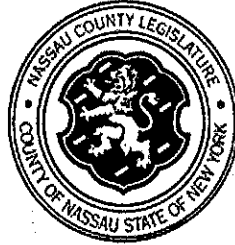


140-21  
(LE)

OFFICE OF THE  
DEMOCRATIC MINORITY



PETER J. CLINES, ESQ.  
MINORITY COUNSEL

**NASSAU COUNTY LEGISLATURE**  
THEODORE ROOSEVELT EXECUTIVE & LEGISLATIVE BUILDING  
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## Inter-Departmental Memo

To: Michael C Pulitzer, Clerk of the Legislature

From: Peter J. Clines, Esq., Minority Counsel *PJ*

CC: Hon. Richard Nicoletto, Presiding Officer

Hon. Kevan Abrahams, Minority Leader

Date: April 7, 2021

Re: A LOCAL LAW TO AMEND THE NASSAU COUNTY ADMINISTRATIVE CODE  
IN RELATION TO AMENDING THE NASSAU COUNTY HUMAN RIGHTS LAW  
TO PRECLUDE COVID-19 DISCRIMINATION.

Attached please find the above referenced local law which has been approved as to form per the Rules of the Legislature. Kindly distribute a copy to Presiding Officer Richard Nicoletto along with our request that this item be placed on the next available legislative agenda.

Kindly provide a time stamped hard copy acknowledgement of your receipt.

Thank you.

2021 APR -7 09:16:26

Introduced by: Legislator Arnold W. Drucker

Co-Sponsored by: Minority Leader Kevan Abrahams and Legislators Siela A. Bynoe, Carrié Solages, Debra Mulé, Ellen Birnbaum, Delia DeRiggi-Whitton and Joshua A. Lafazan

PROPOSED LOCAL LAW NO. -2021

A LOCAL LAW TO AMEND THE NASSAU COUNTY ADMINISTRATIVE CODE IN  
RELATION TO AMENDING THE NASSAU COUNTY HUMAN RIGHTS LAW TO  
PRECLUDE COVID-19 DISCRIMINATION

APPROVED AS TO FORM



PETER J. CLINES MINORITY COUNSEL

WHEREAS, the Legislature notes with extreme concern the dramatic rise in bias incidents against Asian Americans in the New York area and throughout the country; and

WHEREAS, the Legislature further notes that many of these incidents involve heinous and brutal acts of criminal violence motivated by hatred directed at Asian-Americans; and

WHEREAS, a significant number of these incidents reportedly also arise from an irrational, false and unfounded association of certain ethnic groups with the spread of the COVID-19 virus; and

WHEREAS, scapegoating and persecution are inimical to our ideals as Americans; and

WHEREAS, this Legislature determines that singling out any ethnic, religious or other social group for blame with regard to the COVID-19 pandemic is a vicious calumny and an egregious violation of civil and human rights; and

WHEREAS, in view of the foregoing, the Legislature believes it is fitting and proper to amend the County Human Rights Law to specifically prohibit discrimination based on an actual or perceived connection between COVID-19 and a victim's protected status under the Human Rights Law; and

WHEREAS, the Legislature hereby determines that such prohibition on COVID-19 discrimination should include the right of victims to commence civil actions to recover

compensatory and punitive damages to make themselves whole and to deter such human rights violation in the future; and

WHEREAS, the Legislature believes it is also necessary to grant the County Attorney full power to enforce the prohibition of COVID-19 discrimination by bringing civil proceedings against violators to recover civil penalties, fines, compensatory and punitive damages and attorney's fees and costs; NOW THEREFORE

BE IT ENACTED by the County Legislature of the County of Nassau as follows:

Section 1. A new Section 21-9.8-A of Title C-2 of the Nassau County Administrative Code is added as follows:

Title C-2  
Unlawful Discriminatory Practices

**§21-9.8-A Unlawful discriminatory practice: COVID-19 Discrimination.**

1. **COVID-19 Discrimination Prohibited. It shall be an unlawful discriminatory practice for any person to engage in COVID-19 discrimination and such COVID-19 discrimination is hereby prohibited. As used in this section, COVID-19 discrimination shall mean discrimination based on an actual or perceived relationship to the spread of COVID-19 of any person because of such person's protected status.**
2. **Additional Definitions. As used in this section, "discrimination" shall mean any difference in treatment of any person motivated by such person's protected status, including but not limited to assaulting, harassment, menacing, or inflicting physical harm, emotional harm, or injury on such person; "protected status" shall mean actual or perceived race, creed, color, national origin, ethnicity, gender, religion, source of income, veteran status, first responder status, sexual orientation, age, marital status, familial status, disability, or visible traits of an individual such as natural hair texture, protective hairstyles and the donning of religious garments or items; "harass" shall mean to engage in conduct constituting any of the crimes of harassment under article two hundred forty of the New York State Penal Law; "menace" shall mean to engage in conduct constituting any of the crimes of menacing under article one hundred twenty of the New York State Penal Law; "assault" shall mean to engage in conduct constituting any of the crimes of assault under article one hundred twenty of the New York State Penal Law.**
3. **Civil Action for Unlawful Discriminatory Practices. An individual claiming to be aggrieved by a discriminatory practice under subsection one of this section may commence a civil action in a court of competent jurisdiction for declaratory and injunctive relief and to recover compensatory damages, punitive damages and attorney's fees and costs and for such other relief as the court may deem appropriate, in addition to any administrative remedies afforded under this title, provided that the exhaustion of such administrative remedies shall not be a prerequisite to commencing an action under this subsection.**

4. Civil Penalties. In addition to civil liability under subsection three of this section, any person found to have violated the provisions of subsection one of this section shall be subject to a civil penalty of no less than five thousand and no more than twenty-five thousand dollars per violation, which penalty shall be recoverable for and payable to the aggrieved victim of COVID-19 discrimination, and shall, in addition, be subject to the fines as set forth in section §21-9.9.1 of this title.
5. Enforcement by County Attorney. In addition to any other power which he or she may possess under law, the County Attorney is hereby authorized and directed to obtain enforcement of the provisions of this title by commencing an action in any court of competent jurisdiction for any relief as provided under this section, including but not limited to the assessment and collection of penalties provided herein, injunctive relief including but not limited to relief enjoining violations and threatened violations of this section, recovery of compensatory and punitive monetary damages for persons aggrieved, civil penalties, fines and attorney's fees. Such authority shall include the authority to appear as intervenor in any action commenced by a party pursuant to any provision of this title. Notwithstanding any other provision of law, any action taken by the County Attorney under this subsection shall not require a resolution of the Legislature.
6. To the extent there is any inconsistency or conflict between the provisions of this section and any other provision of this title, the provisions of this section shall control with respect to claims of COVID-19 discrimination.

## **§ 2. Severability.**

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

## **§ 3. SEQRA Determination.**

It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L, section 0101 at seq. and its implementing regulations, Part617 of6 N.Y.C.R.R., and Section 1611 of the County Government Law of Nassau County, that the adoption of this local law is a "Type II" Action within the meaning of Section617 .5(c) of 6 N.Y.C.R.R., and, accordingly, is of a class of actions which do not have a significant effect on the environment, and no further review is required.

## **§ 4. Effective Date.**

This local law shall take effect immediately after enactment.


Introduced by: Legislator Arnold W. Drucker

Co-Sponsored by: Minority Leader Kevan Abrahams and Legislators Siela A. Bynoe, Carrié Solages, Debra Mulé, Ellen Birnbaum, Delia DeRiggi-Whitton and Joshua A. Lafazan

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RELATION TO AMENDING THE NASSAU COUNTY HUMAN RIGHTS LAW TO  
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APPROVED AS TO FORM



PETER J. CLINES, MINORITY COUNSEL

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WHEREAS, in view of the foregoing, the Legislature believes it is fitting and proper to amend the County Human Rights Law to specifically prohibit discrimination based on an actual or perceived connection between COVID-19 and a victim's protected status under the Human Rights Law; and

WHEREAS, the Legislature hereby determines that such prohibition on COVID-19 discrimination should include the right of victims to commence civil actions to recover

compensatory and punitive damages to make themselves whole and to deter such human rights violation in the future; and

WHEREAS, the Legislature believes it is also necessary to grant the County Attorney full power to enforce the prohibition of COVID-19 discrimination by bringing civil proceedings against violators to recover civil penalties, fines, compensatory and punitive damages and attorney's fees and costs; NOW THEREFORE

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2. Additional Definitions. As used in this section, "discrimination" shall mean any difference in treatment of any person motivated by such person's protected status, including but not limited to assaulting, harassment, menacing, or inflicting physical harm, emotional harm, or injury on such person; "protected status" shall mean actual or perceived race, creed, color, national origin, ethnicity, gender, religion, source of income, veteran status, first responder status, sexual orientation, age, marital status, familial status, disability, or visible traits of an individual such as natural hair texture, protective hairstyles and the donning of religious garments or items; "harass" shall mean to engage in conduct constituting any of the crimes of harassment under article two hundred forty of the New York State Penal Law; "menace" shall mean to engage in conduct constituting any of the crimes of menacing under article one hundred twenty of the New York State Penal Law; "assault" shall mean to engage in conduct constituting any of the crimes of assault under article one hundred twenty of the New York State Penal Law.
3. Civil Action for Unlawful Discriminatory Practices. An individual claiming to be aggrieved by a discriminatory practice under subsection one of this section may commence a civil action in a court of competent jurisdiction for declaratory and injunctive relief and to recover compensatory damages, punitive damages and attorney's fees and costs and for such other relief as the court may deem appropriate, in addition to any administrative remedies afforded under this title, provided that the exhaustion of such administrative remedies shall not be a prerequisite to commencing an action under this subsection.

4. **Civil Penalties.** In addition to civil liability under subsection three of this section, any person found to have violated the provisions of subsection one of this section shall be subject to a civil penalty of no less than five thousand and no more than twenty-five thousand dollars per violation, which penalty shall be recoverable for and payable to the aggrieved victim of COVID-19 discrimination, and shall, in addition, be subject to the fines as set forth in section §21-9.9.1 of this title.
5. **Enforcement by County Attorney.** In addition to any other power which he or she may possess under law, the County Attorney is hereby authorized and directed to obtain enforcement of the provisions of this title by commencing an action in any court of competent jurisdiction for any relief as provided under this section, including but not limited to the assessment and collection of penalties provided herein, injunctive relief including but not limited to relief enjoining violations and threatened violations of this section, recovery of compensatory and punitive monetary damages for persons aggrieved, civil penalties, fines and attorney's fees. Such authority shall include the authority to appear as intervenor in any action commenced by a party pursuant to any provision of this title. Notwithstanding any other provision of law, any action taken by the County Attorney under this subsection shall not require a resolution of the Legislature.
6. To the extent there is any inconsistency or conflict between the provisions of this section and any other provision of this title, the provisions of this section shall control with respect to claims of COVID-19 discrimination.

## **§ 2. Severability.**

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

## **§ 3. SEQRA Determination.**

It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L, section 0101 at seq. and its implementing regulations, Part 617 of 6 N.Y.C.R.R., and Section 1611 of the County Government Law of Nassau County, that the adoption of this local law is a "Type II" Action within the meaning of Section 617 .5(c) of 6 N.Y.C.R.R., and, accordingly, is of a class of actions which do not have a significant effect on the environment, and no further review is required.

## **§ 4. Effective Date.**

This local law shall take effect immediately after enactment.