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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS - FAIR EMPLOYMENT PRACTICES

Introduced By: Representatives Ferri, Almeida, Diaz, Ajello, and Williams

Date Introduced: February 12, 2014

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-5-7 of the General Laws in Chapter 28-5 entitled "Fair
2 Employment Practices" is hereby amended to read as follows:

3 **28-5-7. Unlawful employment practices. [Effective until January 1, 2014.] --** It shall
4 be an unlawful employment practice:

5 (1) For any employer:

6 (i) To refuse to hire any applicant for employment because of his or her race or color,
7 religion, sex, sexual orientation, gender identity or expression, disability, age, or country of
8 ancestral origin;

9 (ii) Because of those reasons, to discharge an employee or discriminate against him or
10 her with respect to hire, tenure, compensation, terms, conditions or privileges of employment, or
11 any other matter directly or indirectly related to employment. However, if an insurer or employer
12 extends insurance related benefits to persons other than or in addition to the named employee,
13 nothing in this subdivision shall require those benefits to be offered to unmarried partners of
14 named employees;

15 (iii) In the recruiting of individuals for employment or in hiring them, to utilize any
16 employment agency, placement service, training school or center, labor organization, or any other
17 employee referring source which the employer knows, or has reasonable cause to know,
18 discriminates against individuals because of their race or color, religion, sex, sexual orientation,
19 gender identity or expression, disability, age, or country of ancestral origin;

1 (iv) To refuse to reasonably accommodate an employee's or prospective employee's
2 disability unless the employer can demonstrate that the accommodation would pose a hardship on
3 the employer's program, enterprise, or business; or

4 (v) When an employee has presented to the employer an internal complaint alleging
5 harassment in the workplace on the basis of race or color, religion, sex, disability, age, sexual
6 orientation, gender identity or expression, or country of ancestral origin, to refuse to disclose in a
7 timely manner in writing to that employee the disposition of the complaint, including a
8 description of any action taken in resolution of the complaint; provided, however, no other
9 personnel information shall be disclosed to the complainant.

10 (2) (i) For any employment agency to fail or refuse to properly classify or refer for
11 employment or otherwise discriminate against any individual because of his or her race or color,
12 religion, sex, sexual orientation, gender identity or expression, disability, age, or country of
13 ancestral origin; or

14 (ii) For any employment agency, placement service, training school or center, labor
15 organization, or any other employee referring source to comply with an employer's request for the
16 referral of job applicants if the request indicates either directly or indirectly that the employer will
17 not afford full and equal employment opportunities to individuals regardless of their race or color,
18 religion, sex, sexual orientation, gender identity or expression, disability, age, or country of
19 ancestral origin;

20 (3) For any labor organization:

21 (i) To deny full and equal membership rights to any applicant for membership because of
22 his or her race or color, religion, sex, sexual orientation, gender identity or expression, disability,
23 age, or country of ancestral origin;

24 (ii) Because of those reasons, to deny a member full and equal membership rights, expel
25 him or her from membership, or otherwise discriminate in any manner against him or her with
26 respect to his or her hire, tenure, compensation, terms, conditions or privileges of employment, or
27 any other matter directly or indirectly related to membership or employment, whether or not
28 authorized or required by the constitution or bylaws of the labor organization or by a collective
29 labor agreement or other contract;

30 (iii) To fail or refuse to classify properly or refer for employment, or otherwise to
31 discriminate against any member because of his or her race or color, religion, sex, sexual
32 orientation, gender identity or expression, disability, age, or country of ancestral origin; or

33 (iv) To refuse to reasonably accommodate a member's or prospective member's disability
34 unless the labor organization can demonstrate that the accommodation would pose a hardship on

1 the labor organization's program, enterprise, or business;

2 (4) Except where based on a bona fide occupational qualification certified by the
3 commission or where necessary to comply with any federal mandated affirmative action
4 programs, for any employer or employment agency, labor organization, placement service,
5 training school or center, or any other employee referring source, prior to employment or
6 admission to membership of any individual, to:

7 (i) Elicit or attempt to elicit any information directly or indirectly pertaining to his or her
8 race or color, religion, sex, sexual orientation, gender identity or expression, disability, age, or
9 country of ancestral origin;

10 (ii) Make or keep a record of his or her race or color, religion, sex, sexual orientation,
11 gender identity or expression, disability, age, or country of ancestral origin;

12 (iii) Use any form of application for employment, or personnel or membership blank
13 containing questions or entries directly or indirectly pertaining to race or color, religion, sex,
14 sexual orientation, gender identity or expression, disability, age, or country of ancestral origin;

15 (iv) Print or publish or cause to be printed or published any notice or advertisement
16 relating to employment or membership indicating any preference, limitation, specification, or
17 discrimination based upon race or color, religion, sex, sexual orientation, gender identity or
18 expression, disability, age, or country of ancestral origin; or

19 (v) Establish, announce, or follow a policy of denying or limiting, through a quota
20 system or otherwise, employment or membership opportunities of any group because of the race
21 or color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country
22 of ancestral origin of that group;

23 (5) For any employer or employment agency, labor organization, placement service,
24 training school or center, or any other employee referring source to discriminate in any manner
25 against any individual because he or she has opposed any practice forbidden by this chapter, or
26 because he or she has made a charge, testified, or assisted in any manner in any investigation,
27 proceeding, or hearing under this chapter;

28 (6) For any person, whether or not an employer, employment agency, labor organization,
29 or employee, to aid, abet, incite, compel, or coerce the doing of any act declared by this section to
30 be an unlawful employment practice, or to obstruct or prevent any person from complying with
31 the provisions of this chapter or any order issued pursuant to this chapter, or to attempt directly or
32 indirectly to commit any act declared by this section to be an unlawful employment practice;

33 (7) For any employer to include on any application for employment, except applications
34 for law enforcement agency positions or positions related to law enforcement agencies, a question

1 inquiring or to otherwise inquire either orally or in writing whether the applicant has ever been
2 arrested or charged with any crime; provided, that nothing in this subdivision shall prevent an
3 employer from inquiring whether the applicant has ever been convicted of any crime;

4 (8) (i) For any person who, on June 7, 1988, is providing either by direct payment or by
5 making contributions to a fringe benefit fund or insurance program, benefits in violation with
6 sections 28-5-6, 28-5-7 and 28-5-38, until the expiration of a period of one year from June 7,
7 1988 or if there is an applicable collective bargaining agreement in effect on June 7, 1988, until
8 the termination of that agreement, in order to come into compliance with sections 28-5-6, 28-5-7
9 and 28-5-38, to reduce the benefits or the compensation provided any employee on June 7, 1988,
10 either directly or by failing to provide sufficient contributions to a fringe benefit fund or
11 insurance program.

12 (ii) Where the costs of these benefits on June 7, 1988 are apportioned between employers
13 and employees, the payments or contributions required to comply with sections 28-5-6, 28-5-7
14 and 28-5-38 may be made by employers and employees in the same proportion.

15 (iii) Nothing in this section shall prevent the readjustment of benefits or compensation
16 for reasons unrelated to compliance with sections 28-5-6, 28-5-7 and 28-5-38.

17 **28-5-7. Unlawful employment practices. [Effective January 1, 2014.] --** It shall be an
18 unlawful employment practice:

19 (1) For any employer:

20 (i) To refuse to hire any applicant for employment because of his or her race or color,
21 religion, sex, sexual orientation, gender identity or expression, disability, age, or country of
22 ancestral origin;

23 (ii) Because of those reasons, to discharge an employee or discriminate against him or
24 her with respect to hire, tenure, compensation, terms, conditions or privileges of employment, or
25 any other matter directly or indirectly related to employment. However, if an insurer or employer
26 extends insurance related benefits to persons other than or in addition to the named employee,
27 nothing in this subdivision shall require those benefits to be offered to unmarried partners of
28 named employees;

29 (iii) In the recruiting of individuals for employment or in hiring them, to utilize any
30 employment agency, placement service, training school or center, labor organization, or any other
31 employee referring source which the employer knows, or has reasonable cause to know,
32 discriminates against individuals because of their race or color, religion, sex, sexual orientation,
33 gender identity or expression, disability, age, or country of ancestral origin;

34 (iv) To refuse to reasonably accommodate an employee's or prospective employee's

1 disability unless the employer can demonstrate that the accommodation would pose a hardship on
2 the employer's program, enterprise, or business; or

3 (v) When an employee has presented to the employer an internal complaint alleging
4 harassment in the workplace on the basis of race or color, religion, sex, disability, age, sexual
5 orientation, gender identity or expression, or country of ancestral origin, to refuse to disclose in a
6 timely manner in writing to that employee the disposition of the complaint, including a
7 description of any action taken in resolution of the complaint; provided, however, no other
8 personnel information shall be disclosed to the complainant.

9 [\(vi\) To request, for purposes of satisfying the requirements of the Federal Employment](#)
10 [Verification System established by section 1324a\(b\) of title 8 of the United States Code, as now](#)
11 [or hereafter amended, more or different documents than are required under such section.](#)

12 (2) (i) For any employment agency to fail or refuse to properly classify or refer for
13 employment or otherwise discriminate against any individual because of his or her race or color,
14 religion, sex, sexual orientation, gender identity or expression, disability, age, or country of
15 ancestral origin; or

16 (ii) For any employment agency, placement service, training school or center, labor
17 organization, or any other employee referring source to comply with an employer's request for the
18 referral of job applicants if the request indicates either directly or indirectly that the employer will
19 not afford full and equal employment opportunities to individuals regardless of their race or color,
20 religion, sex, sexual orientation, gender identity or expression, disability, age, or country of
21 ancestral origin;

22 (3) For any labor organization:

23 (i) To deny full and equal membership rights to any applicant for membership because of
24 his or her race or color, religion, sex, sexual orientation, gender identity or expression, disability,
25 age, or country of ancestral origin;

26 (ii) Because of those reasons, to deny a member full and equal membership rights, expel
27 him or her from membership, or otherwise discriminate in any manner against him or her with
28 respect to his or her hire, tenure, compensation, terms, conditions or privileges of employment, or
29 any other matter directly or indirectly related to membership or employment, whether or not
30 authorized or required by the constitution or bylaws of the labor organization or by a collective
31 labor agreement or other contract;

32 (iii) To fail or refuse to classify properly or refer for employment, or otherwise to
33 discriminate against any member because of his or her race or color, religion, sex, sexual
34 orientation, gender identity or expression, disability, age, or country of ancestral origin; or

1 (iv) To refuse to reasonably accommodate a member's or prospective member's disability
2 unless the labor organization can demonstrate that the accommodation would pose a hardship on
3 the labor organization's program, enterprise, or business;

4 (4) Except where based on a bona fide occupational qualification certified by the
5 commission or where necessary to comply with any federal mandated affirmative action
6 programs, for any employer or employment agency, labor organization, placement service,
7 training school or center, or any other employee referring source, prior to employment or
8 admission to membership of any individual, to:

9 (i) Elicit or attempt to elicit any information directly or indirectly pertaining to his or her
10 race or color, religion, sex, sexual orientation, gender identity or expression, disability, age, or
11 country of ancestral origin;

12 (ii) Make or keep a record of his or her race or color, religion, sex, sexual orientation,
13 gender identity or expression, disability, age, or country of ancestral origin;

14 (iii) Use any form of application for employment, or personnel or membership blank
15 containing questions or entries directly or indirectly pertaining to race or color, religion, sex,
16 sexual orientation, gender identity or expression, disability, age, or country of ancestral origin;

17 (iv) Print or publish or cause to be printed or published any notice or advertisement
18 relating to employment or membership indicating any preference, limitation, specification, or
19 discrimination based upon race or color, religion, sex, sexual orientation, gender identity or
20 expression, disability, age, or country of ancestral origin; or

21 (v) Establish, announce, or follow a policy of denying or limiting, through a quota
22 system or otherwise, employment or membership opportunities of any group because of the race
23 or color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country
24 of ancestral origin of that group;

25 (5) For any employer or employment agency, labor organization, placement service,
26 training school or center, or any other employee referring source to discriminate in any manner
27 against any individual because he or she has opposed any practice forbidden by this chapter, or
28 because he or she has made a charge, testified, or assisted in any manner in any investigation,
29 proceeding, or hearing under this chapter;

30 (6) For any person, whether or not an employer, employment agency, labor organization,
31 or employee, to aid, abet, incite, compel, or coerce the doing of any act declared by this section to
32 be an unlawful employment practice, or to obstruct or prevent any person from complying with
33 the provisions of this chapter or any order issued pursuant to this chapter, or to attempt directly or
34 indirectly to commit any act declared by this section to be an unlawful employment practice;

1 (7) For any employer to include on any application for employment, except applications
2 for law enforcement agency positions or positions related to law enforcement agencies, a question
3 inquiring or to otherwise inquire either orally or in writing whether the applicant has ever been
4 arrested, charged with or convicted of any crime; provided, that:

5 (i) If a federal or state law or regulation creates a mandatory or presumptive
6 disqualification from employment based on a person's conviction of one or more specified
7 criminal offenses, an employer may include a question or otherwise inquire whether the applicant
8 has ever been convicted of any of those offenses; or

9 (ii) If a standard fidelity bond or an equivalent bond is required for the position for
10 which the applicant is seeking employment and his or her conviction of one or more specified
11 criminal offenses would disqualify the applicant from obtaining such a bond, an employer may
12 include a question or otherwise inquire whether the applicant has ever been convicted of any of
13 those offenses; and

14 (iii) Notwithstanding, any employer may ask an applicant for information about his or
15 her criminal convictions at the first interview or thereafter, in accordance with all applicable state
16 and federal laws.

17 (8) (i) For any person who, on June 7, 1988, is providing either by direct payment or by
18 making contributions to a fringe benefit fund or insurance program, benefits in violation with
19 sections 28-5-6, 28-5-7 and 28-5-38, until the expiration of a period of one year from June 7,
20 1988 or if there is an applicable collective bargaining agreement in effect on June 7, 1988, until
21 the termination of that agreement, in order to come into compliance with sections 28-5-6, 28-5-7
22 and 28-5-38, to reduce the benefits or the compensation provided any employee on June 7, 1988,
23 either directly or by failing to provide sufficient contributions to a fringe benefit fund or
24 insurance program.

25 (ii) Where the costs of these benefits on June 7, 1988 are apportioned between employers
26 and employees, the payments or contributions required to comply with sections 28-5-6, 28-5-7
27 and 28-5-38 may be made by employers and employees in the same proportion.

28 (iii) Nothing in this section shall prevent the readjustment of benefits or compensation
29 for reasons unrelated to compliance with sections 28-5-6, 28-5-7 and 28-5-38.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO LABOR AND LABOR RELATIONS - FAIR EMPLOYMENT PRACTICES

1 This act would prohibit any employer from requiring additional or different employee
2 documents than those identified by the federal employment verification system law.

3 This act would take effect upon passage.

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