

State of New Mexico  
Senate

FIFTY-FOURTH LEGISLATURE  
SECOND SESSION

February 18, 2020

SENATE FLOOR AMENDMENT number \_\_\_\_\_ to HOUSE BILL 25, as amended

Amendment sponsored by Senator Jacob R. Candelaria

1. On page 1, line 11, after the first semicolon, strike the remainder of the line, strike lines 12 and 13 in their entirety and insert in lieu thereof "PROHIBITING DISCRIMINATION ON THE BASIS OF PREGNANCY, CHILDBIRTH OR RELATED CONDITION; CREATING A PRIVATE RIGHT OF ACTION."

2. On pages 1 through 11, strike Sections 1 and 2 in their entirety and insert in lieu thereof the following new sections:

"SECTION 1. A new section of Chapter 41 NMSA 1978 is enacted to read:

"[NEW MATERIAL] UNLAWFUL DISCRIMINATION--PREGNANCY, CHILDBIRTH AND RELATED CONDITIONS.--

A. It is an unlawful discriminatory practice for:

(1) an employer, unless based on a bona fide occupational qualification or other statutory prohibition, to refuse to hire, to discharge, to promote or demote or to discriminate in matters of compensation, terms, conditions or privileges of employment against any person otherwise qualified because of pregnancy, childbirth or condition related to pregnancy or childbirth;

(2) a labor organization to exclude a person or to expel or otherwise discriminate against any of its members or against any employer or employee because of pregnancy, childbirth or condition related to pregnancy or childbirth;

State of New Mexico  
Senate

FIFTY-FOURTH LEGISLATURE  
SECOND SESSION

SF1/HB 25, aa

Page 2

(3) any employer, labor organization or joint apprenticeship committee to refuse to admit or employ any person in any program established to provide an apprenticeship or other training or retraining because of pregnancy, childbirth or condition related to pregnancy or childbirth;

(4) any person, employer, employment agency or labor organization to print or circulate or cause to be printed or circulated any statement, advertisement or publication, to use any form of application for employment or membership or to make any inquiry regarding prospective membership or employment that expresses, directly or indirectly, any limitation, specification or discrimination related to pregnancy, childbirth or condition related to pregnancy or childbirth;

(5) an employment agency to refuse to list and properly classify for employment or refer a person for employment in a known available job, for which the person is otherwise qualified, because of pregnancy, childbirth or condition related to pregnancy or childbirth, unless based on a bona fide occupational qualification, or to comply with a request from an employer for referral of applicants for employment if the request indicates, either directly or indirectly, that the employer discriminates in employment on the basis of pregnancy, childbirth or condition related to pregnancy or childbirth, unless based on a bona fide occupational qualification;

(6) any person in any public accommodation to make a distinction, directly or indirectly, in offering or refusing to offer its services, facilities, accommodations or goods to any person because of pregnancy, childbirth or condition related to pregnancy or childbirth;

(7) any person to:

(a) refuse to sell, rent, assign, lease or

State of New Mexico  
Senate

FIFTY-FOURTH LEGISLATURE  
SECOND SESSION

SF1/HB 25, aa

Page 3

sublease or offer for sale, rental, lease, assignment or sublease any housing accommodation or real property to any person or to refuse to negotiate for the sale, rental, lease, assignment or sublease of any housing accommodation or real property to any person because of pregnancy, childbirth or condition related to pregnancy or childbirth;

(b) discriminate against any person in the terms, conditions or privileges of the sale, rental, assignment, lease or sublease of any housing accommodation or real property or in the provision of facilities or services in connection therewith because of pregnancy, childbirth or condition related to pregnancy or childbirth; or

(c) print, circulate, display or mail or cause to be printed, circulated, displayed or mailed any statement, advertisement, publication or sign or use any form of application for the purchase, rental, lease, assignment or sublease of any housing accommodation or real property or to make any record or inquiry regarding the prospective purchase, rental, lease, assignment or sublease of any housing accommodation or real property that expresses any preference, limitation or discrimination related to pregnancy, childbirth or condition related to pregnancy or childbirth;

(8) any person to whom application is made either for financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation or real property or for any type of consumer credit, including financial assistance for the acquisition of any consumer good as defined by Section 55-9-102 NMSA 1978, to:

(a) consider the pregnancy, childbirth or condition related to pregnancy or childbirth of any individual in the granting, withholding, extending, modifying or renewing or in the fixing of the rates, terms, conditions or provisions of any

State of New Mexico  
Senate

FIFTY-FOURTH LEGISLATURE  
SECOND SESSION

SF1/HB 25, aa

Page 4

financial assistance or in the extension of services in connection with the request for financial assistance; or

(b) use any form of application for financial assistance or to make any record or inquiry in connection with applications for financial assistance that expresses, directly or indirectly, any limitation, specification or discrimination related to pregnancy, childbirth or condition related to pregnancy or childbirth;

(9) any employer to refuse or fail to make reasonable accommodation for an employee or job applicant with a need arising from pregnancy, childbirth or condition related to pregnancy or childbirth; or

(10) any employer to require an employee with a need arising from pregnancy, childbirth or condition related to pregnancy or childbirth to take paid or unpaid leave if another reasonable accommodation can be provided unless the employee voluntarily requests to be placed on leave or the employee is placed on leave pursuant to federal law.

B. As used in this section:

(1) "reasonable accommodation" means modification or adaptation of the work environment, work schedule, work rules or job responsibilities, and reached through good faith efforts to explore less restrictive or less expensive alternatives to enable an employee to perform the essential functions of the job and that does not impose an undue hardship on the employer; and

(2) "undue hardship" means an accommodation requiring significant difficulty or expense when considered in light of the following factors:

(a) the nature and cost of the accommodation;

State of New Mexico  
Senate

FIFTY-FOURTH LEGISLATURE  
SECOND SESSION

SF1/HB 25, aa

Page 5

(b) the financial resources of the employer involved in the provision of the reasonable accommodation;

(c) the number of persons the employer employs;

(d) the effect of the accommodation on expenses and resources;

(e) the impact of the accommodation otherwise upon the employer's business;

(f) the overall financial resources of the employer;

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

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

(i) the geographic separateness or administrative or fiscal relationship to the employer of the employer's facilities."

SECTION 2. A new section of Chapter 41 NMSA 1978 is enacted to read:

"[NEW MATERIAL] UNLAWFUL DISCRIMINATION--PREGNANCY, CHILDBIRTH AND RELATED CONDITIONS--RIGHT OF ACTION.--A person who claims to be aggrieved by a violation of Section 1 of this 2020 act may seek relief pursuant to the Human Rights Act through the process set forth in Sections 28-1-10 through 28-1-13 NMSA 1978.""

State of New Mexico  
Senate

FIFTY-FOURTH LEGISLATURE  
SECOND SESSION

SF1/HB 25, aa

Page 6

\_\_\_\_\_  
Jacob R. Candelaria

Adopted \_\_\_\_\_  
(Chief Clerk)

Not Adopted \_\_\_\_\_  
(Chief Clerk)

Date \_\_\_\_\_