

1 HOUSE BILL NO. 319

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5 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING EMPLOYER REQUIREMENTS FOR EMPLOYEES
6 TO ATTEND CONTROVERSIAL SOCIAL VISION TRAINING; PROVIDING A DEFINITION; AND AMENDING
7 SECTIONS 13-1-116, 49-2-101, AND 49-2-303, MCA."
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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10

11 **Section 1.** Section 13-1-116, MCA, is amended to read:

12 **"13-1-116. Fingerprint, mark, or agent for disabled electors -- rulemaking.** (1) Except as
13 otherwise specified by law, the provisions of this section apply.

14 (2) Whenever a signature is required by an elector under a provision of this title and the elector is
15 unable because of a disability to provide a signature, the elector may provide a fingerprint, subject to
16 subsection (6), or an identifying mark or may request that an agent, election administrator, or election judge
17 sign for the elector as provided in this section.

18 (3) If an elector is unable to provide a fingerprint or an identifying mark and the elector has not
19 established an agent pursuant to subsection (4), the election administrator or an election judge may sign for the
20 elector after reviewing and verifying the elector's identification.

21 (4) (a) An elector who is unable to provide a signature may apply to the election administrator to
22 have another person designated as an agent for purposes of providing a signature or identifying mark required
23 pursuant to this title and for providing any other assistance to the elector throughout the registration and voting
24 process. The individual designated as an elector's agent may not be the elector's employer, an agent of the
25 elector's employer, or an officer or agent of the elector's union. The use of an agent is a reasonable
26 accommodation under the provisions of 49-2-101(19)(b)(20)(b).

27 (b) An application for designation of an agent by an elector under this section must be made on a
28 form prescribed by the secretary of state. The secretary of state shall by rule establish the criteria that must be

met and the process that must be followed in order for a person to become a designated agent for a disabled elector pursuant to this subsection (4).

(5) If an election administrator or election judge signs or marks a document for an elector pursuant to this section, the election administrator or election judge shall initial the signature or mark.

(6) A disabled elector may not be required to provide a fingerprint."

Section 2. Section 49-2-101, MCA, is amended to read:

"49-2-101. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Age" means number of years since birth. It does not mean level of maturity or ability to handle responsibility. These latter criteria may represent legitimate considerations as reasonable grounds for discrimination without reference to age.

(2) "Aggrieved party" means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, and who has been or is likely to be specially and injuriously affected by a violation of this chapter.

(3) "Commission" means the commission for human rights provided for in 2-15-1706.

(4) "Commissioner" means the commissioner of labor and industry provided for in 2-15-1701.

(5) "Controversial social vision" means any agenda, concept, or theory that promotes concepts, ideas, or issues that are not broadly accepted in society or that generate strong opposition by mainstream political, religious, or social groups with the various facts or theories being in dispute.

~~(5)~~(6) "Credit" means the right granted by a creditor to a person to defer payment of a debt, to incur debt and defer its payment, or to purchase property or services and defer payment. It includes without limitation the right to incur and defer debt that is secured by residential real property.

~~(6)~~(7) "Credit transaction" means any invitation to apply for credit, application for credit, extension of credit, or credit sale.

~~(7)~~(8) "Creditor" means a person who, regularly or as a part of the person's business, arranges for the extension of credit for which the payment of a financial charge or interest is required, whether in connection with loans, sale of property or services, or otherwise.

1 ~~(8)~~(9) "Department" means the department of labor and industry provided for in 2-15-1701.

2 ~~(9)~~(10) "Educational institution" means a public or private institution and includes an academy; college;
3 elementary or secondary school; extension course; kindergarten; nursery; school system; university; business,
4 nursing, professional, secretarial, technical, or vocational school; or agent of an educational institution.

5 ~~(10)~~(11)(a) "Employee" means an individual employed by an employer.

6 (b) The term does not include an individual providing services for an employer if the individual has
7 an independent contractor exemption certificate issued under 39-71-417 and is providing services under the
8 terms of that certificate.

9 ~~(11)~~(12) "Employer" means an employer of one or more persons or an agent of the employer but does
10 not include a fraternal, charitable, or religious association or corporation if the association or corporation is not
11 organized either for private profit or to provide accommodations or services that are available on a
12 nonmembership basis.

13 ~~(12)~~(13) "Employment agency" means a person undertaking to procure employees or opportunities to
14 work.

15 ~~(13)~~(14) "Financial institution" means a commercial bank, trust company, savings bank, finance
16 company, savings and loan association, credit union, investment company, or insurance company.

17 ~~(14)~~(15) "Housing accommodation" means a building or portion of a building, whether constructed or to
18 be constructed, that is or will be used as the sleeping quarters of its occupants.

19 ~~(15)~~(16) "Labor organization" means an organization or an agent of an organization organized for the
20 purpose, in whole or in part, of collective bargaining, of dealing with employers concerning grievances or terms
21 or conditions of employment, or of other mutual aid and protection of employees.

22 ~~(16)~~(17) "National origin" means ancestry.

23 ~~(17)~~(18)(a) "Organization" means a corporation, association, or any other legal or commercial entity
24 that engages in advocacy of, enforcement of, or compliance with legal interests affected by this chapter.

25 (b) The term does not include a labor organization.

26 ~~(18)~~(19) "Person" means one or more individuals, labor unions, partnerships, associations,
27 corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated
28 employees' associations, employers, employment agencies, organizations, or labor organizations.

(19)(20)(a) "Physical or mental disability" means:

- (i) a physical or mental impairment that substantially limits one or more of a person's major life activities;
 - (ii) a record of such an impairment; or
 - (iii) a condition regarded as such an impairment.
- (b) Discrimination based on, because of, on the basis of, or on the grounds of physical or mental disability includes the failure to make reasonable accommodations that are required by an otherwise qualified person who has a physical or mental disability. An accommodation that would require an undue hardship or that would endanger the health or safety of any person is not a reasonable accommodation.

(20)(21)(a) "Public accommodation" means a place that caters or offers its services, goods, or facilities to the general public subject only to the conditions and limitations established by law and applicable to all persons. It includes without limitation a public inn, restaurant, eating house, hotel, roadhouse, place where food or alcoholic beverages or malt liquors are sold for consumption, motel, soda fountain, soft drink parlor, tavern, nightclub, trailer park, resort, campground, barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring salon or shop, bathroom, resthouse, theater, swimming pool, skating rink, golf course, cafe, ice cream parlor, transportation company, or hospital and all other public amusement and business establishments.

(b) Public accommodation does not include an institution, club, or place of accommodation that proves that it is by its nature distinctly private. An institution, club, or place of accommodation may not be considered by its nature distinctly private if it has more than 100 members, provides regular meal service, and regularly receives payment for dues, fees, use of space, facilities, services, meals, or beverages, directly or indirectly, from or on behalf of nonmembers, for the furtherance of trade or business. For the purposes of this subsection (20) (21), any lodge of a recognized national fraternal organization is considered by its nature distinctly private.

(21)(22)"Sex" has the meaning provided in 1-1-201."

Section 3. Section 49-2-303, MCA, is amended to read:

"49-2-303. Discrimination in employment. (1) It is an unlawful discriminatory practice for:

1 (a) an employer to refuse employment to a person, to bar a person from employment, or to
2 discriminate against a person in compensation or in a term, condition, or privilege of employment;

3 (i) _____ because of race, creed, religion, color, or national origin or because of age, physical or mental
4 disability, marital status, or sex when the reasonable demands of the position do not require an age, physical or
5 mental disability, marital status, or sex distinction; or

6 (ii) for refusal to attend any training outside of the scope of employment that promotes a
7 controversial social vision as defined in 49-2-101;

8 (b) a labor organization or joint labor management committee controlling apprenticeship to exclude
9 or expel any person from its membership or from an apprenticeship or training program or to discriminate in any
10 way against a member of or an applicant to the labor organization or an employer or employee because of
11 race, creed, religion, color, or national origin or because of age, physical or mental disability, marital status, or
12 sex when the reasonable demands of the program do not require an age, physical or mental disability, marital
13 status, or sex distinction;

14 (c) an employer or employment agency to print or circulate or cause to be printed or circulated a
15 statement, advertisement, or publication or to use an employment application that expresses, directly or
16 indirectly, a limitation, specification, or discrimination as to sex, marital status, age, physical or mental disability,
17 race, creed, religion, color, or national origin or an intent to make the limitation, unless based upon a bona fide
18 occupational qualification;

19 (d) an employment agency to fail or refuse to refer for employment, to classify, or otherwise to
20 discriminate against any individual because of sex, marital status, age, physical or mental disability, race,
21 creed, religion, color, or national origin, unless based upon a bona fide occupational qualification.

22 (2) The exceptions permitted in subsection (1) based on bona fide occupational qualifications must
23 be strictly construed.

24 (3) Compliance with 2-2-302 and 2-2-303, which prohibit nepotism in public agencies, may not be
25 construed as a violation of this section.

26 (4) The application of a hiring preference, as provided for in 2-18-111 and 18-1-110, may not be
27 construed to be a violation of this section.

28 (5) It is not a violation of the prohibition against marital status discrimination in this section:

(a) for an employer or labor organization to provide greater or additional contributions to a bona fide group insurance plan for employees with dependents than to those employees without dependents or with fewer dependents; or

4 (b) for an employer to employ or offer to employ a person who is qualified for the position and to
5 also employ or offer to employ the person's spouse.

6 (6) The provisions of this chapter do not apply to a business or enterprise on or near an Indian
7 reservation with respect to any publicly announced employment practice of the business or enterprise required
8 by a contract or other agreement under which preferential treatment may be given to an individual based on the
9 individual's status as an Indian living on or near a reservation."

10 - END -