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HOUSE BILL 25

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

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AN ACT

RELATING TO HUMAN RIGHTS; MAKING HOUSING DISCRIMINATION BASED
ON A RENTER'S OR BUYER'S SOURCE OF INCOME AN UNLAWFUL
DISCRIMINATORY PRACTICE PURSUANT TO THE HUMAN RIGHTS ACT.

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

SECTION 1. Section 28-1-2 NMSA 1978 (being Laws 1969,
Chapter 196, Section 2, as amended) is amended to read:

"28-1-2. DEFINITIONS.--As used in the Human Rights Act:

A. "person" means one or more individuals, a
partnership, association, organization, corporation, joint
venture, legal representative, trustees, receivers, or the
state and all of its political subdivisions;

B. "employer" means any person employing four or
more persons and any person acting for an employer;

C. "commission" means the human rights commission;

1 D. "director" or "bureau" means the human rights
2 bureau of the labor relations division of the workforce
3 solutions department;

4 E. "employee" means any person in the employ of an
5 employer or an applicant for employment;

6 F. "source of income" means a lawful and verifiable
7 source of money used to pay for housing, including:

8 (1) income from a lawful profession,
9 occupation or job;

10 (2) income derived from social security;

11 (3) any form of federal, state or local public
12 assistance or housing assistance; and

13 (4) a pension, an annuity, alimony, child
14 support or any other recurring, lawful and verifiable monetary
15 consideration;

16 ~~[F.]~~ G. "labor organization" means any organization
17 that exists for the purpose in whole or in part of collective
18 bargaining or of dealing with employers concerning grievances,
19 terms or conditions of employment or of other mutual aid or
20 protection in connection with employment;

21 ~~[G.]~~ H. "employment agency" means any person
22 regularly undertaking with or without compensation to procure
23 opportunities to work or to procure, recruit or refer
24 employees;

25 ~~[H.]~~ I. "public accommodation" means any

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1 governmental entity or any establishment that provides or
2 offers its services, facilities, accommodations or goods to the
3 public, but does not include a bona fide private club or other
4 place or establishment that is by its nature and use distinctly
5 private;

6 ~~[F.]~~ J. "public contractor" means a person who
7 receives public funds as a result of contracting with a
8 governmental entity;

9 ~~[J.]~~ K. "political subdivision" means any:

- 10 (1) county;
11 (2) incorporated city, town or village;
12 (3) drainage, conservancy, irrigation, water
13 and sanitation or other district;
14 (4) mutual domestic association;
15 (5) public water cooperative association; or
16 (6) community ditch association;

17 ~~[K.]~~ L. "housing accommodation" means any building
18 or portion of a building that is constructed or to be
19 constructed, which is used or intended for use as the residence
20 or sleeping place of any individual;

21 ~~[L.]~~ M. "real property" means lands, leaseholds or
22 commercial or industrial buildings, whether constructed or to
23 be constructed, offered for sale or rent, and any land rented
24 or leased for the use, parking or storage of house trailers;

25 ~~[M.]~~ N. "secretary" means the secretary of

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1 workforce solutions;

2 ~~[N.]~~ Q. "unlawful discriminatory practices" means
3 those unlawful practices and acts specified in Section 28-1-7
4 NMSA 1978;

5 ~~[O.]~~ P. "physical or mental disability" means a
6 physical or mental impairment that substantially limits one or
7 more of a person's major life activities. A person is also
8 considered to have a mental or physical disability if the
9 person has a record of a physical or mental disability or is
10 regarded as having a physical or mental disability;

11 ~~[P.]~~ Q. "major life activities" means functions
12 such as caring for one's self, performing manual tasks,
13 walking, seeing, hearing, speaking, breathing, learning and
14 working;

15 ~~[Q.]~~ R. "applicant for employment" means a person
16 applying for a position as an employee;

17 ~~[R.]~~ S. "sex" means a person's categorization as
18 male, female or intersex based on biology, physiology and
19 physical characteristics;

20 ~~[S.]~~ T. "sexual orientation" means a person's
21 physical, romantic or emotional attraction to persons of the
22 same or a different gender or the absence of any such
23 attraction;

24 ~~[T.]~~ U. "gender identity" means a person's self-
25 perception, based on the person's appearance, behavior or

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1 physical characteristics, that the person exhibits more
2 masculinity or femininity or the absence of masculinity or
3 femininity whether or not it matches the person's gender or sex
4 assigned at birth;

5 [U.] V. "gender" means an individual or societal
6 expectation or perception of a person as masculine or feminine
7 based on appearance, behavior or physical characteristics;

8 [V.] W. "reasonable accommodation" means
9 modification or adaptation of the work environment, work
10 schedule, work rules or job responsibilities, and reached
11 through good faith efforts to explore less restrictive or less
12 expensive alternatives to enable an employee to perform the
13 essential functions of the job and that does not impose an
14 undue hardship on the employer;

15 [W.] X. "undue hardship" means an accommodation
16 requiring significant difficulty or expense when considered in
17 light of the following factors:

- 18 (1) the nature and cost of the accommodation;
- 19 (2) the financial resources of the employer
20 involved in the provision of the reasonable accommodation;
- 21 (3) the number of persons the employer
22 employs;
- 23 (4) the effect of the accommodation on
24 expenses and resources;
- 25 (5) the impact of the accommodation otherwise

1 upon the employer's business;

2 (6) the overall financial resources of the
3 employer;

4 (7) the overall size of the business of an
5 employer with respect to the number, type and location of its
6 facilities;

7 (8) the type of operation of the employer,
8 including the composition, structure and functions of the
9 workforce of the employer; or

10 (9) the geographic separateness or
11 administrative or fiscal relationship to the employer of the
12 employer's facilities;

13 ~~[X.]~~ Y. "cultural or religious headdresses"
14 includes hijabs, head wraps or other headdresses used as part
15 of an individual's personal cultural or religious beliefs;

16 ~~[Y.]~~ Z. "protective hairstyles" includes such
17 hairstyles as braids, locs, twists, tight coils or curls,
18 cornrows, bantu knots, afros, weaves, wigs or head wraps;

19 ~~[Z.]~~ AA. "race" includes traits historically
20 associated with race, including hair texture, length of hair,
21 protective hairstyles or cultural or religious headdresses;

22 ~~[AA.]~~ BB. "state" means the state of New Mexico or
23 any of its agencies, departments, boards, instrumentalities or
24 institutions;

25 ~~[BB.]~~ CC. "governmental entity" means the state or

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1 any public body;

2 ~~[GG-]~~ DD. "public body" means a state or local
3 government, an advisory board, a commission, an agency or an
4 entity created by the constitution of New Mexico or any branch
5 of government that receives public funding, including political
6 subdivisions, special tax districts, school districts and
7 institutions of higher education; and

8 ~~[DD-]~~ EE. "services" means any function, program,
9 activity or benefit."

10 **SECTION 2.** Section 28-1-7 NMSA 1978 (being Laws 1969,
11 Chapter 196, Section 7, as amended) is amended to read:

12 "28-1-7. UNLAWFUL DISCRIMINATORY PRACTICE.--It is an
13 unlawful discriminatory practice for:

14 A. an employer, unless based on a bona fide
15 occupational qualification or other statutory prohibition, to
16 refuse to hire, to discharge, to promote or demote or to
17 discriminate in matters of compensation, terms, conditions or
18 privileges of employment against any person otherwise qualified
19 because of race, age, religion, color, national origin,
20 ancestry, sex, sexual orientation, gender, gender identity,
21 pregnancy, childbirth or condition related to pregnancy or
22 childbirth, physical or mental disability or serious medical
23 condition, or, if the employer has fifty or more employees,
24 spousal affiliation; provided, however, that 29 U.S.C. Section
25 631(c)(1) and (2) shall apply to discrimination based on age;

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1 B. a labor organization to exclude a person or to
2 expel or otherwise discriminate against any of its members or
3 against any employer or employee because of race, religion,
4 color, national origin, ancestry, sex, sexual orientation,
5 gender, gender identity, pregnancy, childbirth or condition
6 related to pregnancy or childbirth, spousal affiliation,
7 physical or mental disability or serious medical condition;

8 C. any employer, labor organization or joint
9 apprenticeship committee to refuse to admit or employ any
10 person in any program established to provide an apprenticeship
11 or other training or retraining because of race, religion,
12 color, national origin, ancestry, sex, sexual orientation,
13 gender, gender identity, pregnancy, childbirth or condition
14 related to pregnancy or childbirth, physical or mental
15 disability or serious medical condition, or, if the employer
16 has fifty or more employees, spousal affiliation;

17 D. any person, employer, employment agency or labor
18 organization to print or circulate or cause to be printed or
19 circulated any statement, advertisement or publication, to use
20 any form of application for employment or membership or to make
21 any inquiry regarding prospective membership or employment that
22 expresses, directly or indirectly, any limitation,
23 specification or discrimination as to race, color, religion,
24 national origin, ancestry, sex, sexual orientation, gender,
25 gender identity, pregnancy, childbirth or condition related to

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1 pregnancy or childbirth, physical or mental disability or
2 serious medical condition, or, if the employer has fifty or
3 more employees, spousal affiliation, unless based on a bona
4 fide occupational qualification;

5 E. an employment agency to refuse to list and
6 properly classify for employment or refer a person for
7 employment in a known available job, for which the person is
8 otherwise qualified, because of race, religion, color, national
9 origin, ancestry, sex, sexual orientation, gender, gender
10 identity, pregnancy, childbirth or condition related to
11 pregnancy or childbirth, spousal affiliation, physical or
12 mental disability or serious medical condition, unless based on
13 a bona fide occupational qualification, or to comply with a
14 request from an employer for referral of applicants for
15 employment if the request indicates, either directly or
16 indirectly, that the employer discriminates in employment on
17 the basis of race, religion, color, national origin, ancestry,
18 sex, sexual orientation, gender, gender identity, pregnancy,
19 childbirth or condition related to pregnancy or childbirth,
20 spousal affiliation, physical or mental disability or serious
21 medical condition, unless based on a bona fide occupational
22 qualification;

23 F. any person in any public accommodation to make a
24 distinction, directly or indirectly, in offering or refusing to
25 offer its services, facilities, accommodations or goods to any

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1 person because of race, religion, color, national origin,
2 ancestry, sex, sexual orientation, gender, gender identity,
3 pregnancy, childbirth or condition related to pregnancy or
4 childbirth, spousal affiliation or physical or mental
5 disability; provided that the physical or mental disability is
6 unrelated to a person's ability to acquire or rent and maintain
7 particular real property or housing accommodation;

8 G. any person to:

9 (1) refuse to sell, rent, assign, lease or
10 sublease or offer for sale, rental, lease, assignment or
11 sublease any housing accommodation or real property to any
12 person or to refuse to negotiate for the sale, rental, lease,
13 assignment or sublease of any housing accommodation or real
14 property to any person because of race, religion, color,
15 national origin, ancestry, source of income, sex, sexual
16 orientation, gender, gender identity, pregnancy, childbirth or
17 condition related to pregnancy or childbirth, spousal
18 affiliation or physical or mental disability; provided that the
19 physical or mental disability is unrelated to a person's
20 ability to acquire or rent and maintain particular real
21 property or housing accommodation;

22 (2) discriminate against any person in the
23 terms, conditions or privileges of the sale, rental,
24 assignment, lease or sublease of any housing accommodation or
25 real property or in the provision of facilities or services in

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1 connection therewith because of race, religion, color, national
2 origin, ancestry, source of income, sex, sexual orientation,
3 gender, gender identity, pregnancy, childbirth or condition
4 related to pregnancy or childbirth, spousal affiliation or
5 physical or mental disability; provided that the physical or
6 mental disability is unrelated to a person's ability to acquire
7 or rent and maintain particular real property or housing
8 accommodation; or

9 (3) print, circulate, display or mail or cause
10 to be printed, circulated, displayed or mailed any statement,
11 advertisement, publication or sign or use any form of
12 application for the purchase, rental, lease, assignment or
13 sublease of any housing accommodation or real property or to
14 make any record or inquiry regarding the prospective purchase,
15 rental, lease, assignment or sublease of any housing
16 accommodation or real property that expresses any preference,
17 limitation or discrimination as to race, religion, color,
18 national origin, ancestry, source of income, sex, sexual
19 orientation, gender, gender identity, pregnancy, childbirth or
20 condition related to pregnancy or childbirth, spousal
21 affiliation or physical or mental disability; provided that the
22 physical or mental disability is unrelated to a person's
23 ability to acquire or rent and maintain particular real
24 property or housing accommodation;

25 H. any person to whom application is made either

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1 for financial assistance for the acquisition, construction,
2 rehabilitation, repair or maintenance of any housing
3 accommodation or real property or for any type of consumer
4 credit, including financial assistance for the acquisition of
5 any consumer good as defined by Section 55-9-102 NMSA 1978, to:

6 (1) consider the race, religion, color,
7 national origin, ancestry, sex, sexual orientation, gender,
8 gender identity, pregnancy, childbirth or condition related to
9 pregnancy or childbirth, spousal affiliation or physical or
10 mental disability of any individual in the granting,
11 withholding, extending, modifying or renewing or in the fixing
12 of the rates, terms, conditions or provisions of any financial
13 assistance or in the extension of services in connection with
14 the request for financial assistance; or

15 (2) use any form of application for financial
16 assistance or to make any record or inquiry in connection with
17 applications for financial assistance that expresses, directly
18 or indirectly, any limitation, specification or discrimination
19 as to race, religion, color, national origin, ancestry, sex,
20 sexual orientation, gender, gender identity, pregnancy,
21 childbirth or condition related to pregnancy or childbirth,
22 spousal affiliation or physical or mental disability;

23 I. any person or employer to:

24 (1) aid, abet, incite, compel or coerce the
25 doing of any unlawful discriminatory practice or to attempt to

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1 do so;

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

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

11 J. any employer to refuse or fail to accommodate a
12 person's physical or mental disability or serious medical
13 condition, unless such accommodation is unreasonable or an
14 undue hardship;

15 K. any employer to refuse or fail to make
16 reasonable accommodation for an employee or job applicant with
17 a need arising from pregnancy, childbirth or condition related
18 to pregnancy or childbirth;

19 L. any employer to require an employee with a need
20 arising from pregnancy, childbirth or condition related to
21 pregnancy or childbirth to take paid or unpaid leave if another
22 reasonable accommodation can be provided unless the employee
23 voluntarily requests to be placed on leave or the employee is
24 placed on leave pursuant to federal law; or

25 M. a governmental entity or a public contractor to

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1 refuse or otherwise limit or put conditions on services to a
2 person because of race, age, religion, color, national origin,
3 ancestry, sex, sexual orientation, gender, gender identity,
4 pregnancy, childbirth or condition related to pregnancy or
5 childbirth, physical or mental disability, serious medical
6 condition or spousal affiliation; provided that nothing in this
7 subsection shall be construed to require a governmental entity
8 or a public contractor to provide services or programs beyond
9 services or programs to the specific populations that the
10 governmental entity or public contractor is tasked with
11 serving."

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