



Legislation Text

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Int. No. 400-A

By The Public Advocate (Mr. Green) and the Speaker (Council Member Vallone) and Council Members Eldridge, DiBrienza, Leffler, Cruz, Boyland, Marshall, Robinson, Freed, Henry, Linares, Lopez, Perkins, Pinkett and Reed; also Council Members Carrion, Clarke, Eisland, Fisher, Foster, Koslowitz, Michels, Miller, Quinn, Rivera and Sabini.

A Local Law to amend the administrative code of the city of New York, to prohibit employment discrimination against victims of domestic violence.

Be it enacted by the Council as follows:

Section 1. Legislative findings and intent. The City Council finds and declares that domestic violence is a widely recognized problem in New York City. Indeed, New York City Police Department statistics indicate that although the overall crime rate has decreased in recent years, incidents of domestic violence have increased. However, little attention has been paid to the impact of domestic violence on the work lives of victims and on the City economy as a whole. In recent years, a growing body of evidence has documented the devastating impact of domestic violence on the ability of victims - over 90% of whom are women - to participate fully in the economy. Yet a victim's capacity to escape an abusive relationship is dependent in large part on economic factors such as finding and keeping a job and gaining economic security and independence. One study found that over one half of women surveyed who were victims of domestic violence stayed with their abusers because they lacked alternative resources with which to support themselves and their children. Other studies have determined that between twenty-four and fifty-two percent of battered women surveyed had lost their jobs at least in part due to domestic violence, which included harassment by the batterers both on and off the job.

Employers are also affected by domestic violence. It has been estimated that absenteeism caused by domestic

violence costs the nation's employers between three and five billion dollars annually. In a survey conducted by Roper Starch Worldwide for the Women's Work Program at Liz Claiborne, Inc., forty percent of the senior executives at Fortune 1000 companies surveyed reported that domestic violence had a harmful effect on their company's productivity, and sixty-six percent believed that their company's financial performance would benefit by addressing the issue. In response, several corporations have established policies and programs to assist employees struggling with domestic violence, and the State of New York has enacted legislation that established an executive office to develop model domestic violence policies for counties, state agencies and private employers, as well as an advisory council to develop strategies for domestic violence prevention. (N.Y. Exec. Law § 575). Further, the State of Maine has enacted legislation requiring employers to provide unpaid leaves of absence to victims of domestic violence, and similar legislation has been enacted in the City of Miami and is pending in the State of Pennsylvania.

Because they are embarrassed or because they fear losing their jobs, victims are often reticent about informing their employers about incidents of domestic violence or about requesting simple accommodations that might assist them in fulfilling their job duties. A growing body of anecdotal evidence suggests that the fear of negative employment actions such as demotion, suspension, loss of pay and/or benefits or termination against employees who have revealed that they are victims of domestic violence is not unwarranted. For example, victims of domestic violence have been terminated or demoted after requesting simple protective measures such as time off or flexible hours to confer with an attorney or a domestic violence counselor, obtain an order of protection or obtain medical or other services for themselves or family members.

The City Council finds that it is in the best interests of the City of New York to protect the economic viability of victims of domestic violence and to support their efforts to gain independence from their abusers. Victims of domestic violence who are receiving medical treatment or therapy for the physical and/or psychological effects of domestic violence may be covered under the disability provisions of sections 8-102(16) and 8-107 of the Human Rights Law. However, not all victims of domestic violence need or obtain such

treatment and would therefore not be considered disabled. Further, many victims of domestic violence do not consider themselves disabled.

Accordingly, the Council further finds that in order to enable victims of domestic violence to speak with their employers without fear of reprisal, about a domestic violence incident or about possible steps that will enhance their ability to perform their job without causing undue hardship to the employer, the Human Rights Law should be amended to provide employment discrimination protection for New Yorkers who are actual or perceived victims of domestic violence.

§2. Title 8 of the administrative code of the city of New York is amended by adding a new section 8-107.1 which shall read as follows:

§8-107.1 Victims of Domestic Violence. 1. Definitions. Whenever used in this section the following terms shall have the following meanings:

a. "Acts or threats of violence" shall include, but not be limited to, acts which would constitute violations of the penal law.

b. "Victim of domestic violence" shall mean a person who has been subjected to acts or threats of violence, not including acts of self-defense, committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, or a person who is or has continually or at regular intervals lived in the same household as the victim.

2. Unlawful discriminatory practices. It shall be an unlawful discriminatory practice for an employer, or an agent thereof, to refuse to hire or employ or to bar or to discharge from employment, or to discriminate against an individual in compensation or other terms, conditions, or privileges of employment because of the actual or perceived status of said individual as a victim of domestic violence.

§3. This local law shall take effect immediately.

