



## Legislation Text

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Int. No. 97

By Council Members DeBlasio, Sanders, Addabbo, Baez, Barron, Brewer, Comrie, Foster, Gennaro, Jackson, Koppell, Lopez, Martinez, Quinn, Reed, Reyna, Rivera, Seabrook, Serrano, Stewart and Weprin; also Council Members Boyland and Vann

A Local Law to amend the administrative code of the city of New York, to provide employment discrimination protection to participants in the work experience program and other workfare programs.

Be it enacted by the Council as follows:

### **Section 1. Legislative findings and intent.**

The City Council finds and declares that a federal judge recently decided that Work Experience Program (WEP) workers are not entitled to employment discrimination protections afforded under Title VII of the Civil Rights Act of 1964 because they cannot be considered “employees” as that term is defined under the law. As a result, WEP workers who were subjected to egregious employment discrimination were found not to be protected under the federal civil rights law. In one instance, a noose was draped over the work area of an African-American woman, and in another a woman was physically chased in an attempted sexual contact. WEP workers who have often had to work with little training, supplies or even appropriate clothing are now told by the court that they can also lawfully be sexually or racially harassed on the job.

The Council’s intent in the current Human Rights Law was that all employed persons, including WEP workers, be entitled to protections against covered acts of employment discrimination. The Council is shocked that the judiciary could possibly consider WEP workers not to be entitled to such basic, federal discrimination protections. Therefore, in order to make certain that the judiciary understands the Council’s intent, this local law confirms, in no uncertain terms, that WEP workers and other public assistance recipients in other programs in which they must work in exchange for their welfare benefits are entitled to the discrimination protections

provided under the City's Human Rights Law.

§2. Section 8-102(5) is amended by adding the following:

5. For purposes of subdivisions one, two, and three of section 8-107 of this chapter, the term "employer" does not include any employer with fewer than four persons in his or her employ. For purposes of subdivisions one, two, and three of section 8-107 of this chapter, the term "employer" shall include any person that utilizes or may utilize the services of public assistance recipients participating in the work experience program, community service, or other workfare programs. Public assistance recipients participating in the work experience program, community service, or other workfare programs are persons entitled to the protections provided under subdivisions one, two and three of section 8-107 of this chapter, provided, however, that nothing in this subdivision shall be construed to limit such other protections as are afforded such public assistance recipients. For purposes of this subdivision, natural persons employed as independent contractors to carry out work in furtherance of an employer's business enterprise who are not themselves employers shall be counted as persons in the employ of such employer.

§3. This local law shall take effect immediately.