

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 15.2-1604 of the Code of Virginia, relating to constitutional offices;*  
 3 *employment.*

[H 934]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 15.2-1604 of the Code of Virginia is amended and reenacted as follows:**

8 § 15.2-1604. Appointment of deputies and employment of employees; discriminatory practices by  
 9 certain officers; civil penalty.

10 A. It shall be an unlawful employment practice for a constitutional officer:

11 1. To fail or refuse to appoint or hire or to discharge any individual, or otherwise to discriminate  
 12 against any individual with respect to his compensation, terms, conditions or privileges of appointment  
 13 or employment, because of such individual's race, color, religion, sex or national origin; or

14 2. To limit, segregate, or classify his appointees, employees or applicants for appointment or  
 15 employment in any way which would deprive or tend to deprive any individual of employment  
 16 opportunities or otherwise adversely affect his status as an employee, because of the individual's race,  
 17 color, religion, sex or national origin.

18 B. Nothing in this section shall be construed to make it an unlawful employment practice for a  
 19 constitutional officer to hire or appoint an individual on the basis of his sex or national origin in those  
 20 instances where sex or national origin is a bona fide occupational qualification reasonably necessary to  
 21 the normal operation of that particular office. The provisions of this section shall not apply to  
 22 policy-making positions, confidential or personal staff positions, or undercover positions.

23 C. With regard to notices and advertisements:

24 1. Every constitutional officer shall, prior to hiring any employee, advertise such employment  
 25 position in a newspaper having general circulation or a state or local government job placement service  
 26 in such constitutional officer's locality except where the vacancy is to be used (i) as a placement  
 27 opportunity for appointees or employees affected by layoff, (ii) as a transfer opportunity or demotion for  
 28 an incumbent, (iii) to fill positions that have been advertised within the past ~~sixty~~ 120 days, (iv) to fill  
 29 positions to be filled by appointees or employees returning from leave with or without pay, (v) to fill  
 30 temporary positions, temporary employees being those employees hired to work on special projects that  
 31 have durations of three months or less, or (vi) to fill policy-making positions, confidential or personal  
 32 staff positions, or special, sensitive law-enforcement positions normally regarded as undercover work.

33 2. No constitutional officer shall print or publish or cause to be printed or published any notice or  
 34 advertisement relating to employment by such constitutional officer indicating any preference, limitation,  
 35 specification, or discrimination, based on sex or national origin, except that such notice or advertisement  
 36 may indicate a preference, limitation, specification, or discrimination based on sex or national origin  
 37 when sex or national origin is a bona fide occupational qualification for employment.

38 D. Complaints regarding violations of subsection A of this section may be made to the Virginia  
 39 Council on Human Rights. The Council shall have the authority to exercise its powers as outlined in  
 40 § 2.2-2634.

41 E. Any constitutional officer who willfully violates the provisions of subsection C shall be subject to  
 42 a civil penalty not to exceed \$2,000.

ENROLLED

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