

2018 -- H 8280

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LC005838
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- FAIR EMPLOYMENT PRACTICES

Introduced By: Representatives McEntee, Tanzi, Craven, Knight, and Vella-Wilkinson

Date Introduced: June 01, 2018

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-5-24 of the General Laws in Chapter 28-5 entitled "Fair
2 Employment Practices" is hereby amended to read as follows:

3 **28-5-24. Injunctive and other remedies -- Compliance.**

4 (a) (1) If upon all the testimony taken the commission determines that the respondent has
5 engaged in or is engaging in unlawful employment practices, the commission shall state its
6 findings of fact and shall issue and cause to be served on the respondent an order requiring the
7 respondent to cease and desist from the unlawful employment practices, and to take any further
8 affirmative or other action that will effectuate the purposes of this chapter, including, but not
9 limited to, hiring, reinstatement, or upgrading of employees with or without back pay, or
10 admission or restoration to union membership, including a requirement for reports of the manner
11 of compliance. Back pay shall include the economic value of all benefits and raises to which an
12 employee would have been entitled had an unfair employment practice not been committed, plus
13 interest on those amounts.

14 (2) Where an unlawful employment practice has been established under § 28-5-7.3, the
15 commission need not award hiring, reinstatement or upgrading with back pay if the respondent
16 establishes by a preponderance of the evidence that it would have taken the same action in the
17 absence of any unlawful motivating factor.

18 (3) In appropriate circumstances attorney's fees, including expert fees and other litigation
19 expenses, may be granted to the attorney for the plaintiff if he or she prevails. Upon the

1 submission of reports of compliance the commission, if satisfied with the reports, may issue its
2 finding that the respondent has ceased to engage in unlawful employment practices.

3 (b) If the commission finds that the respondent has engaged in intentional discrimination
4 in violation of this chapter, the commission in addition may award compensatory damages. The
5 complainant shall not be required to prove that he or she has suffered physical harm or physical
6 manifestation of injury in order to be awarded compensatory damages. As used in this section, the
7 term "compensatory damages" does not include back pay or interest on back pay, and the term
8 "intentional discrimination in violation of this chapter" means any unlawful employment practice
9 except one that is solely based on a demonstration of disparate impact.

10 SECTION 2. Chapter 28-5 of the General Laws entitled "Fair Employment Practices" is
11 hereby amended by adding thereto the following section:

12 **28-5-18.1. Tolling statute of limitations.**

13 The statute of limitations and any time limit for filing a notice, claim or lawsuit shall be
14 suspended and tolled for a period not to exceed one year for all claims related to or arising out of
15 the common nucleus of operative facts for any charge filed with the Rhode Island human rights
16 commission alleging discrimination, sexual harassment or civil rights violation, for the period
17 starting on the date the charge is filed until the date the commission for human rights makes a
18 determination of probable cause or no probable cause that a violation has occurred, or otherwise
19 closes or disposes of a charge prior to a determination of probable cause or no probable cause,
20 whichever should occur first.

21 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO LABOR AND LABOR RELATIONS -- FAIR EMPLOYMENT PRACTICES

- 1 This act would provide for the statute of limitations would be tolled during the period of
- 2 investigation by the commission for human rights for a period of up to one year.
- 3 This act would take effect upon passage.

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