

MEMO IN SUPPORT

[A2483A\(Niou\)/S3395\(Gounardes\) of 2021](#)

April 28, 2021

TITLE OF BILL

An act to amend the executive law, in relation to the definition of "employer" for purposes of the human rights law.

SUMMARY OF PROVISIONS

Section 1 amends section 292 of the Executive Law, as amended by [Chapter 161 of the laws of 2019](#), to provide that the state shall be considered the employer of elected and appointed officials and their staff for the purposes of the Human Rights Law, and also extends this provision to localities within the state.

Section 2 states that act shall take effect immediately and shall be deemed to have been in full force and effect on and after the effective date of Chapter 161 of the laws of 2019.

STATEMENT OF SUPPORT

Our groups support this legislation because it will help ensure that employees of elected and appointed officials – including in the legislative, judicial or executive branches – are better able to hold state government accountable, and are protected under NYS Human Rights Law’s anti-discrimination and harassment provisions.

Federal Title VII Civil Rights Law currently carves out elected officials’ “personal staff” from covered employees, exempting these individuals from federal protections. The state, however, can and should eliminate this carveout from its own laws. Under current state law, employees of elected officials have not been able to effectively hold their employers – the state – accountable for harassment, which is another form of abuse of power. Because of this carveout, the state and its component units have argued effectively in court that they are not the employer of victims of discrimination and harassment who work for elected officials. This bill will provide all state employees legal recourse and the ability to better hold state government accountable for all forms of abuse of power.

This bill is part of the Sexual Harassment Working Group’s [2021 Legislative Agenda](#).