

2021 -- S 0539

LC001321

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO EDUCATION -- PREVENTING DISCRIMINATION ON THE BASIS OF RACE

Introduced By: Senators Mack, Bell, Acosta, Anderson, Calkin, Lawson, Quezada, Cano, Miller, and Murray

Date Introduced: March 04, 2021

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 16-38-1 of the General Laws in Chapter 16-38 entitled "Offenses
2 Pertaining to Schools [See Title 16 Chapter 97 - The Rhode Island Board of Education Act]" is
3 hereby amended to read as follows:

4 **16-38-1. Discrimination because of race or age.**

5 (a) No person shall be excluded from any public school on account of race or color, or for
6 being over fifteen (15) years of age, nor except by force of some general regulation applicable to
7 all persons under the same circumstances.

8 (b) Discrimination on the basis of race is prohibited in all public elementary and secondary
9 schools in the state and in all schools operated by the council on elementary and secondary
10 education. This prohibition shall apply to employment practices, admissions, curricular programs,
11 extracurricular activities including athletics, counseling, and any and all other school functions and
12 activities.

13 (1) "Race" includes traits historically associated with the race, including, but not limited
14 to, hair texture and protective hairstyles.

15 (2) The term "protective hairstyles" includes, but is not limited to, such hairstyles as braids,
16 locks, and twists.

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

1 **28-5-6. Definitions.**

2 When used in this chapter:

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

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

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

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

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

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

16 (7) "Employee" does not include any individual employed by his or her parents, spouse, or
17 child, or in the domestic service of any person.

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

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

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

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

30 (11) "Gender identity or expression" includes a person's actual or perceived gender, as well
31 as a person's gender identity, gender-related self image, gender-related appearance, or gender-
32 related expression; whether or not that gender identity, gender-related self image, gender-related
33 appearance, or gender-related expression is different from that traditionally associated with the
34 person's sex at birth.

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

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

10 (14) "Person" includes one or more individuals, partnerships, associations, organizations,
11 corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.

12 (15)(i) "Race" includes traits historically associated with the race, including, but not limited
13 to, hair texture and protective hairstyles.

14 (ii) The term "protective hairstyles" includes, but is not limited to, such hairstyles as braids,
15 locks, and twists.

16 ~~(15)~~(16) "Religion" includes all aspects of religious observance and practice, as well as
17 belief, unless an employer, union or employment agency demonstrates that it is unable to
18 reasonably accommodate to an employee's or prospective employee's or union member's religious
19 observance or practice without undue hardship on the conduct of its business.

20 ~~(16)~~(17) "Sexual orientation" means having or being perceived as having an orientation for
21 heterosexuality, bisexuality, or homosexuality. This definition is intended to describe the status of
22 persons and does not render lawful any conduct prohibited by the criminal laws of this state nor
23 impose any duty on a religious organization. This definition does not confer legislative approval of
24 that status, but is intended to assure the basic human rights of persons to obtain and hold
25 employment, regardless of that status.

26 ~~(17)~~(18) The terms, as used regarding persons with disabilities:

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

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

30 SECTION 3. Section 42-112-1 of the General Laws in Chapter 42-112 entitled "The Civil
31 Rights Act of 1990" is hereby amended to read as follows:

32 **42-112-1. Discrimination prohibited.**

33 (a) All persons within the state, regardless of race, color, religion, sex, disability, age, or
34 country of ancestral origin, have, except as is otherwise provided or permitted by law, the same

1 rights to make and enforce contracts, to inherit, purchase, to lease, sell, hold, and convey real and
2 personal property, to sue, be parties, give evidence, and to the full and equal benefit of all laws and
3 proceedings for the security of persons and property, and are subject to like punishment, pains,
4 penalties, taxes, licenses, and exactions of every kind, and to no other.

5 (b) For the purposes of this section, the right to "make and enforce contracts, to inherit,
6 purchase, to lease, sell, hold, and convey real and personal property" includes the making,
7 performance, modification and termination of contracts and rights concerning real or personal
8 property, and the enjoyment of all benefits, terms, and conditions of the contractual and other
9 relationships.

10 (c) Nothing contained in this chapter shall be construed to affect chapter 14.1 of title 37,
11 chapter 5.1 of title 28 or any other remedial programs designed to address past societal
12 discrimination.

13 (d) For the purposes of this section, the terms "sex" and "age" have the same meaning as
14 those terms are defined in § 28-5-6, the state fair employment practices act. The term "disability"
15 has the same meaning as that term is defined in § 42-87-1, and the terms, as used regarding persons
16 with disabilities, "auxiliary aids and services," "readily achievable," "reasonable accommodation,"
17 "reasonable modification," and "undue hardship" shall have the same meaning as those terms are
18 defined in § 42-87-1.1.

19 (e)(1) For the purposes of this section, the term "race" includes traits historically associated
20 with race, including, but not limited to, hair texture and protective hairstyles.

21 (2) The term "protective hairstyles" includes, but is not limited to, such hairstyles as braids,
22 locks, and twists.

23 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO EDUCATION -- PREVENTING DISCRIMINATION ON THE BASIS OF
RACE

1 This act would protect hairstyle discrimination by expanding the definition of race to
2 include traits historically associated with race, including, but not limited to, hair texture and
3 protective hairstyles.

4 This act would take effect upon passage.

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