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HOUSE BILL NO. 1287

Offered January 21, 2010

A BILL to amend and reenact §§ 2.2-3900, 2.2-3901, and 2.2-3902 of the Code of Virginia, relating to the Virginia Human Rights Act; unlawful discriminatory practice; sexual orientation.

Patrons—Plum, Ebbin, Herring, Hope and Scott, J.M.

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3900, 2.2-3901, and 2.2-3902 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3900. Short title; declaration of policy.

A. This chapter shall be known and cited as the Virginia Human Rights Act.

B. It is the policy of the Commonwealth to:

1. Safeguard all individuals within the Commonwealth from unlawful discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, *sexual orientation*, age, marital status, or disability, in places of public accommodation, including educational institutions and in real estate transactions; in employment; preserve the public safety, health and general welfare; and further the interests, rights and privileges of individuals within the Commonwealth; and

2. Protect citizens of the Commonwealth against unfounded charges of unlawful discrimination.

§ 2.2-3901. Unlawful discriminatory practice; gender discrimination and sexual orientation defined.

Conduct that violates any Virginia or federal statute or regulation governing discrimination on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, *sexual orientation*, age, marital status, or disability shall be an "unlawful discriminatory practice" for the purposes of this chapter.

The terms "because of sex or gender" or "on the basis of sex or gender" or terms of similar import when used in reference to discrimination in the Code and acts of the General Assembly include because of or on the basis of pregnancy, childbirth or related medical conditions. Women affected by pregnancy, childbirth or related medical conditions shall be treated the same for all purposes as persons not so affected but similar in their abilities or disabilities.

For purposes of this chapter, "sexual orientation" means a person's actual or perceived heterosexuality, bisexuality, homosexuality, or gender identity or expression. "Sexual orientation" shall not include any person whose attraction is toward a person with whom sexual conduct would be illegal due to the age of the party.

§ 2.2-3902. Construction of chapter; other programs to aid persons with disabilities, minors and the elderly.

The provisions of this chapter shall be construed liberally for the accomplishment of its policies. Nothing contained in this chapter shall be deemed to repeal, supersede or expand upon any of the provisions of any other state or federal law relating to discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, *sexual orientation*, age, marital status, or disability.

Nothing in this chapter shall prohibit or alter any program, service, facility, school, or privilege that is afforded, oriented or restricted to a person because of disability or age from continuing to habilitate, rehabilitate, or accommodate that person.

In addition, nothing in this chapter shall be construed to affect any governmental program, law or activity differentiating between persons on the basis of age over the age of eighteen years (i) where the differentiation is reasonably necessary to normal operation or the activity is based upon reasonable factors other than age or (ii) where the program, law or activity constitutes a legitimate exercise of powers of the Commonwealth for the general health, safety and welfare of the population at large.

Complaints filed with the Human Rights Council (the "Council") in accordance with § 2.2-2634 alleging unlawful discriminatory practice under a Virginia statute that is enforced by a Virginia agency shall be referred to that agency. The Council may investigate complaints alleging an unlawful discriminatory practice under a federal statute or regulation and attempt to resolve it through conciliation. Unsolved complaints shall thereafter be referred to the federal agency with jurisdiction over the complaint. Upon such referral, the Council shall have no further jurisdiction over the complaint. The Council shall have no jurisdiction over any complaint filed under a local ordinance adopted pursuant to § 15.2-965.

INTRODUCED

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