WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

HB3080

FILED
2025 APR 25 P 3: 17
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

House Bill 3080

BY DELEGATES W. CLARK, RIDENOUR, HORST, HORNBY,

AND FUNKHOUSER

[Passed April 10, 2025; in effect 90 days from

passage (July 9, 2025)]

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AN ACT to amend and reenact §16B-17-9 and §16B-17-9a of the Code of West Virginia, 1931, as amended, relating to establishing that an employer granting preference in hiring a military spouse does not violate the state Human Rights Act under certain circumstances.

Be it enacted by the Legislature of West Virginia:

ARTICLE 17. HUMAN RIGHTS COMMISSION.

§16B-17-9. Unlawful discriminatory practices.

It shall be an unlawful discriminatory practice, unless based upon a bona fide occupational qualification, or except where based upon applicable security regulations established by the United States or the State of West Virginia or its agencies or political subdivisions:

(1) For any employer to discriminate against an individual with respect to compensation, hire, tenure, terms, conditions, or privileges of employment if the individual is able and competent to perform the services required even if such individual is blind or disabled: *Provided*, That it shall not be an unlawful discriminatory practice for an employer to observe the provisions of any bona fide pension, retirement, group or employee insurance or welfare benefit plan or system not adopted as a subterfuge to evade the provisions of this subdivision: *Provided further*, That an employer may grant preference in hiring to a military spouse or to a veteran or disabled veteran in accordance with the provisions of §16B-17-9a of this code without violating the provisions of this article. For purposes of this subdivision, "military spouse" means the husband or wife of a member of the Armed Forces who, as determined by the United States Secretary of Defense, is performing active duty pursuant to orders that authorize a permanent change of station move, if such husband or wife relocates to the member's new permanent duty station.

(2) For any employer, employment agency, or labor organization, prior to the employment or admission to membership, to: (A) Elicit any information or make or keep a record of or use any form of application or application blank containing questions or entries concerning the race, religion, color, national origin, ancestry, sex, or age of any applicant for employment or membership; (B) Print or publish or cause to be printed or published any notice or advertisement

21 relating to employment or membership indicating any preference, limitation, specifications, or
22 discrimination based upon race, religion, color, national origin, ancestry, sex, disability, or age; or
23 (C) Deny or limit, through a quota system, employment or membership because of race, religion,
24 color, national origin, ancestry, sex, age, blindness, or disability;
25 (3) For any labor organization because of race, religion, color, national origin, ancestry,
26 sex, age, blindness, or disability of any individual to deny full and equal membership rights to any
27 individual or otherwise to discriminate against such individual with respect to hire, tenure, terms,
28 conditions, or privileges of employment or any other matter, directly or indirectly, related to
29 employment;
30 (4) For an employer, labor organization, employment agency, or any joint labor-
31 management committee controlling apprentice training programs to:
32 (A) Select individuals for an apprentice training program registered with the State of West
33 Virginia on any basis other than their qualifications as determined by objective criteria which
34 permit review;
35 (B) Discriminate against any individual with respect to his or her right to be admitted to or
36 participate in a guidance program, an apprenticeship training program, on-the-job training
37 program, or other occupational training or retraining program;
38 (C) Discriminate against any individual in his or her pursuit of such programs or to
39 discriminate against such a person in the terms, conditions, or privileges of such programs;
40 (D) Print or circulate or cause to be printed or circulated any statement, advertisement or
41 publication, or to use any form of application for these programs or to make any inquiry in
42 connection with a program which expresses, directly or indirectly, discrimination or any intent to
43 discriminate unless based upon a bona fide occupational qualification;
44 (5) For any employment agency to fail or refuse to classify properly, refer for employment
45 or otherwise to discriminate against any individual because of his or her race, religion, color,
46 national origin, ancestry, sex, age, blindness, or disability;

47 (6) For any person being the owner, lessee, proprietor, manager, superintendent, agent,
48 or employee of any place of public accommodations to:
49 (A) Refuse, withhold from, or deny to any individual because of his or her race, religion,
50 color, national origin, ancestry, sex, age, blindness, or disability, either directly or indirectly, any
51 of the accommodations, advantages, facilities, privileges, or services of the place of public
52 accommodations;
53 (B) Publish, circulate, issue, display, post or mail, either directly or indirectly, any written
54 or printed communication, notice or advertisement to the effect that any of the accommodations,
55 advantages, facilities, privileges, or services of any such place shall be refused, withheld from, or
56 denied to any individual on account of race, religion, color, national origin, ancestry, sex, age,
57 blindness, or disability, or that the patronage or custom thereat of any individual, belonging to or
58 purporting to be of any particular race, religion, color, national origin, ancestry, sex, or age, or
59 who is blind or disabled, is unwelcome, objectionable, not acceptable, undesired, or not solicited;
60 or
61 (7) For any person, employer, employment agency, labor organization, owner, real estate
62 broker, real estate salesman, or financial institution to:
63 (A) Engage in any form of threats or reprisal, or to engage in, or hire, or conspire with
64 others to commit acts or activities of any nature, the purpose of which is to harass, degrade,
65 embarrass, or cause physical harm or economic loss or to aid, abet, incite, compel, or coerce any
66 person to engage in any of the unlawful discriminatory practices defined in this section;
67 (B) Willfully obstruct or prevent any person from complying with the provisions of this
68 article, or to resist, prevent, impede, or interfere with the commission or any of its members or
69 representatives in the performance of a duty under this article; or
70 (C) Engage in any form of reprisal or otherwise discriminate against any person because
71 he or she has opposed any practices or acts forbidden under this article or because he or she
72 has filed a complaint, testified, or assisted in any proceeding under this article.

§16B-17-9a. Veterans and military spouses preference not a violation of equal employment opportunity under certain circumstances.

1 (a) An employer may grant preference in hiring to a veteran or disabled veteran who has
2 been honorably discharged from the United States Armed Services, or to a military spouse,
3 provided that the person granted the hiring preference meets all of the knowledge, skills, and
4 eligibility requirements of the job to be filled. Such hiring preference may be granted without
5 violating the provisions of this article or any other state equal employment opportunity law.
6 (b) For purposes of this section:
7 (1) "Veteran" means any person who has received an honorable discharge and:
8 (A) Has provided more than 180 consecutive days of full-time, active-duty service in the
9 United States Armed Services or Reserve components thereof, including the National Guard; or
10 (B) Has a service-connected disability rating fixed by the United States Department of
11 Veterans Affairs.
12 (2) "Military spouse" means the husband or wife of a member of the Armed Forces who,
13 as determined by the United States Secretary of Defense, is performing active duty pursuant to
14 orders that authorize a permanent change of station move, if such husband or wife relocates to
15 the member's new permanent duty station.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

.....
Clerk of the House of Delegates

.....
Clerk of the Senate

FILED
2025 APR 25 P 3: 17
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Originated in the House of Delegates.

In effect 90 days from passage.

.....
Speaker of the House of Delegates

.....
President of the Senate

The within is .....approved..... this the.....25th.....

Day of .....April.....2025.

.....
Governor

PRESENTED TO THE GOVERNOR

APR 15 2025

Time 2:40pm