifty-five years of age or older per unit. In determining whether hous-  
17 ing is intended and operated for occupancy by persons fifty-five years  
18 of age or older, Sec. 807(b) (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the  
19 federal Fair Housing Act of 1988, as amended, shall apply.

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

24 (1) To refuse to sell, rent, lease or otherwise deny to or withhold  
25 from any person or group of persons land or commercial space because of  
26 the race, creed, color, national origin, sexual orientation, sex, age,  
27 disability, marital status, or familial status of such person or  
28 persons, or to represent that any housing accommodation or land is not  
29 available for inspection, sale, rental or lease when in fact it is so  
30 available;

31 (2) To discriminate against any person because of race, creed, color,  
32 national origin, sexual orientation, sex, age, disability, marital  
33 status, or familial status in the terms, conditions or privileges of the  
34 sale, rental or lease of any such land or commercial space; or in the  
35 furnishing of facilities or services in connection therewith;

36 (3) To print or circulate or cause to be printed or circulated any  
37 statement, advertisement or publication, or to use any form of applica-  
38 tion for the purchase, rental or lease of such land or commercial space  
39 or to make any record or inquiry in connection with the prospective  
40 purchase, rental or lease of such land or commercial space which  
41 expresses, directly or indirectly, any limitation, specification or  
42 discrimination as to race, creed, color, national origin, sexual orien-  
43 tation, sex, age, disability, marital status, or familial status; or any  
44 intent to make any such limitation, specification or discrimination.

45 (4) With respect to age and familial status, the provisions of this  
46 paragraph shall not apply to the restriction of the sale, rental or  
47 lease of land or commercial space exclusively to persons fifty-five  
48 years of age or older and the spouse of any such person, or to the  
49 restriction of the sale, rental or lease of land to be used for the  
50 construction, or location of housing accommodations exclusively for  
51 persons sixty-two years of age or older, or intended and operated for  
52 occupancy by at least one person fifty-five years of age or older per  
53 unit. In determining whether housing is intended and operated for occu-  
54 pancy by persons fifty-five years of age or older, Sec. 807(b) (2) (c)  
55 (42 U.S.C. 3607(b) (2) (c)) of the federal Fair Housing Act of 1988, as  
56 amended, shall apply.

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

3 (1) To refuse to sell, rent or lease any housing accommodation, land  
4 or commercial space to any person or group of persons or to refuse to  
5 negotiate for the sale, rental or lease, of any housing accommodation,  
6 land or commercial space to any person or group of persons because of  
7 the race, creed, color, national origin, sexual orientation, sex, age,  
8 disability, marital status, or familial status of such person or  
9 persons, or to represent that any housing accommodation, land or commer-  
10 cial space is not available for inspection, sale, rental or lease when  
11 in fact it is so available, or otherwise to deny or withhold any housing  
12 accommodation, land or commercial space or any facilities of any housing  
13 accommodation, land or commercial space from any person or group of  
14 persons because of the race, creed, color, national origin, sexual  
15 orientation, sex, age, disability, marital status, or familial status of  
16 such person or persons.

17 (2) 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 any housing accommodation,  
20 land or commercial space or to make any record or inquiry in connection  
21 with the prospective purchase, rental or lease of any housing accommo-  
22 dation, land or commercial space which expresses, directly or indirect-  
23 ly, any limitation, specification, or discrimination as to race, creed,  
24 color, national origin, sexual orientation, sex, age, disability, mari-  
25 tal status, or familial status; or any intent to make any such limita-  
26 tion, specification or discrimination.

27 (3) With respect to age and familial status, the provisions of this  
28 paragraph shall not apply to the restriction of the sale, rental or  
29 lease of any land or commercial space exclusively to persons fifty-five  
30 years of age or older and the spouse of any such person, or to the  
31 restriction of the sale, rental or lease of any housing accommodation or  
32 land to be used for the construction or location of housing accommo-  
33 dations for persons sixty-two years of age or older, or intended and  
34 operated for occupancy by at least one person fifty-five years of age or  
35 older per unit. In determining whether housing is intended and operated  
36 for occupancy by persons fifty-five years of age or older, Sec. 807 (b)  
37 (2) (c) (42 U.S.C. 3607 (b) (2) (c)) of the federal Fair Housing Act of  
38 1988, as amended, shall apply.

39 (d) It shall be an unlawful discriminatory practice for any real  
40 estate board, because of the race, creed, color, national origin, sexual  
41 orientation, age, sex, disability, marital status, or familial status of  
42 any individual who is otherwise qualified for membership, to exclude or  
43 expel such individual from membership, or to discriminate against such  
44 individual in the terms, conditions and privileges of membership in such  
45 board.

46 (e) It shall be an unlawful discriminatory practice for the owner,  
47 proprietor or managing agent of, or other person having the right to  
48 provide care and services in, a private proprietary nursing home, conva-  
49 lescent home, or home for adults, or an intermediate care facility, as  
50 defined in section two of the social services law, heretofore  
51 constructed, or to be constructed, or any agent or employee thereof, to  
52 refuse to provide services and care in such home or facility to any  
53 individual or to discriminate against any individual in the terms,  
54 conditions, and privileges of such services and care solely because such  
55 individual is a blind person. For purposes of this paragraph, a "blind  
56 person" shall mean a person who is registered as a blind person with the

1 commission for the visually handicapped and who meets the definition of  
2 a "blind person" pursuant to section three of chapter four hundred  
3 fifteen of the laws of nineteen hundred thirteen entitled "An act to  
4 establish a state commission for improving the condition of the blind of  
5 the state of New York, and making an appropriation therefor".

6 (f) The provisions of this subdivision, as they relate to age, shall  
7 not apply to persons under the age of eighteen years.

8 § 12. Paragraph (a) of subdivision 9 of section 296 of the executive  
9 law, as amended by chapter 166 of the laws of 2000, is amended to read  
10 as follows:

11 (a) It shall be an unlawful discriminatory practice for any fire  
12 department or fire company therein, through any member or members there-  
13 of, officers, board of fire commissioners or other body or office having  
14 power of appointment of volunteer firefighters, directly or indirectly,  
15 by ritualistic practice, constitutional or by-law prescription, by tacit  
16 agreement among its members, or otherwise, to deny to any individual  
17 membership in any volunteer fire department or fire company therein, or  
18 to expel or discriminate against any volunteer member of a fire depart-  
19 ment or fire company therein, because of the race, creed, color,  
20 national origin, sexual orientation, sex or marital status of such indi-  
21 vidual.

22 § 13. Subdivision 13 of section 296 of the executive law, as added by  
23 chapter 662 of the laws of 1975, is amended to read as follows:

24 13. It shall be an unlawful discriminatory practice (i) for any person  
25 to discriminate against, boycott or blacklist, or to refuse to buy from,  
26 sell to or trade with, any person, because of the race, creed, color,  
27 national origin, sexual orientation or sex of such person, or of such  
28 person's partners, members, stockholders, directors, officers, managers,  
29 superintendents, agents, employees, business associates, suppliers or  
30 customers, or (ii) for any person wilfully to do any act or refrain from  
31 doing any act which enables any such person to take such action. This  
32 subdivision shall not apply to:

33 (a) Boycotts connected with labor disputes; or

34 (b) Boycotts to protest unlawful discriminatory practices.

35 § 14. Subdivisions 1 and 2 of section 296-a of the executive law,  
36 subdivision 1 as amended by chapter 168 of the laws of 1977, paragraphs  
37 a, b, c, d and e of subdivision 1 as amended by chapter 166 of the laws  
38 of 2000, paragraph f of subdivision 1 as added by chapter 114 of the  
39 laws of 1987 and subdivision 2 as amended by section 10 of part D of  
40 chapter 405 of the laws of 1999, are amended to read as follows:

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

43 a. In the case of applications for credit with respect to the  
44 purchase, acquisition, construction, rehabilitation, repair or mainte-  
45 nance of any housing accommodation, land or commercial space to discrim-  
46 inate against any such applicant because of the race, creed, color,  
47 national origin, sexual orientation, age, sex, marital status, disabili-  
48 ty, or familial status of such applicant or applicants or any member,  
49 stockholder, director, officer or employee of such applicant or appli-  
50 cants, or of the prospective occupants or tenants of such housing accom-  
51 modation, land or commercial space, in the granting, withholding,  
52 extending or renewing, or in the fixing of the rates, terms or condi-  
53 tions of, any such credit;

54 b. To discriminate in the granting, withholding, extending or renew-  
55 ing, or in the fixing of the rates, terms or conditions of, any form of

1 credit, on the basis of race, creed, color, national origin, sexual  
2 orientation, age, sex, marital status, disability, or familial status;

3 c. To use any form of application for credit or use or make any record  
4 or inquiry which expresses, directly or indirectly, any limitation,  
5 specification, or discrimination as to race, creed, color, national  
6 origin, sexual orientation, age, sex, marital status, disability, or  
7 familial status;

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

11 e. To refuse to consider sources of an applicant's income or to  
12 subject an applicant's income to discounting, in whole or in part,  
13 because of an applicant's race, creed, color, national origin, sexual  
14 orientation, age, sex, marital status, childbearing potential, disabili-  
15 ty, or familial status;

16 f. To discriminate against a married person because such person  
17 neither uses nor is known by the surname of his or her spouse.

18 This paragraph shall not apply to any situation where the use of a  
19 surname would constitute or result in a criminal act.

20 2. Without limiting the generality of subdivision one, it shall be  
21 considered discriminatory if, because of an applicant's or class of  
22 applicants' race, creed, color, national origin, sexual orientation,  
23 age, sex, marital status or disability, or familial status, (i) an  
24 applicant or class of applicants is denied credit in circumstances where  
25 other applicants of like overall credit worthiness are granted credit,  
26 or (ii) special requirements or conditions, such as requiring co-obli-  
27 gors or reapplication upon marriage, are imposed upon an applicant or  
28 class of applicants in circumstances where similar requirements or  
29 conditions are not imposed upon other applicants of like overall credit  
30 worthiness.

31 § 15. Section 40-c of the civil rights law, as amended by chapter 720  
32 of the laws of 1982, is amended to read as follows:

33 § 40-c. Discrimination. 1. All persons within the jurisdiction of this  
34 state shall be entitled to the equal protection of the laws of this  
35 state or any subdivision thereof.

36 2. No person shall, because of race, creed, color, national origin,  
37 sex, marital status, sexual orientation or disability, as such term is  
38 defined in section two hundred ninety-two of the executive law, be  
39 subjected to any discrimination in his or her civil rights, or to any  
40 harassment, as defined in section 240.25 of the penal law, in the exer-  
41 cise thereof, by any other person or by any firm, corporation or insti-  
42 tution, or by the state or any agency or subdivision of the state.

43 § 16. Paragraph (a) of subdivision 1 of section 313 of the education  
44 law, as amended by chapter 467 of the laws of 1991, is amended to read  
45 as follows:

46 (a) It is hereby declared to be the policy of the state that the Amer-  
47 ican ideal of equality of opportunity requires that students, otherwise  
48 qualified, be admitted to educational institutions and be given access  
49 to all the educational programs and courses operated or provided by such  
50 institutions without regard to race, color, sex, religion, creed, mari-  
51 tal status, age, sexual orientation as defined in section two hundred  
52 ninety-two of the executive law or national origin, except that, with  
53 regard to religious or denominational educational institutions,  
54 students, otherwise qualified, shall have the equal opportunity to  
55 attend therein without discrimination because of race, color, sex, mari-  
56 tal status, age, sexual orientation as defined in section two hundred

1 ninety-two of the executive law or national origin. It is a fundamental  
2 American right for members of various religious faiths to establish and  
3 maintain educational institutions exclusively or primarily for students  
4 of their own religious faith or to effectuate the religious principles  
5 in furtherance of which they are maintained. Nothing herein contained  
6 shall impair or abridge that right.

7 § 17. Subdivision 3 of section 313 of the education law, as added by  
8 chapter 753 of the laws of 1948, paragraphs (a) and (e) as amended by  
9 chapter 537 of the laws of 1987, paragraph (c) as added by chapter 356  
10 of the laws of 1953, paragraph (d) as added and paragraph (e) as relet-  
11 tered by chapter 467 of the laws of 1991, is amended to read as follows:

12 (3) Unfair educational practices. It shall be an unfair educational  
13 practice for an educational institution after September fifteenth, nine-  
14 teen hundred forty-eight:

15 (a) To exclude or limit or otherwise discriminate against any person  
16 or persons seeking admission as students to such institution or to any  
17 educational program or course operated or provided by such institution  
18 because of race, religion, creed, sex, color, marital status, age, sexu-  
19 al orientation as defined in section two hundred ninety-two of the exec-  
20 utive law or national origin; except that nothing in this section shall  
21 be deemed to affect, in any way, the right of a religious or denomina-  
22 tional educational institution to select its students exclusively or  
23 primarily from members of such religion or denomination or from giving  
24 preference in such selection to such members or to make such selection  
25 of its students as is calculated by such institution to promote the  
26 religious principles for which it is established or maintained. Nothing  
27 herein contained shall impair or abridge the right of an independent  
28 institution, which establishes or maintains a policy of educating  
29 persons of one sex exclusively, to admit students of only one sex.

30 (b) To penalize any individual because he or she has initiated, testif-  
31 fied, participated or assisted in any proceedings under this section.

32 (c) To accept any endowment or gift of money or property conditioned  
33 upon teaching the doctrine of supremacy of any particular race.

34 (d) With respect to any individual who withdraws from attendance to  
35 serve on active duty in the armed forces of the United States in time of  
36 war, including any individual who withdrew from attendance on or after  
37 August second, nineteen hundred ninety to serve on active duty in the  
38 armed forces of the United States in the Persian Gulf conflict: (i) to  
39 deny or limit the readmission of such individual to such institution or  
40 to any educational program or course operated or provided by such insti-  
41 tution because of such withdrawal from attendance or because of the  
42 failure to complete any educational program or course due to such with-  
43 drawal; (ii) to impose any academic penalty on such person because of  
44 such withdrawal or because of the failure to complete any educational  
45 program or course due to such withdrawal; (iii) to reduce or eliminate  
46 any financial aid award granted to such individual which could not be  
47 used, in whole or part, because of such withdrawal or because of the  
48 failure to complete any educational program or course due to such with-  
49 drawal; or (iv) to fail to provide a credit or refund of tuition and  
50 fees paid by such individual for any semester, term or quarter not  
51 completed because of such withdrawal or because of the failure to  
52 complete any program or course due to such withdrawal.

53 (e) It shall not be an unfair educational practice for any educational  
54 institution to use criteria other than race, religion, creed, sex,  
55 color, marital status, age, sexual orientation as defined in section two  
56 hundred ninety-two of the executive law or national origin in the admis-

1 sion of students to such institution or to any of the educational  
2 programs and courses operated or provided by such institution.  
3 § 18. This act shall take effect on the thirtieth day after it shall  
4 have become a law.

