

6502

2005-2006 Regular Sessions

IN ASSEMBLY

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Introduced by M. of A. GREEN, SCARBOROUGH, GLICK, GOTTFRIED,
EDDINGTON
-- Multi-Sponsored by -- M. of A. BRADLEY, CANESTRARI,
CLARK,
A. COHEN, COOK, R. DIAZ, DINAPOLI, FARRELL, GRANNIS, GREENE,
HOOPER,
HOYT, JACOBS, JOHN, KOON, LAFAYETTE, LAVELLE, MARKEY,
McENENY, MILL-
MAN, NORMAN, ORTIZ, PAULIN, PHEFFER, STRINGER, SWEENEY,
WEISENBERG --
read once and referred to the Committee on Children and
Families

AN ACT to amend the executive law, in relation to enacting the
"SAFETY
act"

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE
AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Short title. This act shall be known and may be
cited as
2 the "SAFETY act".

3 S 2. Article 19-G of the executive law is amended by
adding a new
4 title 5 to read as follows:

5 TITLE 5
6 SAFE AND FAIR EQUAL TREATMENT FOR YOUTH (SAFETY) ACT
7 SECTION 531-A. LEGISLATIVE INTENT.
8 531-B. DEFINITIONS.
9 531-C. DISCRIMINATION AND HARASSMENT PROHIBITED.
10 531-D. POLICIES AND GUIDELINES.
11 531-E. COMMISSIONER`S RESPONSIBILITIES.
12 531-F. REPORTING BY COMMISSIONER.
13 531-G. PROTECTION OF PEOPLE WHO REPORT DISCRIMINATION OR
HARASS-
14 MENT.
15 531-H. APPLICATION.
16 531-I. SEVERABILITY AND CONSTRUCTION.
17 S 531-A. LEGISLATIVE INTENT. THE LEGISLATURE FINDS THAT
YOUTH ARE

18 PLACED WITH THE OFFICE OF CHILDREN AND FAMILY SERVICES IN
ORDER TO
19 PROVIDE THOSE YOUTH THE OPPORTUNITY FOR REHABILITATION. SUCH AN
OPPORTU-
20 NITY INCLUDES THE PROVISION OF EDUCATIONAL, THERAPEUTIC,
AND OTHER
21 NECESSARY SERVICES TO ENSURE THAT THESE YOUTH CAN BECOME
SUCCESSFUL AND

EXPLANATION--Matter in ITALICS (underscored) is new; matter in
brackets
{ } is old law to be omitted.

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1 PRODUCTIVE MEMBERS OF THEIR COMMUNITIES. THE LEGISLATURE FINDS
THAT A
2 YOUTH`S OPPORTUNITY FOR REHABILITATION AND ABILITY TO LEARN
AND MEET
3 HIGH STANDARDS OF BEHAVIOR AND ACADEMIC ACHIEVEMENT ARE
COMPROMISED BY
4 INCIDENTS OF DISCRIMINATION AND HARASSMENT. IT IS HEREBY
DECLARED TO BE
5 THE POLICY OF THE STATE TO AFFORD ALL YOUTH IN FACILITIES
OPERATED BY
6 THE OFFICE OF CHILDREN AND FAMILY SERVICES AN ENVIRONMENT
FREE OF
7 DISCRIMINATION AND HARASSMENT BASED ON ACTUAL OR PERCEIVED RACE,
COLOR,
8 NATIONAL ORIGIN, ETHNIC GROUP, RELIGION, RELIGIOUS PRACTICE,
DISABILITY,
9 SEXUAL ORIENTATION, GENDER, OR SEX. THE PURPOSE OF THIS
TITLE IS TO
10 FOSTER CIVILITY IN FACILITIES OPERATED BY THE OFFICE OF
CHILDREN AND
11 FAMILY SERVICES AND TO PREVENT AND PROHIBIT CONDUCT WHICH
PLACES ANY
12 YOUTH`S OPPORTUNITY FOR REHABILITATION IN JEOPARDY.
13 S 531-B. DEFINITIONS. FOR THE PURPOSES OF THIS TITLE, THE
FOLLOWING
14 TERMS SHALL HAVE THE FOLLOWING MEANINGS:
15 1. "DISABILITY" SHALL MEAN DISABILITY AS DEFINED IN
SUBDIVISION TWEN-
16 TY-ONE OF SECTION TWO HUNDRED NINETY-TWO OF THIS CHAPTER.
17 2. "EMPLOYEE" SHALL MEAN EMPLOYEE OF THE OFFICE OF CHILDREN
AND FAMILY
18 SERVICES.
19 3. "FACILITY" SHALL MEAN A RESIDENTIAL FACILITY OPERATED BY
THE OFFICE
20 OF CHILDREN AND FAMILY SERVICES.
21 4. "GENDER" SHALL MEAN ACTUAL OR PERCEIVED SEX AND SHALL
INCLUDE A
22 PERSON`S GENDER IDENTITY OR EXPRESSION.
23 5. "HARASSMENT" SHALL MEAN THE CREATION OF A HOSTILE
ENVIRONMENT BY

24 CONDUCT OR BY VERBAL THREATS, INTIMIDATION OR ABUSE, INCLUDING
CONDUCT,
25 VERBAL THREATS, INTIMIDATION OR ABUSE BASED ON A PERSON`S
ACTUAL OR
26 PERCEIVED RACE, COLOR, NATIONAL ORIGIN, ETHNIC GROUP,
RELIGION, RELI-
27 GIOUS PRACTICE, DISABILITY, SEXUAL ORIENTATION, GENDER OR SEX,
THAT HAS
28 OR WOULD HAVE THE EFFECT OF UNREASONABLY AND SUBSTANTIALLY
INTERFERING
29 WITH A YOUTH`S OPPORTUNITY FOR REHABILITATION, EDUCATIONAL
PERFORMANCE,
30 OPPORTUNITIES OR BENEFITS, OR MENTAL, EMOTIONAL OR PHYSICAL
WELL-BEING;
31 OR CONDUCT, VERBAL THREATS, INTIMIDATION OR ABUSE THAT
REASONABLY CAUSES
32 OR WOULD REASONABLY BE EXPECTED TO CAUSE A YOUTH TO FEAR FOR
HIS OR HER
33 PHYSICAL SAFETY.
34 6. "PROGRAM" SHALL MEAN ANY PROGRAM OPERATED BY THE OFFICE OF
CHILDREN
35 AND FAMILY SERVICES AS A REHABILITATIVE SERVICE FOR YOUTH WHO
HAVE BEEN
36 ADJUDICATED DELINQUENT PURSUANT TO ARTICLE THREE OF THE FAMILY
COURT ACT
37 OR A PERSON IN NEED OF SUPERVISION PURSUANT TO ARTICLE
SEVEN OF THE
38 FAMILY COURT ACT.
39 S 531-C. DISCRIMINATION AND HARASSMENT PROHIBITED. 1. NO
YOUTH SHALL
40 BE SUBJECTED TO HARASSMENT BY EMPLOYEES OF FACILITIES OR
PROGRAMS; NOR
41 SHALL ANY YOUTH BE SUBJECTED TO DISCRIMINATION BASED ON THAT
YOUTH`S
42 ACTUAL OR PERCEIVED RACE, COLOR, NATIONAL ORIGIN, ETHNIC
GROUP, RELI-
43 GION, RELIGIOUS PRACTICE, DISABILITY, SEXUAL ORIENTATION,
GENDER, OR SEX
44 BY FACILITY OR PROGRAM EMPLOYEES OR YOUTH IN A FACILITY OR
DURING
45 PARTICIPATION IN A PROGRAM.
46 2. AN AGE-APPROPRIATE VERSION OF THE POLICY OUTLINED IN
SUBDIVISION
47 ONE OF THIS SECTION, WRITTEN IN PLAIN-LANGUAGE, SHALL BE
PRESENTED TO
48 EACH YOUTH UPON HIS OR HER ORIENTATION TO ANY FACILITY OR
PROGRAM.
49 S 531-D. POLICIES AND GUIDELINES. THE OFFICE OF CHILDREN
AND FAMILY
50 SERVICES SHALL CREATE POLICIES AND GUIDELINES THAT SHALL
INCLUDE, BUT
51 NOT BE LIMITED TO:
52 1. POLICIES INTENDED TO CREATE A FACILITY AND PROGRAM
ENVIRONMENT THAT
53 IS FREE FROM DISCRIMINATION OR HARASSMENT;
54 2. GUIDELINES TO BE USED IN FACILITY AND PROGRAM TRAINING
CURRICULUMS

55 TO DISCOURAGE THE DEVELOPMENT OF DISCRIMINATION OR HARASSMENT
AND THAT
56 ARE DESIGNED:

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1 A. TO RAISE THE AWARENESS AND SENSITIVITY OF FACILITY AND
PROGRAM

2 EMPLOYEES TO POTENTIAL DISCRIMINATION OR HARASSMENT, AND

3 B. TO ENABLE FACILITY AND PROGRAM EMPLOYEES TO PREVENT AND
RESPOND

4 APPROPRIATELY TO DISCRIMINATION OR HARASSMENT; AND

5 3. GUIDELINES RELATING TO THE DEVELOPMENT OF
NONDISCRIMINATORY

6 INSTRUCTIONAL AND COUNSELING METHODS, AND REQUIRING THAT AT
LEAST ONE

7 STAFF MEMBER AT EVERY FACILITY AND PROGRAM BE THOROUGHLY
TRAINED TO

8 HANDLE HUMAN RELATIONS IN THE AREAS OF RACE, COLOR, NATIONAL
ORIGIN,

9 ETHNIC GROUP, RELIGION, RELIGIOUS PRACTICE, DISABILITY, SEXUAL
ORIENT-

10 TATION, GENDER, AND SEX.

11 S 531-E. COMMISSIONER'S RESPONSIBILITIES. THE COMMISSIONER
SHALL:

12 1. DEVELOP MODEL POLICIES AND, TO THE EXTENT
POSSIBLE, DIRECT

13 SERVICES, TO FACILITIES AND PROGRAMS RELATED TO PREVENTING
DISCRIMI-

14 NATION AND HARASSMENT AND TO FOSTERING AN ENVIRONMENT IN EVERY
FACILITY

15 AND PROGRAM WHERE ALL YOUTH CAN LIVE, LEARN AND REFORM IN A
SAFE AND

16 SUPPORTIVE ENVIRONMENT FREE OF MANIFESTATIONS OF BIAS;

17 2. PROMULGATE REGULATIONS TO ASSIST FACILITIES AND PROGRAMS
IN IMPLE-

18 MENTING THIS TITLE INCLUDING, BUT NOT LIMITED TO, REGULATIONS TO
ASSIST

19 FACILITIES AND PROGRAMS IN DEVELOPING MEASURED, BALANCED, AND
AGE-APPRO-

20 PRIATE RESPONSES TO VIOLATIONS OF THIS POLICY, WITH REMEDIES
AND PROCE-

21 DURES FOCUSING ON INTERVENTION AND THE CREATION OF A SAFE AND
SUPPORTIVE

22 REHABILITATIVE ENVIRONMENT.

23 S 531-F. REPORTING BY COMMISSIONER. THE COMMISSIONER SHALL
CREATE A

24 PROCEDURE UNDER WHICH MATERIAL INCIDENTS OF DISCRIMINATION AND
HARASS-

25 MENT IN FACILITIES OR PROGRAMS ARE REPORTED TO THE OFFICE OF
CHILDREN

26 AND FAMILY SERVICES ON AN ANNUAL BASIS. SUCH PROCEDURE SHALL
PROVIDE

27 THAT SUCH REPORTS SHALL, WHEREVER POSSIBLE, ALSO DELINEATE THE
SPECIFIC

28 NATURE OF SUCH INCIDENTS OF DISCRIMINATION OR HARASSMENT
PROVIDED THAT

29 SUCH DETAILS SHALL INCLUDE ONLY NON-CLIENT IDENTIFYING
INFORMATION.

30 S 531-G. PROTECTION OF PEOPLE WHO REPORT DISCRIMINATION OR
HARASSMENT.

31 ANY PERSON HAVING REASONABLE CAUSE TO SUSPECT THAT A YOUTH
HAS BEEN

32 SUBJECTED TO DISCRIMINATION OR HARASSMENT IN A FACILITY OR
PROGRAM, WHO,

33 ACTING REASONABLY AND IN GOOD FAITH, EITHER REPORTS SUCH
INFORMATION TO

34 FACILITY OR PROGRAM OFFICIALS, TO THE COMMISSIONER OF THE
OFFICE OF

35 CHILDREN AND FAMILY SERVICES, OR TO LAW ENFORCEMENT
AUTHORITIES OR

36 OTHERWISE INITIATES, TESTIFIES, PARTICIPATES OR ASSISTS IN ANY
FORMAL OR

37 INFORMAL PROCEEDINGS UNDER THIS TITLE, SHALL HAVE IMMUNITY
FROM ANY

38 CIVIL LIABILITY THAT MAY ARISE FROM THE MAKING OF SUCH REPORT
OR FROM

39 INITIATING, TESTIFYING, PARTICIPATING OR ASSISTING IN SUCH
FORMAL OR

40 INFORMAL PROCEEDINGS, AND NO FACILITY OR PROGRAM EMPLOYEE
SHALL TAKE,

41 REQUEST OR CAUSE A RETALIATORY ACTION AGAINST ANY SUCH
PERSON WHO,

42 ACTING REASONABLY AND IN GOOD FAITH, EITHER MAKES SUCH A
REPORT OR

43 INITIATES, TESTIFIES, PARTICIPATES OR ASSISTS IN SUCH FORMAL OR
INFORMAL

44 PROCEEDINGS.

45 S 531-H. APPLICATION. NOTHING IN THIS TITLE SHALL PRECLUDE
OR LIMIT

46 ANY RIGHT OR CAUSE OF ACTION PROVIDED UNDER ANY LOCAL, STATE OR
FEDERAL

47 ORDINANCE, LAW OR REGULATION INCLUDING BUT NOT LIMITED TO ANY
REMEDIES

48 OR RIGHTS AVAILABLE UNDER THE INDIVIDUALS WITH DISABILITIES
EDUCATION

49 ACT, TITLE VII OF THE CIVIL RIGHTS LAW OF 1964, SECTION 504 OF
THE REHA-

50 BILITATION ACT OF 1973 OR THE AMERICANS WITH DISABILITIES ACT OF
1990.

51 S 531-I. SEVERABILITY AND CONSTRUCTION. THE PROVISIONS OF
THIS TITLE

52 SHALL BE SEVERABLE, AND IF ANY COURT OF COMPETENT JURISDICTION
DECLARES

53 ANY PHRASE, CLAUSE, SENTENCE OR PROVISION OF THIS TITLE TO BE
INVALID,

54 OR ITS APPLICABILITY TO ANY GOVERNMENT AGENCY, PERSON OR
CIRCUMSTANCE IS

55 DECLARED INVALID, THE REMAINDER OF THIS TITLE AND ITS RELEVANT
APPLICA-

1 BILITY SHALL NOT BE AFFECTED. THE PROVISIONS OF THIS TITLE
SHALL BE
2 LIBERALLY CONSTRUED TO GIVE EFFECT TO THE PURPOSES THEREOF.
3 S 3. This act shall take effect on the one hundred twentieth
day after
4 it shall have become a law, except that any rules or
regulations neces-
5 sary for the timely implementation of this act on its
effective date
6 shall be promulgated on or before such date.