SENATE BILL 227

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Elizabeth “Liz” Stefanics and Jacob R. Candelaria and
Daniel A. Ivey-Soto

AN ACT

RELATING TO HUMAN RIGHTS; AMENDING A SECTION OF THE HUMAN
RIGHTS ACT TO INCLUDE SEXUAL ORIENTATION AND GENDER IDENTITY
AMONG CLASSES PROTECTED FROM UNLAWFUL DISCRIMINATION BY ALL
EMPLOYERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 28-1-7 NMSA 1978 (being Laws 1969,
Chapter 196, Section 7, as amended) is amended to read:

"28-1-7. UNLAWFUL DISCRIMINATORY PRACTICE.--It is an
unlawful discriminatory practice for:

A. an employer, unless based on a bona fide
occupational qualification or other statutory prohibition, to
refuse to hire, to discharge, to promote or demote or to
discriminate in matters of compensation, terms, conditions or
privileges of employment against any person otherwise qualified
because of race, age, religion, color, national origin,
ancestry, sex, sexual orientation, gender identity, physical or
mental handicap or serious medical condition, or, if the
employer has fifty or more employees, spousal affiliation;
provided, however, that 29 U.S.C. Section 631(c)(1) and (2)
shall apply to discrimination based on age [or, if the employer
has fifteen or more employees, to discriminate against an
employee based upon the employee's sexual orientation or gender
identity];

B. a labor organization to exclude a person or to
expel or otherwise discriminate against any of its members or
against any employer or employee because of race, religion,
color, national origin, ancestry, sex, sexual orientation,
gender identity, spousal affiliation, physical or mental
handicap or serious medical condition;

C. any employer, labor organization or joint
apprenticeship committee to refuse to admit or employ any
person in any program established to provide an apprenticeship
or other training or retraining because of race, religion,
color, national origin, ancestry, sex, sexual orientation,
gender identity, physical or mental handicap or serious medical
condition, or, if the employer has fifty or more employees,
spousal affiliation;

D. any person, employer, employment agency or labor
organization to print or circulate or cause to be printed or
circulated any statement, advertisement or publication, to use
any form of application for employment or membership or to make
any inquiry regarding prospective membership or employment that
expresses, directly or indirectly, any limitation,
specification or discrimination as to race, color, religion,
national origin, ancestry, sex, sexual orientation, gender
identity, physical or mental handicap or serious medical
condition, or, if the employer has fifty or more employees,
spousal affiliation, unless based on a bona fide occupational
qualification;

E. an employment agency to refuse to list and
properly classify for employment or refer a person for
employment in a known available job, for which the person is
otherwise qualified, because of race, religion, color, national
origin, ancestry, sex, sexual orientation, gender identity,
spousal affiliation, physical or mental handicap or serious
medical condition, unless based on a bona fide occupational
qualification, or to comply with a request from an employer for
referral of applicants for employment if the request indicates,
either directly or indirectly, that the employer discriminates
in employment on the basis of race, religion, color, national
origin, ancestry, sex, sexual orientation, gender identity,
spousal affiliation, physical or mental handicap or serious
medical condition, unless based on a bona fide occupational
qualification;
F. any person in any public accommodation to make a
distinction, directly or indirectly, in offering or refusing to
offer its services, facilities, accommodations or goods to any
person because of race, religion, color, national origin,
ancestry, sex, sexual orientation, gender identity, spousal
affiliation or physical or mental handicap; provided that the
physical or mental handicap is unrelated to a person's ability
to acquire or rent and maintain particular real property or
housing accommodation;

G. any person to:

(1) refuse to sell, rent, assign, lease or
sublease or offer for sale, rental, lease, assignment or
sublease any housing accommodation or real property to any
person or to refuse to negotiate for the sale, rental, lease,
assignment or sublease of any housing accommodation or real
property to any person because of race, religion, color,
national origin, ancestry, sex, sexual orientation, gender
identity, spousal affiliation or physical or mental handicap;
provided that the physical or mental handicap is unrelated to a
person's ability to acquire or rent and maintain particular
real property or housing accommodation;

(2) discriminate against any person in the
terms, conditions or privileges of the sale, rental,
assignment, lease or sublease of any housing accommodation or
real property or in the provision of facilities or services in
connection therewith because of race, religion, color, national
origin, ancestry, sex, sexual orientation, gender identity,
spousal affiliation or physical or mental handicap; provided
that the physical or mental handicap is unrelated to a person's
ability to acquire or rent and maintain particular real
property or housing accommodation; or

    (3) print, circulate, display or mail or cause
to be printed, circulated, displayed or mailed any statement,
advertisement, publication or sign or use any form of
application for the purchase, rental, lease, assignment or
sublease of any housing accommodation or real property or to
make any record or inquiry regarding the prospective purchase,
rental, lease, assignment or sublease of any housing
accommodation or real property that expresses any preference,
limitation or discrimination as to race, religion, color,
national origin, ancestry, sex, sexual orientation, gender
identity, spousal affiliation or physical or mental handicap;
provided that the physical or mental handicap is unrelated to a
person's ability to acquire or rent and maintain particular
real property or housing accommodation;

    H. any person to whom application is made either
for financial assistance for the acquisition, construction,
rehabilitation, repair or maintenance of any housing
accommodation or real property or for any type of consumer
credit, including financial assistance for the acquisition of
any consumer good as defined by Section 55-9-102 NMSA 1978, to:

   (1) consider the race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation or physical or mental handicap of any individual in the granting, withholding, extending, modifying or renewing or in the fixing of the rates, terms, conditions or provisions of any financial assistance or in the extension of services in connection with the request for financial assistance; or

   (2) use any form of application for financial assistance or to make any record or inquiry in connection with applications for financial assistance that expresses, directly or indirectly, any limitation, specification or discrimination as to race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation or physical or mental handicap;

I. any person or employer to:

   (1) aid, abet, incite, compel or coerce the doing of any unlawful discriminatory practice or to attempt to do so;

   (2) engage in any form of threats, reprisal or discrimination against any person who has opposed any unlawful discriminatory practice or has filed a complaint, testified or participated in any proceeding under the Human Rights Act; or

   (3) willfully obstruct or prevent any person
from complying with the provisions of the Human Rights Act or to resist, prevent, impede or interfere with the commission or any of its members, staff or representatives in the performance of their duties under the Human Rights Act; or

J. any employer to refuse or fail to accommodate a person's physical or mental handicap or serious medical condition, unless such accommodation is unreasonable or an undue hardship."