

LOCAL LAW INTRO NO. 373 - 2021

TO: BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee recommends the adoption of "A LOCAL LAW amending Chapter 700 to the Laws of Westchester County relating to Discriminatory Harassment."

Your Committee is advised that the Westchester County Human Rights Law ("Human Rights Law") is intended to address and prevent discrimination, bigotry, prejudice, and intolerance in Westchester County because of a person's actual or perceived membership in a protected class. Under the Human Rights Law, it is unlawful to discriminate in relation to employment, public accommodations, housing accommodation, commercial space and land transactions, and the issuance of credit.

Your Committee notes that the Human Rights Law does not currently protect against discriminatory harassment outside of the nexuses identified above. Discriminatory harassment is threats, intimidation, coercion, or violence that interferes with a person's civil or constitutional rights, and is motivated, in part, by that person's actual or perceived membership in a protected class. Under the Human Rights Law,

protected classes include race, ethnicity, color, national origin, gender, gender identity, gender expression, sexual orientation, age, disability, religion, creed, familial status, marital status, alienage/citizenship status and status as a victim of sexual abuse, stalking or domestic violence. For example, your Committee is aware of the surge in violence against Asian-Americans in New York, some of which may be considered discriminatory harassment.

Your Committee is advised that the proposed amendment will make it a unlawful discriminatory practice for a person to by force or threat of force, knowingly injure, intimidate or interfere with or threaten any other person in the free exercise or enjoyment of any right or privilege secured to such other person by the constitution or laws of the United States, the constitution or laws of this state, or by local law, or by this chapter, when such injury, intimidation, interference, or threat is motivated, in whole or in part, by the actual or perceived group identity of the other person or because of such person's actual or perceived status as a victim of domestic violence, sexual abuse, or stalking. For example, the amendment will prohibit interfering with a person's right to the enjoyment of their home or residence, or to utilize and enjoy public transportation free from threats, intimidation, harassment, coercion or violence because of the person's actual or perceived membership in a protected class. The amendment will enable the Commission to award compensatory damages, punitive damages, civil monetary penalties, reasonable attorney's fees, and seek equitable relief where appropriate. The amendment will work to increase the reporting of hate incidents, which will assist law enforcement in developing

mitigation strategies to address violations of the Human Rights Law, as well as inform the work of the Commission. The proposed amendment will not, however, be construed to infringe upon the First Amendment rights of any person, as this legislation is meant to address discriminatory harassment only.

Your Committee is further advised that the proposed local law will also amend the penalty section of the Human Rights Law by: (1) adding civil monetary penalties for commission of unlawful discriminatory practices; (2) removing the limit of \$10,000 for punitive damages; and (3) authorizing the requirement for a respondent to undertake remedial action, including, but not limited to, training and community service for violations of the law.

Your committee is informed that the proposed project does not meet the definition of an action under New York State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from the Department of Planning, dated May 14, 2021, which is on file with the Clerk of the Board of Legislators. Your Committee concurs in this conclusion.

Your Committee, after careful consideration, recommends adoption of this Local

Law.

Dated: July 12, 2021
White Plains, New York

City Clerk
Margaret Stinch
Benjamin Boyfrost
Vedat J. Sari
Nancy Barr
K. J. Sarill

Dov L. Tubish
Margaret Stinch
Benjamin Boyfrost
Chiff
Nancy Barr
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JSW-6/4/2021

COMMITTEE ON

Legislation

Social Services

FISCAL IMPACT STATEMENT

SUBJECT: Discriminatory Harrasment Law

NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense _____

Total Current Year Revenue _____

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations

Other (Revenue)

Identify Accounts: _____

Potential Related Operating Budget Expenses: Annual Amount _____

Describe: _____

Potential Related Operating Budget Revenues: Annual Amount _____

Describe: Potential civil penalties paid to the County

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: _____

Next Four Years: _____

Prepared by: Michael Dunn

Title: Assistant Budget Analyst

Department: Budget

Date: June 4, 2021

Reviewed By: 

Budget Director

Date: 6/4/21

LOCAL LAW INTRO. NO. 373 -2021

A LOCAL LAW amending Chapter 700 to the Laws of Westchester County relating to Discriminatory Harassment.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. Chapter 700 of the Laws of Westchester County is hereby amended to include new section 700.04-a follows:

Section 700.04-a. Discriminatory Harassment.

1. It shall be an unlawful discriminatory practice for a person to, by force or threat of force, knowingly injure, intimidate or interfere with, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to such other person by the constitution or laws of the United States, the constitution or laws of this state, or by local law, or by this chapter, when such injury, intimidation, interference, or threat is motivated, in whole or in part, by the actual or perceived group identity of the other person or because of such person's actual or perceived status as a victim of domestic violence, sexual abuse, or stalking, as defined by this Chapter.

2. It shall be an unlawful discriminatory practice for any person to knowingly deface, damage, or destroy the real or personal property of any other person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the constitution or laws of the United States, or by the constitution or laws of this state, or this chapter, where such defacement, damage, or destruction is motivated, in whole or in part, by the actual or perceived group identity

of the other person or because of such person's status as a victim of domestic violence, sexual abuse, or stalking, as defined by this Chapter.

Section 2. Chapter 700.11(h) of the Laws of Westchester County is hereby amended to read as follows:

h. In the event that the commission shall, after a hearing, determine that a respondent has committed an unlawful discriminatory practice, it shall issue an order containing such of the following provisions as may, in the judgment of the commission, effectuate the purposes of this chapter:

1. Requiring such respondent to cease and desist from such unlawful discriminatory practice;
2. Requiring such respondent to take such affirmative action to remedy the unlawful discriminatory practice, including such of the following as may be applicable and appropriate; hiring, reinstatement or upgrading of employees, with or without back pay, restoration to membership in any respondent labor organization, admission to or participation in a guidance program, apprenticeship training program, on-the-job training program or other occupational training or retraining program, the extension of full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons, evaluating applicants for membership in a place of accommodation without discrimination based on group identity or because of a person's status as a victim of domestic violence, sexual abuse or stalking, and without retaliation or discrimination based on opposition to practices forbidden by this chapter or filing a complaint, testifying or assisting in any proceeding under this chapter;

3. Requiring such respondent to undertake remedial action, including, but not limited to, training and/or community service;

4. [3.] Awarding of compensatory damages, including, but not limited to: actual damages, back pay, front pay, mental anguish and emotional distress, to the person aggrieved by such practice;

5. [4.] Awarding of punitive damages against a respondent found to have committed an unlawful discriminatory practice which is found to be willful, wanton or malicious [in an amount not to exceed \$10,000.00,] to the person aggrieved by such practice;

6. [5.] Awarding costs in the form of reimbursement for actual expenses reasonably incurred and reasonable attorney's fees to the person aggrieved by such practice; and

7. Awarding a civil penalty in an amount not to exceed \$125,000.00, to be paid to the County of Westchester by a respondent found to have committed an unlawful discriminatory practice, or not to exceed \$250,000.00 to be paid to the County of Westchester by a respondent found to have committed an unlawful discriminatory practice which is found to be willful, wanton or malicious or where the commission finds that an act of discriminatory harassment or violence as set forth in Section 700.04-a has occurred;

8. [6.] Requiring the respondent to report the manner of compliance.

Section 3. This Local Law shall take effect 60 days after enactment.

STATE OF NEW YORK)
)
COUNTY OF WESTCHESTER) ss.

I HEREBY CERTIFY that I have compared the foregoing Local Law, Local Law Intro No. 373 - 2021, with the original on file in my office, and that the same is a correct transcript therefrom, and of the whole, of the said original Local Law, which was duly adopted by the County Board of Legislators, of the County of Westchester on September 20, 2021, and approved by the County Executive on September 23, 2021.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 23rd day of September, 2021.



Malika Vanderberg

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York

