State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

346T0511

SENATE BILL NO. 119

Introduced by: Senators Adelstein, Bradford, Buhl, Cutler, Frerichs, Nelson (Tom), Peters, Sutton, and Tieszen and Representatives Turbiville, Abdallah, Blake, Fargen, Feinstein, Gibson, Hawley, Hunhoff (Bernie), Lucas, Sigdestad, Street, and Wismer

FOR AN ACT ENTITLED, An Act to revise the Human Relations Act to allow certain discriminatory practices to be investigated by municipalities and counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 20-12-4 be amended to read as follows:

20-12-4. Any municipality or county may investigate any discriminatory practices based on sex, sexual orientation, gender identity, race, color, creed, religion, ancestry, disability, familial status, or national origin, with respect to employment, labor union membership, housing accommodations, property rights, education, public accommodations, or public services.

Section 2. That § 20-13-1 be amended to read as follows:

20-13-1. Terms used in this chapter mean:

(1) "Commission," the South Dakota State Commission of Human Rights;

(2) "Commissioner," a member of the commission;

(3) "Court," the circuit court in and for the judicial circuit of the State of South Dakota in which the alleged unfair or discriminatory practice occurred;

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Insertions into existing statutes are indicated by underscores.
Deletions from existing statutes are indicated by ~~overstrikes~~.

(4) "Disability," a physical or mental impairment of a person resulting from disease, injury, congenital condition of birth, or functional disorder which substantially limits one or more of the person's major life functions; a record of having such an impairment; or being regarded as having such an impairment which:

(a) For purposes of §§ 20-13-10 to 20-13-17, inclusive, is unrelated to an individual's ability to perform the major duties of a particular job or position, or is unrelated to an individual's qualifications for employment or promotion;

(b) For purposes of §§ 20-13-20 to 20-13-21.1, inclusive, is unrelated to an individual's ability to acquire, rent or maintain property;

(c) For purposes of §§ 20-13-22 to 20-13-25, inclusive, is unrelated to an individual's ability to utilize and benefit from educational opportunities, programs and facilities at an educational institution.

This term does not include current illegal use of or addiction to marijuana as defined in subdivision 22-42-1(7) or a controlled substance as defined in subdivision 22-42-1(1);

(5) "Educational institution," any public or private institution of education and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system, and any business, nursing, professional, secretarial, technical, or vocational school, and includes any agent of such institutions;

(6) "Employee," any person who performs services for any employer for compensation, whether in the form of wages, salary, commission, or otherwise;

(7) "Employer," any person within the State of South Dakota who hires or employs any employee, and any person wherever situated who hires or employs any employee whose services are to be partially or wholly performed in the State of South Dakota;

(8) "Employment agency," any person regularly undertaking, with or without compensation, to procure employees for an employer or to procure for employees opportunities to work for an employer and includes any agent of such a person;

(9) "Familial status,"the relationship of individuals by birth, adoption, or guardianship who are domiciled together;

(10) "Gender identity," the gender-related identity, appearance, mannerisms, or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth;

(11) "Labor organization," includes any person, employee representation committee, plan in which employees participate, or other organization which exists wholly or in part for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment;

~~(11)~~(12) "Person," includes one or more individuals, partnerships, associations, limited liability companies, corporations, unincorporated organizations, mutual companies, joint stock companies, trusts, agents, legal representatives, trustees, trustees in bankruptcy, receivers, labor organizations, public bodies, public corporations, and the State of South Dakota, and all political subdivisions and agencies thereof;

~~(12)~~(13) "Public accommodations," any place, establishment, or facility of whatever kind, nature, or class that caters or offers services, facilities, or goods to the general public for a fee, charge, or gratuitously. Public accommodation does not mean any bona fide private club or other place, establishment, or facility which is by its nature distinctly private, except when such distinctly private place, establishment, or facility caters or offers services, facilities, or goods to

the general public for fee or charge or gratuitously, it shall be deemed a public accommodation during such period of use;

~~(13)~~(14) "Public service," any public facility, department, agency, board, or commission, owned, operated, or managed by or on behalf of the State of South Dakota, any political subdivision thereof, or any other public corporation;

~~(14)~~(15) "Real estate broker" and "real estate salesman," real estate broker and real estate salesman as defined by § 36-21A-6 or as licensed pursuant to § 36-21A-47;

~~(15)~~(16) "Real property," any right, title, interest in or to the possession, ownership, enjoyment, or occupancy of any parcel of land, any building situated thereon, or any portion of such building;

~~(16)~~(17) "Sexual orientation," means homosexuality, heterosexuality, or bisexuality;

(18) "Unfair or discriminatory practice," any act or attempted act which because of race, color, creed, religion, sex, ancestry, disability, or national origin accords unequal treatment or separation or segregation of any person, or denies, prevents, limits, or otherwise adversely affects, or if accomplished would deny, prevent, limit, or otherwise adversely affect, the benefit or enjoyment by any person of employment, labor union membership, housing accommodations, property rights, education, public accommodations, and public services.