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SENATE BILL NO. 1258

Senate Amendments in [] — February 7, 2005

A BILL to amend and reenact § 2.2-2639 of the Code of Virginia, relating to Virginia Human Rights Act causes of action.

Patron Prior to Engrossment—Senator Edwards

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That § 2.2-2639 of the Code of Virginia is amended and reenacted as follows:**

§ 2.2-2639. Causes of action not created.

A. Nothing in this article creates, nor shall it be construed to create, an independent or private cause of action to enforce its provisions, except as specifically provided in subsections B and C.

B. No employer employing more than five but less than ~~fifteen~~ 15 persons shall discharge any such employee on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, including lactation, or of age if the employee is ~~forty~~ 40 years old or older. For the purposes of this section, "lactation" means a condition that may result in the feeding of a child directly from the breast or the expressing of milk from the breast.

C. The employee may bring an action in a general district or circuit court having jurisdiction over the employer who allegedly discharged the employee in violation of this section. Any such action shall be brought within [~~180 days~~ ~~two years~~ 300 days] from the date of the discharge. The court may award up to [~~twelve months'~~ ~~two years'~~ twelve months'] back pay with interest at the judgment rate as provided in § 6.1-330.54. However, if the court finds that either party engaged in tactics to delay resolution of the complaint, it may (i) diminish the award or (ii) award back pay to the date of judgment without regard to the [~~twelve-month~~ ~~two-year~~ twelve month] limitation.

In any case where the employee prevails, the court shall award ~~attorney's~~ attorneys' fees from the amount recovered, not to exceed ~~twenty-five~~ 25 percent of the back pay awarded. The court shall not award other damages, compensatory or punitive, nor shall it order reinstatement of the employee.

D. Causes of action based upon the public policies reflected in this article shall be exclusively limited to those actions, procedures and remedies, if any, afforded by applicable federal or state civil rights statutes or local ordinances. Nothing in this section or § 2.2-3900 shall be deemed to alter, supersede, or otherwise modify the authority of the Council or of any local human rights or human relations commissions established pursuant to § 15.2-965 or § ~~15.2-853~~ or subject to the provisions of § 2.2-2638.

ENGROSSED

SB1258E