

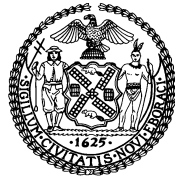
Staff: Robert J. Newman
Counsel, Committee on General
Welfare

Deirdre Feerick
Counsel, Committee on Women's
Issues

Miriam Burns
Senior Policy Analyst

Rick Arbelo
Policy Analyst

Joan Povolny
Policy Analyst



THE COUNCIL
REPORT OF THE HUMAN SERVICES DIVISION
GILBERTO VALDES, DIRECTOR

COMMITTEE ON GENERAL WELFARE
and
COMMITTEE ON WOMEN'S ISSUES

December 11, 2000

PROPOSED 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.

TITLE:

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

ADMINISTRATIVE CODE: Adds a new Section 8-107.1.

BACKGROUND:

The Committee on General Welfare and the Committee on Women’s Issues will meet jointly today to consider Proposed Int. No. 400-A, a proposed local law that would prohibit employment discrimination against victims of domestic violence (“DV”). This proposed local law is being considered for the second time. The first joint hearing of the two committees to review the proposed local law was held on January 26, 2000. Invited to testify at today’s joint hearing are: Julie Goldscheid, Acting Legal Director, NOW Legal Defense and Education Fund; and Marta Varela, Commissioner, New York City Commission on Human Rights.

The pervasiveness of domestic violence is well documented. According to the Mayor’s Management Report for Fiscal 2000, the Police Department made 23,935 family-related arrests for the year and there were 4,012 arrests for violations of orders of protection. Further, the police filed 252,902 domestic incident reports in fiscal 2000. (Advocates believe that since many domestic violence incidents are not reported, this figure does not reflect the true immensity of the domestic violence problem in New York City).

It is also well documented that “the effects of domestic violence on a woman’s job performance can make it difficult for some women to maintain their employment or to advance in their jobs.” U.S. General Accounting Office, Domestic Violence: Prevalence and Implications for Employment among Welfare Recipients (1998). A study commissioned by the Women’s Work Program at Liz Claiborne, Inc. found that fully 74% of surveyed DV victims who were

employed were harassed by their abusers at work, and that domestic violence caused 56% of the surveyed victims to be late to work at least five times per month. (Women's Work Program, Liz Claiborne, Inc., Survey conducted by Roper Starch Worldwide (1994)). The study further found that 28% of surveyed DV victims had to leave work early at least five days per month and 54% had to miss work at least three days per month. Victims also reported that abuse affected their ability to keep their jobs.

However, while New York State's penal, domestic relations and other laws have addressed the prevention of domestic violence and the punishment of abusers, there are no laws that provide protection for the economic interests of DV victims. Since it is through financial independence that a DV victim may be able to escape an abusive relationship and move forward with his/her life, the protection of these interests is vital.

While all victims of violent crime need and deserve protection, advocates have long maintained that DV victims have special needs. Domestic violence does not manifest itself in one act, but rather in a series of violent acts affecting a form of subjugation not experienced by victims of random violence. Further, while victims of random acts of violence such as Nicole Barret may be deemed heroic in their plight to survive, the plight of DV victims is often minimized, if not scorned. Victims are often blamed for the violence. Indeed, advocates maintain that this view of domestic violence often leads to a psychology of shame and embarrassment for victims, driving them inward and making it nearly impossible for them to reach out for help. Witnesses who testified at the January hearing stated that, far from needing to remain unseen, if victims could feel safe about discussing this matter at work then perhaps they could more effectively create and execute an escape strategy to avoid further abuse. Proposed

Int. 400-A certainly would not require DV victims to disclose their status to employers. However, it would protect those who have the courage to do so.

ANALYSIS

Proposed Int. No. 400-A would add a new protected class of DV victims to the City's Human Rights Law for purposes of employment discrimination protection. Proposed Int. No. 400-A would prohibit employers from refusing to hire DV victims, and from terminating or changing the terms and/or conditions of employment of DV victims simply because they are DV victims. Under Proposed Int. No. 400-A, a victim of DV would be defined as a person who has been subjected to acts or threats of violence by a current or former spouse, a person with whom the victim shares a child, a person who lives with or has lived with the victim, a person who is or has been in a continuing romantic or intimate relationship, or a person who lives in the same household as the victim. An act or threat of violence is defined as including that which would be a violation of the penal law.

Proposed Int. No. 400-A would only protect those victims who are otherwise able to perform the essential functions of their jobs. For example, Proposed Int. No. 400-A does not require an employer to provide time off of work for an employee to find shelter after a domestic violence incident if the employee is not otherwise entitled to such leave. Instead, Proposed Int. No. 400-A protects a DV victim from adverse employment action simply because of his/her status as a DV victim. Thus, while Proposed Int. No. 400-A would not require an employer to provide an accommodation such as time off or relocation, it would protect the DV victim from employment discrimination simply for making such a request. This legislation would enable victims of domestic violence to speak honestly about potentially dangerous situations that exist,

without fear of jeopardizing their employment.

Since Proposed Int. No. 400-A would be part of the Human Rights law, the law would apply to employers with four or more employees, and DV victims would be able to file complaints of discrimination at the City Commission on Human Rights (CCHR), and would not need to hire a lawyer to do so. Currently, CCHR considers DV victims with physical or mental impairments as disabled and therefore protected under the Human Rights law. However, not all DV victims become so impaired, and even when they are, many DV victims do not consider themselves disabled. Proposed Int. No. 400-A would therefore serve a positive purpose in protecting all victims of DV from employment discrimination.

EFFECTIVE DATE

This local law would be effective immediately.