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**THE COUNCIL OF THE CITY OF NEW YORK**

**COMMITTEE REPORT OF THE HUMAN SERVICES DIVISION**

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**COMMITTEE ON AGING**

*Hon. Margaret Chin, Chair*

November 19, 2020

**PROPOSED INT. NO. 1693-A:** By Council Members Chin, Ayala, Rosenthal, Rivera, Koslowitz, Gibson, Louis, Adams, Kallos, Eugene, Vallone and Rose

 TITLE: A Local Law to amend the New York city charter, in relation to recommendations regarding age discrimination and developing the older adult workforce

CHARTER: Amends Section 2402 and amends section 2403

**PROPOSED INT. NO. 1694-A:** By Council Members Chin, Ayala, Rosenthal, Rivera, Koslowitz, Gibson, Louis, Adams, Kallos, Eugene, Diaz, Vallone, and Rose

 TITLE: A Local Law to amend the administrative code of the city of New York, in relation to a center for older workforce development

CHARTER: Amends Chapter 1 by adding new section 20-k

**PROPOSED INT. NO. 1695-A:** By Council Members Chin, Ayala, Rosenthal, Rivera, Koslowitz, Gibson, Louis, Adams, Kallos, Eugene, Diaz, Vallone, and Rose

 TITLE: A Local Law in relation to studying age discrimination in the workplace

**I. INTRODUCTION**

On November 19, 2020, the Committee on Aging, chaired by Council Member Margaret Chin, will hold a vote on three bills related to a package addressing age discrimination in the workplace. The Committee will be voting on Proposed Int. No. 1693-A, sponsored by Council Member Chin, in relation to recommendations regarding age discrimination and developing the older adult workforce; Proposed Int. No. 1694-A, in relation to creating a Center for Older Workforce Development; and Propose Int. No. 1695-A, in relation to studying age discrimination in the workplace.

Previously, in October 2019, the Committee on Aging, chaired by Council Member Margaret Chin, and the Committee on Civil and Human Rights, chaired by Council Member Mathieu Eugene, held a hearing on the age discrimination package, which also included then Int. No. 1684 and Int. No. 1685. These two bills, now Proposed Int. No. 1684-A and Proposed Int. no. 1685-A, will be heard for a vote in the Committee on Civil Rights on November 19, 2020 as well. Feedback from the Administration, advocates, and stakeholders received during the October 19 hearing was used to inform changes to the bills.

**II. BACKGROUND**

 Nationwide, older adults are increasingly the victims of age discrimination in the workplace. Age discrimination, according to the United States Equal Employment Opportunity Commission (EEOC), “involves treating an applicant or employee less favorably because of his or her age.”[[1]](#footnote-1) During fiscal year (FY) 2017, age discrimination represented 21.8 percent of complaints made to the EEOC, with 18,376 total complaints filed[[2]](#footnote-2) and most of which were filed by women.[[3]](#footnote-3) In a recent national survey conducted by the American Association of Retired Persons (AARP) of adults older than 45, 61 percent of respondents indicated that they have seen or experienced age discrimination in the workplace, and 38 percent of these respondents indicated that such discrimination is “very common.”[[4]](#footnote-4) Nineteen percent of these respondents indicated that they were not hired due to their age, and 12 percent indicated that they were not promoted because of their age.[[5]](#footnote-5)

A 2016 study conducted by ProPublica and the Urban Institute found that 28 percent of stable, longtime employees sustain at least one layoff by their employers between turning 50 and leaving work for retirement.[[6]](#footnote-6) The study also found that 28 percent of those who had been working in long-term, full-time jobs when they entered the study were laid off at least once.[[7]](#footnote-7) Additionally, 15 percent reported that they stopped working because their pay, hours, treatment from supervisors or other conditions had deteriorated.[[8]](#footnote-8) Another 13 percent of these older workers entered retirement unexpectedly, which the researchers say suggests the workers likely were forced out of their jobs.[[9]](#footnote-9) Overall, 56 percent of workers over the age of 50 in long-term, full-time positions lost their jobs involuntarily.[[10]](#footnote-10) Furthermore, workers that are pushed into retirement are more likely to be unemployed longer than younger people, and when they find a job they will typically earn 25 percent less on average than their previous salary.[[11]](#footnote-11)

Additionally, a 2013 study by the Associated Press-NORC Center for Public Affairs Research at the University of Chicago, found that among those who are retired, 33 percent reported that they did not feel they had a choice except to retire.[[12]](#footnote-12) Overall, the study reported 20 percent of adults aged 50 or older said they have personally experienced prejudice or discrimination because of their age in the job market or at work, including: “being passed over for a raise, promotion, or chance to get ahead; receiving certain unwanted assignments; or being denied access to training or the opportunity to acquire new skills because of their age.”[[13]](#footnote-13)

Age discrimination also persists in New York City as the number of NYC older adults in the workforce continues to increase. According to a 2017 report released by New York City Comptroller Scott Stringer, from 2005-2015, the number of working older adults increased by 62 percent, and, specifically, the number of seniors in the City’s labor force increased from 13 percent to 17 percent.[[14]](#footnote-14) Although recent data is limited, in 2015, the Robert N. Butler Columbia Aging Center and the New York Academy of Medicine reported that there were more than 700,000 individuals, aged 55 and older, in NYC’s workforce.[[15]](#footnote-15)

Notably, digital platforms have recently come under scrutiny for their online job recruitment practices. According to The New York Times, corporations such as Verizon, Amazon, Goldman Sachs, and Facebook have placed recruitment ads limited to certain age groups on Facebook.[[16]](#footnote-16) Advocates argue that such practice is discriminatory against older workers, and experts are concerned that these recruitment practices may violate the federal Age Discrimination in Employment Act.[[17]](#footnote-17)

With the COVID-19 pandemic, age discrimination has only worsened for older Americans. Company layoffs have disproportionately targeted individuals in protected categories. As of September 2020, unemployment rates for people over the age of 55 have increased from 3.3 percent prior to the pandemic to 26.4 percent.[[18]](#footnote-18) An employee in New York filed suit challenging his termination, alleging he was among the first laid off as his employer made cuts during the pandemic and was selected because of his age.[[19]](#footnote-19)

This, then, seems to be the current state of age discrimination in the workplace; although the population of older workers continues to grow rapidly, technology and stereotypical views toward the aging population make it potentially easier for employers to effectively discriminate against these same workers based on age— often leading to harmful consequences.

**Consequences and Effects of Age Discrimination**

*Stereotypes and Bias*

Although New York City has some of the strongest anti-discrimination laws in the country, older workers continue to face discrimination and harassment due to their age. For example, of the 193 age-related inquires made by New Yorkers last year to CCHR, 119 of these were regarding discrimination in employment.[[20]](#footnote-20) According to these complaints, discrimination is experienced at all stages of employment—hiring, firing, training, and promotion—and is often perpetrated because of stereotypes about older workers.[[21]](#footnote-21)

Academic research shows that negative preconceptions about older workers persists, despite evidence that disproves them.[[22]](#footnote-22) These stereotypes include assumptions such as: older workers being less flexible, alert, and productive; or needing to take more sick leave days because of health issues.[[23]](#footnote-23) This is despite the fact that some research “suggests that older workers are [actually] generally more productive, because of their higher levels of organization, commitment and loyalty.”[[24]](#footnote-24) This incorrect bias against older workers is one of the causes of age discrimination. In a worldwide study conducted by Deloitte Consulting, for instance, 41 percent of the surveyed companies stated that they considered their aging workforce to be a competitive disadvantage.[[25]](#footnote-25) These negative assumptions results in older workers being undervalued, and less likely to be offered career development or promotion opportunities.[[26]](#footnote-26)

*Financial Security*

The financial security offered through steady, fairly-paid work is often denied to older workers because of discrimination and bias. The long periods of unemployment or underemployment many of these workers face have severe consequences on their financial health. For example, a recent paper has shown that the bankruptcy rates for older Americans has increased between 200 and 300 percent (depending on the age bracket) since 1991.[[27]](#footnote-27)

The biases and stereotypes that operate to either fire or prevent older workers from finding the employment they need and desire also push these workers into early retirement. According to data from the Equal Employment Opportunity Commission (EEOC), last year 55 percent of all of the age discrimination-related charges involved unfair dismissal.[[28]](#footnote-28) When newly-retired workers turn to Social Security earlier than they had planned, either as a substitute for or supplement to employment income, they are financially penalized because the benefit is calculated according to the age when an individual starts accessing it. As one author articulates, “[w]orkers who retire at age 62 suffer a 25 percent cut in their monthly Social Security benefit for the rest of their lives compared to workers who retire at age 66, and a 32 percent decrease when compared to workers who retire at age 70.”[[29]](#footnote-29)

*Health and Wellbeing*

In addition to financial security, continued employment for older people provides a range of benefits for an individual’s health and wellbeing. Research has shown improvements in the ability to sustain levels of cognitive functioning over longer periods for people who are able to work past the age of 65.[[30]](#footnote-30) Maintaining employment also helps tackle a sense of isolation and build a stronger sense of self-worth. For example, according to a US Senate report into the country’s aging workforce, “[o]lder workers are more likely than younger workers to report that their job provides personal fulfillment and a sense of being needed and valued, as well as opportunities to learn new skills and remain physically, cognitively, and socially active.”[[31]](#footnote-31)

 While the benefits of working later in life extend beyond a person’s financial bottom-line, so do the negative consequences of age discrimination. For instance, “a 2013 Urban Institute report found that 63 percent of long-term unemployed or underemployed workers in 2011 skipped dental visits, 56 percent put off healthcare and 40 percent did not fill medical prescriptions. Many older adults who have jobs are vulnerable to bullying or mistreatment, realizing if they quit, they face joblessness, loss of health benefits and poverty.”[[32]](#footnote-32) Meanwhile, “[f]orced retirement correlates with significant declines in mental and physical health that can lead to shortened life spans.”[[33]](#footnote-33)

 Discrimination, in general, has many negative effects on mental and physical health and wellbeing, and the age discrimination experienced by older workers shows similar negative consequences.[[34]](#footnote-34) Research shows that this is especially true for older women in the workforce, as they often face gendered age discrimination.[[35]](#footnote-35) Such research has found that women who have experienced age discrimination experienced an increase in depressive symptoms and that the perceived financial strain of this discrimination has often perpetuated these symptoms.[[36]](#footnote-36)

**III. CITY SERVICES FOR OLDER WORKERS**

**Employment Services at the New York City Department for the Aging (DFTA)**

 DFTA provides many services to assist older adults with finding employment. DFTA’s Senior Employment Services Unit (SESU), which is part of the federal Community Service Employment Program, helps seniors receive employment in administrative work, customer service, home care, and other fields.[[37]](#footnote-37) SESU offers trainees assistance with job-searching, resume writing, and interviewing.[[38]](#footnote-38) Additionally, SESU provides training on the job and the opportunity for participants to earn a wage through placements at government agencies and nonprofits.[[39]](#footnote-39) To qualify for SESU services, participants must be 55 or older, unemployed, and have a family income of 125 percent or less than the federal poverty level.[[40]](#footnote-40)

 In addition to SESU services, DFTA offers the ReServe program, through a contract with ReServe Elder Services, which matches retirees with short-term NYC agency projects.[[41]](#footnote-41) At the Aging Committee’s 2018 hearing on “Age Discrimination in the Workplace,” DFTA testified that there were 251 individuals in the city’s ReServe program.[[42]](#footnote-42) DFTA also provides a Home Health Aide Referral Program, which has partnerships with 12 health care agencies that are interested in employing older adults.[[43]](#footnote-43) According to DFTA’s 2017 Annual Plan Summary, the agency has partnerships with Security Companies and the Airport Opportunities Inc. to help older adults gain employment in these fields.[[44]](#footnote-44)

**Age Discrimination Complaints at the New York City Commission on Human Rights**

An individual who believes that they have been discriminated against in their employment because of age can file a complaint with CCHR. Members of the public may file a complaint with the Commission’s Law Enforcement Bureau (LEB) or a lawyer may file a complaint with the LEB on a client’s behalf.[[45]](#footnote-45) After a complaint is filed, the Commission’s LEB investigates the allegations to determine whether probable cause exists to credit the allegations of unlawful discrimination.[[46]](#footnote-46)

If LEB makes a finding of probable cause, LEB may litigate the case at the Office of Administrative Trials and Hearings.[[47]](#footnote-47) At various stages of the process, the Commission also offers alternative resolutions such as mediation or conciliation.[[48]](#footnote-48) Further, the Commission may pursue various remedies in the resolution of a complaint, including ordering an employer to cease and desist from engaging in unlawful conduct, reinstating an employee, providing an accommodation, requiring respondents to take actions such as trainings, and ordering pay for lost wages, emotional distress damages, and civil penalties.[[49]](#footnote-49)

**IV. LEGAL PROTECTIONS AND REMAINING ISSUES AND CONCERNS**

**Current Legal Protections**

Although it persists in the workplace, age discrimination in employment is prohibited by federal, state, and local laws. Generally, it is unlawful for employers, employment agencies, apprenticeship programs, and labor organizations to discriminate against an employee or a job applicant because of their age with respect to any term, condition, or privilege of employment, including hiring, firing, promotion, layoff, compensation, benefits, job assignments, and training.[[50]](#footnote-50) However, there are slight differences in the ways in which age as a protected class is defined under each of these laws and the employers it covers.

For example, the Age Discrimination in Employment Act of 1967 (ADEA)[[51]](#footnote-51), the federal law that prohibits employers from discriminating against individuals on the basis of age, applies to employers with 20 or more employees and protects individuals who are 40 years of age or older.[[52]](#footnote-52) The state law that prohibits age discrimination in employment, the New York State Human Rights Law, is considerably broader, covering employers with four or more employees, and protecting persons who are 18 years of age and over from age discrimination in employment.[[53]](#footnote-53) Finally, the law which most expansively prohibits age discrimination in employment is the local one; the New York City Human Rights Law (NYCHRL) applies to employers with four or more employees and protects persons of all ages from discrimination based on age or perceived age.[[54]](#footnote-54)

Individuals who wish to pursue a claim alleging age discrimination have several forums available to them, including state court, federal court, the EEOC, the New York State Division of Human Rights (NYSDHR), and CCHR. In order to establish a claim for unlawful age discrimination at these bodies under the ADEA, New York State Human Rights Law, or NYCHRL, an individual must show: (1) they are a member of the class protected by the statute; (2) they were qualified for the position, or were performing it satisfactorily; (3) they suffered an adverse employment action; and (4) the adverse employment action was under circumstances giving rise to an inference of age discrimination.[[55]](#footnote-55) If an employer can then show their actions were taken for legitimate, nondiscriminatory reasons, the age discrimination suit will not be successful.[[56]](#footnote-56) Importantly, for age discrimination suits, courts have interpreted the NYCHRL to be more protective than even the ADEA; complainants filing such a suit under the NYCHRL generally have a lower burden to prove than is required under the federal law. [[57]](#footnote-57)

There are, however, also other federal laws that offer protections against age discrimination in specific contexts.[[58]](#footnote-58) For example, since employees may voluntarily release age discrimination claims, the Older Workers’ Benefits Protection Act (OWBPA)[[59]](#footnote-59) amended the ADEA to protect older workers with regard to employee benefits and prohibit employers from providing severance agreements or early retirement packages that favor younger workers.

**Remaining Issues and Concerns**

Across the country, 10,000 Baby Boomers turn 65 every day.[[60]](#footnote-60) Changes to the workplace, involving more technology or varied tasks, may be perpetuating biases against older workers. However, with only a small percentage of workers financially secure enough to retire, coupled with concerns about rising healthcare costs,[[61]](#footnote-61) workers are needing to stay in the workforce longer. The proliferation of age discrimination in the workplace makes it more difficult for these same older adults to find and maintain employment that may be necessary to their financial stability. Addressing discrimination as seemingly ubiquitous as age discrimination may require a multi-pronged strategy targeting employers, recruiters, enforcement officials, and legislative bodies.

 One reason age discrimination may continue, for example, is because current enforcement measures are weak. Evidence from one field experiment, conducted by the Director of the Economic Self-Sufficiency Policy Research Institute at the University of California, Irvine, finds that “current policies to combat age discrimination, which rely in large part on private litigation for enforcement, may be ineffective at reducing or eliminating age discrimination in hiring.”[[62]](#footnote-62) “In particular,” the study writes, “the potential rewards to plaintiffs’ attorneys may be too low to encourage sufficient enforcement, because it is difficult to file a class action lawsuit, and economic damages from discrimination in hiring may be small.”[[63]](#footnote-63) Complicating matters, while plaintiffs can seek damages from private employers or the federal government in an age discrimination suit, they cannot collect damages against state employers, making attorneys reluctant to take such cases.[[64]](#footnote-64)

On a foundational level, it might be difficult to prove an age discrimination lawsuit at all. According to AARP Senior Attorney Laurie McCann, “age discrimination is very difficult to prove in a lawsuit. [I]t is extremely rare to have a ‘smoking gun’ statement akin to ‘you are too old to do the job.’”[[65]](#footnote-65) This particular difficulty is exacerbated, in part, because employers are not liable under the ADEA if they show their decisions were based on “reasonable factors other than age.”[[66]](#footnote-66) In the 2005 decision *Smith v. City of Jackson, Mississippi*,[[67]](#footnote-67) the Supreme Court held that claims of unintentional discrimination can be made under the ADEA as long as the discrimination is *not* based on reasonable factors *other* than age.[[68]](#footnote-68) The unintended consequence of this decision has been that employers are able to pass over older adults for hiring or promotions so long as they can show they are not making those decisions because of age.[[69]](#footnote-69) For example, employers might use passing a physical strength test as a proxy for age discrimination, but would be able to indicate failure to pass a physical examination as a valid reason for not hiring an individual.[[70]](#footnote-70) Thus, as most employers do not explicitly state they are discriminating based on age, proving age discrimination often relies on circumstantial evidence, making it difficult to prove discriminatory intent.[[71]](#footnote-71)

On the other hand, it is difficult to prove age discrimination even when plaintiffs can prove that age was a factor in being fired. Prior to 2009, workers were able to prove age discrimination so long as age was one of the factors considered in firing an employee. However, this changed with the Supreme Court’s decision in *Gross v. FBL Financial Services*.[[72]](#footnote-72) In *Gross*, the Supreme Court raised the standard required to prove age discrimination; after *Gross*, employees must prove that age was the *only* reason for their termination, and not one of many reasons.[[73]](#footnote-73) This means that in mixed motive cases, such as those where an employer considers age and race or age and gender, employees must have what amounts to an explicit statement that they were fired due to age in order to successfully prove age discrimination.[[74]](#footnote-74)

The current mechanisms to address age discrimination in the workplace, then, leave older adults vulnerable and unable to properly pursue their rights. Even where legislation, such as the ADEA and the NYCHRL, and rights enforcement bodies, such as the EEOC and CCHR, exist to protect older adults from employment discrimination, the actual mechanics of enforcement often obstruct older adults from receiving any relief at all. That is, older adults can pursue action against employment discrimination almost exclusively through litigation—however, age discrimination is often difficult, and costly, to prove. If older adults cannot be properly protected through litigation, then, the question remains what in what other ways can older adults be protected from age discrimination in the workplace?

**Addressing Age Discrimination in the Workplace**

Addressing age discrimination across all facets of employment will likely need to involve a multipronged approach; suggestions on how to protect older workers have included passing federal, state, and local legislation; creating additional enforcement and review mechanisms; training older workers in different skills and creating more spaces for them in the workplace; changing stereotypes and policies against older workers; and creating alternative career routes for older workers that feature more flexible assignments, schedules, and mentorship opportunities.

At the federal level, for example, one suggestion is to change Medicare rules to accept older workers; this would help shift older workers away from employer-based health plans, which might alleviate some healthcare cost-biases employers associate with older workers.[[75]](#footnote-75) Another suggestion involves “incentivizing employers by creating a 40-year cap on the total years of work requiring payroll tax contributions to Social Security.”[[76]](#footnote-76)

Another current approach to fighting age discrimination in employment appears in a recent federal lawsuit settled by The Ohio State University. The federal suit, brought by two women who worked in the English as a Second Language program at Ohio State, was unusually successful in the difficult post-*Gross* ADEA legal landscape.[[77]](#footnote-77) In November 2017, the EEOC found “reasonable cause to believe” that the women and their older colleagues had been discriminated against in violation of the ADEA.[[78]](#footnote-78)

In May 2018, Ohio State announced a settlement with the plaintiffs; not only did the university rehire both women and agree to back pay and retroactive benefits, the plaintiffs won “prospective injunctive relief.”[[79]](#footnote-79) What the latter means is that Ohio State must take specific actions to avert such illegal policies in the future.[[80]](#footnote-80) In this case, the university has agreed to train human resources staff to recognize, investigate, and prevent age discrimination.[[81]](#footnote-81) Furthermore, the university will establish a “second-look process,” which would be an independent review of age discrimination investigations.[[82]](#footnote-82) Both “prospective injunctive relief” as a remedy and the creation of a “second-look” independent review are potential creative ways to address age discrimination.[[83]](#footnote-83)

In terms of legislation, Senator Casey Robert Jr. introduced S.443 in February 2017; the Protecting Older Workers Against Discrimination Act would address and rescind the stringent standard the Supreme Court set for age discrimination suits in *Gross.* That is, S. 443 would amend the ADEA to allow complainants “to rely on any type or form of admissible evidence” to prove age discrimination and would allow age discrimination to be proved, even in mixed motive claims with multiple factors, as long as they can show that age was *a* motivating factor in the discriminatory employment practice.[[84]](#footnote-84) In other words, if passed, complainants would no longer be required to demonstrate that age was the *sole* reason they were fired in order to be successful in an age discrimination suit.

**ANALYSIS OF LEGISLATION**

***Analysis of Proposed Int. No. 1693-A***

Proposed Int. No. 1693-A would first require the Department for the Aging (DFTA) to provide guidance and support to the Center for Older Workforce Development, as created by Proposed Int. No. 1694-A.

The proposed legislation would additionally require the existing Charter-created DFTA Advisory Council to look at local, state, and national data, reports, policies, and procedures related to age discrimination in order to develop recommendations on how the city can address age discrimination in the workplace and help develop the older adult workforce. The Advisory Council would be required to submit a report to the Mayor, the Speaker, and the Center for Older Workforce Development with its recommendations and findings in December 2021 and biennially thereafter.

Proposed Int. No. 1693-A would take effect on the same date as a local law for the year 2020 amending the New York city charter relating to creating a center for older workforce development, as proposed in introduction number 1694-A, would take effect.

Since introduction, the language of Proposed Int. No. 1693-A was amended to change the legislation from a temporary taskforce studying issues of age discrimination to a permanent Advisory Council advising on these issues. Instead of a one-time taskforce report, the Advisory Council would instead issue a biennial report on issues related to age discrimination and older workforce development and would also work with DFTA and the newly created Center for Older Workforce Development on such issues.

***Analysis of Proposed Int. No. 1694-A***

Proposed Int. No. 1694-A would create an office dedicated to combating ageism in the workplace and to developing the older workforce, called the Center for Older Workforce Development. The Center would be established and placed by the Mayor and led by a Director, whose powers and duties include, for example: advising and assisting the mayor in coordinating agencies involved in workforce development programs for older adults, assisting older adults join or re-join the workforce, including by offering career development and skills development programs, create a centralized workforce development website that assists with career building and workforce development for older adults, providing information about reporting age discrimination, and promoting the inclusion and retention of older adults in the municipal workforce.

The Center would additionally be required to submit an annual report to the Mayor and to the City Council on its activities.

Proposed Int. No. 1694-A would take effect 120 days after it becomes law.

Since introduction, the language of Proposed Int. No. 1694-A has changed to rename the office from the Office of Older Adult Workforce Development to the Center for Older Workforce Development. Certain additions have also been made to the Center’s responsibilities, while other duties were eliminated from the first version.

***Analysis of Proposed Int. No. 1695-A***

 Proposed Int. No. 1695-A would require the New York City Commission on Human Rights (CCHR) to conduct a two-year study related to age discrimination in the workplace. Beginning January 2022, for a period of two years, CCHR would design and implement a variety of methods to assess the presence of age discrimination in the workplace, including workplace and employment practices, technologies, and policies.

The proposed legislation would then require CCHR to include in its annual report the findings of its two year study and to submit the report to the Speaker on or before September 30, 2024. This report would include, among other things, a summary of the initiatives taken during this two-year study, a description of the instances of age discrimination found, and recommendations to help the city address and combat age discrimination going forward.

Proposed Int. No. 1695-A would take effect immediately.

From introduction, Proposed Int. No. 1695-A, has been amended to change the nature of the testing to be conducted. Instead of a three year employment testing program with five investigations a year, the bill has been changed to a two year study that will begin January 2022. Instead of match pair employment testing, CCHR will design their own method for assessing age discrimination in the workplace. Finally, instead of issuing a new report each year of the program, CCHR will submit its complete findings and recommendations on workplace age discrimination in the annual report that they produce, after the study has concluded.

Proposed Int. No. 1693-A

By Council Member Chin, Ayala, Rosenthal, Rivera, Koslowitz, Gibson, Louis, Adams, Kallos, Eugene, Diaz, Vallone and Rose

A LOCAL LAW
..Title

A LOCAL

To amend the New York city charter, in relation to recommendations regarding age discrimination and developing the older adult workforce

..Body

Be it enacted by the Council as follows:

 Section 1. Section 2402 of the New York city charter, as amended by a vote of the electors at a general election held on November 8, 1988, is amended to read as follows:

§ 2402. Powers and duties. The department shall have the following powers and duties:

a. to stimulate community interest in the problems of the aging;

b. to promote public awareness of resources available for the aging, and to refer the public to appropriate departments and agencies of the city, state and federal governments for advice, assistance and available services in connection with particular problems;

c. to cooperate with and assist local neighborhoods in the development of programs and the establishment of local offices;

d. to serve as a clearing house for information relating to the needs of the aging;

e. to disburse available city, state and federal funds to programs throughout the city and, when practical, coordinate such funds with available funding from the private sector;

f. to provide regular guidance and support to the center for older workforce development;

g. to promulgate rules and regulations for the operation of facilities, services and programs under its jurisdiction; and

h. to maintain, operate and control such programs and facilities as may be necessary or required for the proper administration of the department.

§ 2. Section 2403 of the New York city charter, as amended by local law 6 for the year 1980, is amended to read as follows:

§ 2403. Advisory council. a. There shall be in the department an advisory council consisting of thirty-one members at least sixteen of whom shall be recipients of services rendered to [the elderly] older adults. Beginning in December 2021, [These] these members shall include representatives from the areas of social service, health care, business, legal services, the academic community and local neighborhoods.

b. It shall be the duty of the council to advise the commissioner and make recommendations. The council shall submit an annual report of its activities to the mayor and the speaker of the council. Beginning with the report due in December 2021 and biennially thereafter, the council’s report shall include recommendations for how to eliminate age discrimination in the workplace and how to develop the older adult workforce. These recommendations shall also be submitted to the center for older workforce development and should be developed while considering the following:

1. Data and reports of age discrimination in the workplace, nationally and within the state, including any trends in different industries, demographic differences, age ranges, reporting statistics and any successful remedies;

2. The development and use of new technologies and systems in combating age discrimination in the employment process and during employment;

3. Existing policies across city agencies, guidelines and resources related to age discrimination and reporting by victims thereof; and

4. Existing methods and procedures for reporting and responding to allegations of age discrimination in the workplace, within city agencies and across the city.

    c. The members of the council shall be appointed by the mayor. Ten of said members, two residents from each of the five boroughs of the city, shall be recommended for appointment by a majority vote of the city council members of the respective boroughs.

    d. The terms of office of the thirty-one members of the council first appointed shall be as follows: eleven appointees, five of whom shall be recommended for appointment by the city council members of the respective boroughs, one from each borough, shall serve for a term ending the thirty-first day of March, nineteen hundred eighty-one; ten appointees shall serve for a term ending the thirty-first day of March, nineteen hundred eighty-two; and ten appointees, five of whom shall be recommended for appointment by the city council members of the respective boroughs, one from each borough, shall serve for a term ending the thirty-first day of March, nineteen hundred eighty-three. Upon the expiration of such terms, the terms of office of their successors shall be three years. Vacancies occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as regular appointments.

    e. The mayor shall designate one of the members of the council to be chairman and one to be vice-chairman.

f. The members of the council shall serve without compensation.

§ 3. This local law takes effect on the same date as a local law for the year 2020 amending the New York city charter relating to creating a center for older workforce development, as proposed in introduction number 1694-A, takes effect.

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Proposed Int. No. 1694-A

By Council Member Chin, Ayala, Rosenthal, Rivera, Koslowitz, Gibson, Louis, Adams, Kallos, Eugene, Diaz, Vallone and Rose

A LOCAL LAW
..Title

A LOCAL

To amend the New York city charter, in relation to a center for older workforce development

..Body

Be it enacted by the Council as follows:

 Section 1. Chapter 1 of the New York city charter is amended by adding a new section 20-k to read as follows:

§ 20-k. Center for older workforce development. a. The mayor shall establish an office for older adult workforce development, called the center for older workforce development. Such office may be established in the office of the mayor or as a separate office or within any other office of the mayor or within any department the head of which is appointed by the mayor. Such office shall be headed by a director who shall be appointed by the mayor or the head of such department. For the purposes of this section, “director” means the director of the center for older workforce development.

b. Powers and duties. The director shall have the power and the duty to:

1. Advise and assist the mayor in planning and implementing for coordination and cooperation among agencies and offices under the jurisdiction of the mayor that are involved in any workforce development program or service for older adults;

2. Coordinate assistance for older adults to join or re-join the workforce, including through programs offering job, language and technological training, job search and application assistance, wraparound employment support and other general career building and job support for older adults;

3. Assess the feasibility of and help foster any public, private or public/private partnerships that develop and implement programs and services for older adult employment;

4. Provide information relevant to older adults in a centralized workforce development website with resources for career building and development and employment support, including a list of city employment and workforce development initiatives and a list of different community based organizations and non-profit organizations that provide such assistance;

5. Provide information on how to report age discrimination in the workplace, including potential municipal and state remedies;

6. Promote the inclusion and retention of older adults in the workforce by coordinating with the department for the aging and other city agencies, including but not limited to, the commission on human rights, the department of citywide administrative services and the department of small business services, to develop and recommend guidance to address age discrimination in the workplace and to consult on job placements within city agencies for older adults;

8. Provide outreach and education on the services provided by the center; and

9. Perform other duties as the mayor may assign.

c. On or before December 1 of each year, the center shall submit a report of its activities to the mayor and the speaker of the council.

 § 2. This local law takes effect 120 days after it becomes law.

NJC

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Proposed Int. No. 1695-A

By Council Member Chin, Ayala, Rosenthal, Rivera, Koslowitz, Gibson, Louis, Adams, Kallos, Eugene, Diaz, Vallone and Rose

..Title

A Local Law in relation to studying age discrimination in the workplace

..Body

Be it enacted by the Council as follows:

 Section 1. Study of age discrimination in the workplace. a. Beginning January 2022, for a period of two years, the commission on human rights shall design, prepare and utilize a variety of methods to address age discrimination in the workplace. These methods shall be used, at a minimum, to assess workplace and employment practices, and technologies and policies that promote or involve age discrimination.

 b. In its annual report due to the speaker of the council pursuant to section 905 of the charter on September 30, 2024, the commission shall include a report on information related to the commission’s work to address age discrimination in the workplace pursuant to subdivision a.

c. Such information shall include, but not be limited to:

1. A description of any initiatives undertaken pursuant to subdivision a and a summary of findings;

2. A general description of any instances of age discrimination encountered during such initiatives, including a summary of the discriminatory conduct and when in the employment process it occurred; and

3. Based on the results of the study conducted pursuant to subdivision a, recommendations on how to identify and address age discrimination in employment and in the workplace.

d. No information that is otherwise required to be reported pursuant to this section shall be reported in a manner that would violate any applicable provision of federal, state or local law relating to the privacy of any person or that would interfere with law enforcement investigations or otherwise conflict with the interests of law enforcement.

 § 2. This local law takes effect immediately.

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