

2021 -- H 5854

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LC001663
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- FAIR EMPLOYMENTS PRACTICES

Introduced By: Representatives Tanzi, Vella-Wilkinson, McEntee, Shanley, Potter,
Fenton-Fung, Ajello, Kislak, Fogarty, and Ackerman
Date Introduced: February 24, 2021

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-5-6 of the General Laws in Chapter 28-5 entitled "Fair
2 Employment Practices" is hereby amended to read as follows:

3 **28-5-6. Definitions.**

4 When used in this chapter:

5 (1) "Age" means anyone who is at least forty (40) years of age.

6 (2) "Because of sex" or "on the basis of sex" include, but are not limited to, because of or
7 on the basis of pregnancy, childbirth, or related medical conditions, and women affected by
8 pregnancy, childbirth, or related medical conditions shall be treated the same for all employment
9 related purposes, including receipt of benefits under fringe benefit programs, as other persons not
10 so affected but similar in their ability or inability to work, and nothing in this chapter shall be
11 interpreted to permit otherwise.

12 (3) "Commission" means the Rhode Island commission against discrimination created by
13 this chapter.

14 (4) "Conviction" means, for the purposes of this chapter only, any verdict or finding of
15 guilt after a criminal trial or any plea of guilty or nolo contendere to a criminal charge.

16 (5) "Disability" means a disability as defined in § 42-87-1.

17 (6) "Discriminate" includes segregate or separate.

18 (7) "Employee" ~~does not include any individual employed by his or her parents, spouse, or~~
19 ~~child, or in the domestic service of any person~~ includes any individual under the direction and

1 control of an employer under any appointment or contract of hire or apprenticeship, express or
2 implied, oral or written:

3 (i) "Employee" includes gig economy workers who typically work in the service sector and
4 perform small, part-time jobs, often remotely.

5 (ii) "Employee" for purposes of this section shall include volunteers and unpaid interns.

6 (iii) "Employee" does not include any individual employed by their parents, by their
7 spouse, or by their child.

8 (8)(i) "Employer" includes the state and all political subdivisions of the state and any
9 person in this state employing ~~four (4)~~ one or more individuals, and any person acting in the interest
10 of an employer directly or indirectly.

11 (ii) Nothing in this subdivision shall be construed to apply to a religious corporation,
12 association, educational institution, or society with respect to the employment of individuals of its
13 religion to perform work connected with the carrying on of its activities.

14 (9) "Employment agency" includes any person undertaking with or without compensation
15 to procure opportunities to work, or to procure, recruit, refer, or place employees.

16 (10) "Firefighter" means an employee the duties of whose position includes work
17 connected with the control and extinguishment of fires or the maintenance and use of firefighting
18 apparatus and equipment, including an employee engaged in this activity who is transferred or
19 promoted to a supervisory or administrative position.

20 (11) "Gender identity or expression" includes a person's actual or perceived gender, as well
21 as a person's gender identity, gender-related self image, gender-related appearance, or gender-
22 related expression; whether or not that gender identity, gender-related self image, gender-related
23 appearance, or gender-related expression is different from that traditionally associated with the
24 person's sex at birth.

25 (12) "Labor organization" includes any organization which exists for the purpose, in whole
26 or in part, of collective bargaining or of dealing with employers concerning grievances, terms or
27 conditions of employment, or of other mutual aid or protection in relation to employment.

28 (13) "Law enforcement officer" means an employee the duties of whose position include
29 investigation, apprehension, or detention of individuals suspected or convicted of offenses against
30 the criminal laws of the state, including an employee engaged in such activity who is transferred or
31 promoted to a supervisory or administrative position. For the purpose of this subdivision,
32 "detention" includes the duties of employees assigned to guard individuals incarcerated in any penal
33 institution.

34 (14) "Person" includes one or more individuals, partnerships, associations, organizations,

1 corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.

2 (15) "Religion" includes all aspects of religious observance and practice, as well as belief,
3 unless an employer, union or employment agency demonstrates that it is unable to reasonably
4 accommodate to an employee's or prospective employee's or union member's religious observance
5 or practice without undue hardship on the conduct of its business.

6 (16) "Sexual orientation" means having or being perceived as having an orientation for
7 heterosexuality, bisexuality, or homosexuality. This definition is intended to describe the status of
8 persons and does not render lawful any conduct prohibited by the criminal laws of this state nor
9 impose any duty on a religious organization. This definition does not confer legislative approval of
10 that status, but is intended to assure the basic human rights of persons to obtain and hold
11 employment, regardless of that status.

12 (17) The terms, as used regarding persons with disabilities:

13 (i) "Auxiliary aids and services" and "reasonable accommodation" shall have the same
14 meaning as those items are defined in § 42-87-1.1; and

15 (ii) "Hardship" means an "undue hardship" as defined in § 42-87-1.1.

16 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would broaden the definition of "employee" for purposes of the fair employment
2 practices, to include individuals under any appointment or contract of hire or apprenticeship, or any
3 volunteer or unpaid intern, gig worker, and would exclude from the definition of employed any
4 individual employed by their parents, spouse or child.

5 This act would take effect upon passage.

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