



# Ohio Legislative Service Commission

## Bill Analysis

Julie A. Rishel

### H.B. 163

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(As Introduced)

**Reps.** McGregor and Antonio, Ashford, Bishoff, Boyce, Boyd, Brown, Budish, Carney, Celebrezze, Cera, Clyde, Curtin, Driehaus, Fedor, Foley, Gerberry, R. Hagan, Heard, Letson, Lundy, Mallory, O'Brien, Pelanda, Phillips, Pillich, Ramos, Redfern, Reece, Rogers, Slesnick, Stinziano, Strahorn, Sykes, Szollosi, Williams, Winburn

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## BILL SUMMARY

- Expands many of the Ohio Civil Rights Commission (OCRC) Law's existing prohibitions against various unlawful discriminatory practices to apply to discriminatory practices on the basis of "sexual orientation" or "gender identity," both of which it defines.
- Applies the unlawful discriminatory practice prohibitions regarding sexual orientation or gender identity to private sector employers who employ 15 or more persons, public sector employers, and any person acting directly or indirectly in the interest of such an employer.
- Replaces the term "sex" in the OCRC Law and other specified law provisions with the term "gender."
- Makes unenforceable any provision of a hiring hall contract or agreement that obligates a contractor to hire, if available, only employees referred to the contractor by a union, unless within 30 days after the contract's execution the union has in effect procedures for referring qualified employees for hire without regard to gender.
- Makes it an unlawful discriminatory practice for any employer, employment agency, or labor organization to limit, segregate, or classify its employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment or otherwise adversely affect the status of the individual as an employee because of the individual's actual or perceived sexual orientation or gender identity.

- Creates an exemption from the OCRC Law's antidiscrimination provisions for discriminatory practices concerning admission to or membership in certain religious groups and specifies other conduct and activities that the bill does not affect.
- Allows only the bringing of disparate treatment claims related to sexual orientation or gender identity and not disparate impact claims.
- Requires the OCRC to exercise certain of its existing powers and duties also with respect to discrimination on the basis of sexual orientation and gender identity.
- Modifies the scope and content of the comprehensive educational program regarding prejudice that the OCRC must prepare.
- Provides that nothing in the OCRC Law's provisions that govern OCRC hearings on alleged unlawful discriminatory practices may be construed to authorize or require any person to observe the proportion that persons of any sexual orientation or gender identity or persons of any of current law's covered characteristics bear to the total population or in accordance with any criterion other than the individual qualifications of an applicant for employment or membership.
- Provides that nothing in the OCRC Law: (1) in general may be considered as repealing any Ohio law relating to discrimination because of sexual orientation or gender identity, or (2) limits actions, procedures, or remedies afforded under federal law.
- Modifies the current law list of characteristics excluded from the definition of "physical or mental impairment," for purposes of the OCRC Law.
- Adds mediation as an informal method by which compliance with the OCRC Law can be induced.
- Adds sexual orientation and gender identity to the list of covered characteristics that are specified in various provisions of current law located outside of the OCRC Law that generally prohibit persons or entities from discriminating on the basis of some or all of the covered characteristics.
- Adds sexual orientation and gender identity to the list of covered characteristics that are specified in various provisions of current law located outside of the OCRC Law that require certain functions or duties to be performed without discrimination, require certain documents to include statements pertaining to nondiscrimination, or generally pertain to discrimination on the basis of some or all of the covered characteristics.

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## TABLE OF CONTENTS

Ohio Civil Rights Commission Law.....	3
Existing law.....	3
Operation of the bill.....	4
New unlawful discriminatory practice – limiting, segregating, or classifying employees or applicants.....	5
Exemption for certain religious entities and their educational institutions.....	5
Exclusions from effect of bill.....	5
Exclusion from the definition of "physical or mental impairment".....	6
Statistics, surveys, and progress reports.....	7
OCRC duty – comprehensive educational program.....	7
OCRC authority – study discrimination problems and issue publications.....	8
Enforcement provisions.....	8
Other laws' prohibitions against discrimination that are amended by the bill.....	9
Other provisions of law that are amended by the bill.....	12

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## CONTENT AND OPERATION

### Ohio Civil Rights Commission Law

#### Existing law

The Ohio Civil Rights Commission (OCRC) Law currently prohibits various unlawful discriminatory practices by the following: (1) employers, employment agencies, personnel placement services, labor organizations, joint labor-management committees, and persons seeking employment, in specified employment situations or employment-related membership situations, (2) proprietors, employees, keepers, and managers of places of public accommodation in making the full enjoyment of these places available to the public, (3) any person in specified transactions involving housing accommodations, such as the sale, rental, or financing of housing accommodations or the extension of financial assistance for the purchase, construction, repair, etc., of those accommodations, (4) any creditor in the extension of credit, or other specified credit-related matters, for other types of purchases or transactions, (5) credit reporting agencies in maintaining information, and (6) educational institutions in connection with admission, assignment to programs or housing, awarding of grades, services, or financial aid, or permitting participation in activities with respect to their treatment of individuals with a disability.<sup>1</sup> These unlawful discriminatory practices include discrimination regarding the specified matter on the basis of the race, color, religion, age, sex, familial status, marital status, military status, national origin, ancestry, or disability ("covered characteristics") of an employee; of an applicant for employment, for membership, for the purchase, lease, or financing of housing accommodations, or

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<sup>1</sup> R.C. 4112.02 and 4112.021; R.C. 4112.022, not in the bill.



for credit; of a person seeking access to a place of public accommodation; or of a person as specified in the laws generally described in (1) to (6), above.<sup>2</sup> Not every covered characteristic listed in the preceding sentence is included in each prohibition against unlawful discriminatory practices. For example, "familial status" is listed consistently in the law governing unlawful discriminatory practices generally, but not in the law governing unlawful discriminatory practices by creditors and credit reporting agencies, where "marital status" is listed.

### **Operation of the bill**

The bill adds "sexual orientation" and "gender identity" to the covered characteristics that can be the basis for unlawful discriminatory practices under the prohibitions of the existing OCRC Law.<sup>3</sup> The bill defines "sexual orientation" as actual or perceived heterosexuality, homosexuality, or bisexuality. "Gender identity" means the gender-related identity, appearance, or mannerisms or other gender-related characteristics of an individual, with or without regard to the individual's designated gender at birth.<sup>4</sup> The bill permits only disparate treatment claims, and not disparate impact claims, to be brought under the antidiscrimination provisions of the OCRC Law on the basis of sexual orientation or gender identity. "Disparate impact" means a facially neutral policy or practice that has a negative impact on a protected group.<sup>5</sup>

Current law defines "employer" for purposes of the OCRC Law as including the state, any Ohio political subdivision, any person employing four or more persons within Ohio, and any person acting directly and indirectly in the interests of an employer. Under the bill, a private sector employer must employ 15 or more persons for the employer to be considered an "employer" for purposes of the OCRC Law concerning discrimination based upon sexual orientation or gender identity.<sup>6</sup>

In the prohibitions of the existing OCRC Law that relate to unlawful discriminatory practices and in the definitions that apply to that Law, the bill replaces the term "sex" with the term "gender." The bill also reorganizes the covered characteristic to list them in a consistent order.<sup>7</sup>

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<sup>2</sup> R.C. 4112.02(A) to (H) and 4112.021.

<sup>3</sup> R.C. 4112.02(A) to (H) and 4112.021.

<sup>4</sup> R.C. 4112.01(A)(24) and (25).

<sup>5</sup> R.C. 4112.02(X)(3).

<sup>6</sup> R.C. 4112.01(A)(2).

<sup>7</sup> R.C. 4112.01(A)(11) and (B), 4112.02(A) to (H), and 4112.021.



**New unlawful discriminatory practice – limiting, segregating, or classifying employees or applicants**

Under the bill, it is an unlawful discriminatory practice for any employer, employment agency, or labor organization to limit, segregate, or classify its employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment or otherwise adversely affect the status of the individual as an employee because of the individual's actual or perceived sexual orientation or gender identity.<sup>8</sup>

**Exemption for certain religious entities and their educational institutions**

The bill provides that nothing in the antidiscrimination provisions of the OCRC Law prohibits any religious association, corporation, or society that is not organized for private profit, or any institution organized for educational purposes that is operated, supervised, or controlled by such a religious association, corporation, or society, from limiting admission or giving preference to persons of the same religion or denomination. This exemption, however, does not apply to secular business activities regularly carried on in which the religious association, corporation, or society engages if the conduct of those activities is unrelated to the religious and educational purposes for which the association, corporation, or society is organized. The bill also specifically authorizes a religious association, corporation, or society to determine criteria for the organization's own membership, including with regard to sexual orientation or gender identity.<sup>9</sup>

Upon receiving certification of a *bona fide* occupational qualification from the OCRC, nothing in the antidiscrimination provisions of the OCRC Law requires an employer, whose business is primarily religious in nature to take any employment action that would compromise that business's religious purposes relating to sexual orientation or gender identity.<sup>10</sup>

**Exclusions from effect of bill**

Under the bill, nothing in the antidiscrimination provisions of the OCRC Law:<sup>11</sup>

(1) Can be construed to establish an unlawful employment practice based on actual or perceived gender identity due to the denial of access to shared shower or

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<sup>8</sup> R.C. 4112.02(X)(1).

<sup>9</sup> R.C. 4112.02(R).

<sup>10</sup> R.C. 4112.02(W).

<sup>11</sup> R.C. 4112.02(S) to (V).

changing facilities in which being seen unclothed is unavoidable (the employer must provide reasonable access to adequate facilities that are not inconsistent with employee's gender identity as established with the employer at the time of initial employment or upon notification to the employer that the employee has undergone or is undergoing gender transition, whichever is later);

(2) Can be construed to require the construction of new or additional facilities;

(3) Prohibits an employer from implementing, enforcing, or modifying a dress code or grooming standards not prohibited by other provisions of federal, state, or local law and requiring an employee, during the employee's hours at work, to adhere to the dress code or grooming standards (the employer must permit any employee who has undergone gender transition before being initially employed, and any employee who has notified the employer that the employee has undergone or is undergoing gender transition after being initially employed, to adhere to the same dress code or grooming standards applicable to the gender to which the employee has transitioned or is transitioning);

(4) Can be construed to authorize or require any private employer, employment agency, or labor organization to implement quotas or affirmative action policies or programs, based on sexual orientation or gender identity.

#### **Exclusion from the definition of "physical or mental impairment"**

Current law excludes various characteristics and disorders from the definition of "physical or mental impairment" under the OCRC Law. Physical or mental impairment is part of the definition of "disability" under the OCRC Law. The bill removes homosexuality and bisexuality from the current law exclusions and instead excludes any mental conditions not included in the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association or its successor publication.

The bill also removes transvestism, transexualism, and gender identity disorders not resulting from physical impairments from the current law list of excluded characteristics and disorders, and qualifies the current law exclusion for "other sexual behavior disorders" to only exclude those sexual behavior disorders that have corresponding criminal behavior.<sup>12</sup>

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<sup>12</sup> R.C. 4112.01(A)(13) and (A)(16).

## **Statistics, surveys, and progress reports**

The bill adds sexual orientation and gender identity to the covered characteristics in the provisions of existing law (and replaces the term "sex" with the term "gender" as one of those covered characteristics and reorganizes the list of covered characteristics) that require the OCRC to do both of the following:<sup>13</sup>

(1) Make periodic surveys of the existence and effect of discrimination on the basis of any of the covered characteristics on the enjoyment of civil rights by persons within Ohio;

(2) Receive progress reports from state agencies and entities, etc., and from political subdivisions and their agencies and entities, etc., regarding: (a) affirmative action programs for the employment of persons against whom discrimination is prohibited by the OCRC Law, or (b) affirmative housing accommodations programs developed to eliminate or reduce an imbalance of a covered characteristic.

The bill prohibits the OCRC from collecting statistics on actual or perceived sexual orientation or gender identity from any employer, employment agency, or labor organization or from compelling any of them to collect those statistics.<sup>14</sup>

## **OCRC duty – comprehensive educational program**

Continuing law requires the OCRC, in cooperation with the state Department of Education, to develop a comprehensive education program for Ohio public school students and all other Ohio residents. Under the bill, the program must be designed to do both of the following:

(1) Eliminate prejudice generally, instead of each covered characteristic as required under current law;

(2) Emphasize the origin of prejudice and, as added by the bill, discrimination, their harmful effects, and their incompatibility with American principles of equality and fair play.

The bill eliminates the current law requirement that the program further good will among the groups of persons with the covered characteristics.<sup>15</sup>

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<sup>13</sup> R.C. 4112.04(A)(7) and (10).

<sup>14</sup> R.C. 4112.02(X)(2).

<sup>15</sup> R.C. 4112.04(A)(9).



## **OCRC authority – study discrimination problems and issue publications**

The bill adds sexual orientation and gender identity to the covered characteristics in current law's provisions (and replaces the term "sex" with the term "gender" as one of those covered characteristics and reorganizes the list of covered characteristics) that: (1) authorize the OCRC itself, or authorize the OCRC to empower local and statewide advisory agencies and conciliation councils it creates, to study the problems of discrimination on the basis of any of the covered characteristics in all or specific fields of human relationships, and (2) authorize the OCRC to issue any publications and the results of investigations and research that in its judgment will tend to promote good will and minimize or eliminate discrimination on the basis of any of the covered characteristics.<sup>16</sup>

### **Enforcement provisions**

The bill provides that nothing in the OCRC Law's provisions that govern OCRC hearings on alleged unlawful discriminatory practices may be construed to authorize or require any person to observe the proportion that persons of any sexual orientation or gender identity bear to the total population or in accordance with any criterion other than the individual qualifications of an applicant for employment or membership. Current law contains a similar statement regarding persons in any of the currently covered characteristics (the bill replaces the term "sex" with the term "gender" in the statement as one of those covered characteristics and reorganizes the list of covered characteristics). Also, under the bill nothing in the OCRC Law may be considered as repealing any provision of Ohio law relating to discrimination because of sexual orientation or gender identity. But a person filing a charge with the OCRC alleging an unlawful discriminatory practice concerning age is barred from instituting a civil action under the OCRC Law with respect to the practice alleged. A similar provision exists in current law relative to discrimination on the basis of any of the currently covered characteristics (the bill replaces the term "sex" with the term "gender" in the provision as one of those covered characteristics and reorganizes the list of covered characteristics). Additionally, the bill states that the OCRC Law does not limit actions, procedures, and remedies afforded under federal law. Under continuing law, the OCRC Law is to be construed liberally for the accomplishment of its purposes, and that any law inconsistent with any provision of the OCRC Law does not apply.<sup>17</sup>

Under continuing law, before instituting formal hearing enforcement proceedings under the OCRC Law, the OCRC is required to attempt to induce compliance by informal methods of conference, conciliation, and persuasion. The bill

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<sup>16</sup> R.C. 4112.04(B)(4)(a) and (5).

<sup>17</sup> R.C. 4112.05(E) and 4112.08.





adds mediation as an informal method by which compliance with the OCRC Law can be induced.<sup>18</sup>

### **Other laws' prohibitions against discrimination that are amended by the bill**

Various provisions of current law located outside of the OCRC Law prohibit persons or entities from discriminating on the basis of most or all of the covered characteristics described above under "**Operation of the bill.**" Some of those existing provisions also include another characteristic (such as inability to pay, political affiliation, or health status), in addition to the covered characteristics, that applies to the particular situation covered by the provision. The bill adds sexual orientation and gender identity to the list of covered characteristics specified in many of those provisions, but it does not add those characteristics to all of the provisions. In the provisions of current law to which the bill adds sexual orientation and gender identity to the list of covered characteristics specified in the provisions, the bill's definitions of those terms apply. Also, in those provisions that currently use the term "sex," the bill replaces that term with the term "gender." Additionally, the bill reorganizes the listed covered characteristics to list them in a consistent order.

The provisions of current law to which the bill adds sexual orientation and gender identity to the list of covered characteristics specified in the provisions, and the persons or entities that are prohibited from doing the described acts are as follows:

(1) A governing body of a political subdivision – generally prohibited from using public funds to publish, distribute, or otherwise communicate information that promotes illegal discrimination on the basis of race, color, religion, national origin, handicap, age, or ancestry.<sup>19</sup>

(2) A health insuring corporation that enters into or renews a contract with the Department of Administrative Services under the law governing group health insurance for state employees – prohibited from refusing to contract with a physician for the provision of health care services because of the physician's race, color, religion, sex, national origin, military status, disability, age, or ancestry.<sup>20</sup>

(3) A board of alcohol, drug addiction, and mental health services or any agency, corporation, or association under contract with such a board – prohibited from

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<sup>18</sup> R.C. 4112.05(A).

<sup>19</sup> R.C. 9.03(C)(1)(c).

<sup>20</sup> R.C. 124.93(B).



discriminating in the provision of services under its authority, in employment, or contract on the basis of race, color, sex, creed, disability, or national origin.<sup>21</sup>

(4) A board of township trustees, in establishing the terms of any rental agreement or lease of all or part of any hall, lodge, or recreational facility of the township – prohibited from making a differentiation in the treatment of persons on the basis of race, color, religion, national origin, sex, or political affiliation.<sup>22</sup>

(5) A municipal corporation – prohibited from denying housing accommodations to, or withholding housing accommodations from, elderly persons or persons of low and moderate income because of race, color, religion, sex, familial status, military status, disability, ancestry, or national origin. Any elderly person or person of low or moderate income who is aggrieved by such denial or withholding may file a charge with the OCRC.<sup>23</sup>

(6) A health insuring corporation, or health care facility or provider through which the health insuring corporation has made arrangements to provide health care services, unless otherwise required by state or federal law – prohibited from discriminating against any individual with regard to enrollment, disenrollment, or the quality of health care services rendered, on the basis of the individual's race, color, sex, age, religion, military status, or status as a recipient of Medicare or medical assistance, or any health status-related factor in relation to the individual.<sup>24</sup>

(7) Any person, whether or not acting under color of law, by force or threat of force – prohibited from willfully injuring, intimidating, or interfering with, or attempting to injure, intimidate, or interfere with, any of the following:<sup>25</sup>

(a) Any person because of race, color, religion, sex, familial status, military status, national origin, disability, or ancestry and because that person is or has been selling, purchasing, renting, financing, occupying, contracting, or negotiating for the sale, purchase, rental, financing, or occupation of any housing accommodations, or applying for or participating in any service, organization, or facility relating to the business of selling or renting housing accommodations;

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<sup>21</sup> R.C. 340.12.

<sup>22</sup> R.C. 511.03.

<sup>23</sup> R.C. 717.01(AA).

<sup>24</sup> R.C. 1751.18(A)(2).

<sup>25</sup> R.C. 2927.03(A).



(b) Any person because that person is or has been participating, or in order to intimidate that person or any other person or any class of persons from participating, without discrimination on account of race, color, religion, sex, familial status, military status, national origin, disability, or ancestry, in any of the activities, services, organizations, or facilities described in (7)(a), above;

(c) Any person because that person is or has been, or in order to discourage that person or any other person from, lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, familial status, military status, national origin, disability, or ancestry, in any of the activities, services, organizations, or facilities described in (7)(a), above, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate.

(8) A board of education – prohibited from discriminating on the basis of sex, race, religion, or national origin when assigning pupils to attendance schedules.<sup>26</sup>

(9) An employer – prohibited from discriminating in the payment of wages on the basis of race, color, religion, sex, age, national origin, or ancestry by paying wages to any employee at a rate less than the rate at which the employer pays wages to another employee for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and that are performed under similar conditions unless the payment is made pursuant to any of several specified criteria, including a wage differential determined by any factor other than race, color, religion, sex, age, national origin, or ancestry.<sup>27</sup>

(10) The Counselor, Social Worker, and Marriage and Family Therapist Board and its professional standards committees – prohibited from discriminating against any licensee, registrant, or applicant for a license or certificate of registration under the Counselor, Social Worker, and Marriage and Family Therapist Law because of the person's race, color, religion, sex, national origin, disability, or age. The Board or committee, as appropriate, must afford a hearing to any person who files with the Board or committee a statement alleging discrimination based on that reason.<sup>28</sup>

(11) The Chemical Dependency Professionals Board – prohibited from discriminating against any licensee, certificate holder, or applicant for a license or certificate under the Chemical Dependency Professionals Law because of the individual's race, color, religion, gender, national origin, disability, or age. The Board

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<sup>26</sup> R.C. 3313.481(C).

<sup>27</sup> R.C. 4111.17(A) and (B)(4).

<sup>28</sup> R.C. 4757.07.

must afford a hearing to any individual who files with it a statement alleging discrimination based on any of those reasons.<sup>29</sup>

(12) An administrator, licensee, or child-care staff member of a child day-care center or Type A family day-care home – prohibited from discriminating in the enrollment of children in a child day-care center on the basis of race, color, religion, sex, or national origin.<sup>30</sup>

(13) A county board of developmental disabilities or any agency, corporation, or association under contract with such a county board – prohibited from discriminating in the provision of services under its authority or contract on the basis of race, color, sex, creed, disability, national origin, or the inability to pay. Each county board of developmental disabilities must provide a plan of affirmative action describing its goals and methods for the provision of equal employment opportunities for all persons under its authority and must ensure nondiscrimination in employment under its authority or contract on the basis of race, color, sex, creed, disability, or national origin.<sup>31</sup>

### **Other provisions of law that are amended by the bill**

Various sections of the Revised Code located outside of the OCRC Law have provisions that require certain functions or duties to be performed without discrimination, require certain documents to include statements pertaining to nondiscrimination, or otherwise pertain to discrimination, on the basis of some or all of the covered characteristics described above under "**Operation of the bill.**" Some of those existing provisions also include another characteristic (such as health status, geographic location, or inability to pay), in addition to the covered characteristics, that applies to the particular situation covered by the provision. The bill adds sexual orientation and gender identity to the list of covered characteristics specified in many of those provisions, but it does not add those characteristics to all of the provisions. In the provisions of current law to which the bill adds sexual orientation and gender identity to the list of covered characteristics specified in the provisions, the bill's definitions of those terms apply. Also, in those provisions that currently use the term "sex," the bill replaces that term with the term "gender." Additionally, the bill reorganizes the listed covered characteristics to list them in a consistent order. The bill adds sexual orientation and gender identity to the list of covered characteristics specified in the existing provisions that do the following:

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<sup>29</sup> R.C. 4758.16.

<sup>30</sup> R.C. 5104.09(C).

<sup>31</sup> R.C. 5126.07.



(1) **Public contracts.** Require every contract for or on behalf of the state or any of its political subdivisions for any purchase to contain provisions by which the contractor agrees to both of the following: (a) that, in the hiring of employees for the performance of work under the contract or any subcontract, no contractor or subcontractor, by reason of race, color, religion, sex, age, disability, military status, national origin, or ancestry, will discriminate against any Ohio citizen in the employment of a person qualified and available to perform the work to which the contract relates, and (b) that no contractor, subcontractor, or person acting on behalf of any contractor or subcontractor, in any manner, will discriminate against, intimidate, or retaliate against any employee hired for the performance of work under the contract on account of race, color, religion, sex, age, disability, military status, national origin, or ancestry.<sup>32</sup>

Require every contract for or on behalf of the state, or any township, county, or municipal corporation for the construction, alteration, or repair of any public building or public work to contain provisions by which the contractor agrees to both of the following (a) that, in the hiring of employees for the performance of work under the contract or any subcontract, no contractor or subcontractor, or any person acting on a contractor's or subcontractor's behalf, by reason of race, creed, sex, disability, military status, or color will discriminate against any Ohio citizen in the employment of a person qualified and available to perform the work to which the contract relates and (b) that no contractor, subcontractor, or person acting on behalf of any contractor or subcontractor, in any manner, will discriminate against, intimidate, or retaliate against any employee hired for the performance of work under the contract on account of race, creed, sex, disability, military status, or color.<sup>33</sup>

(2) **Hiring hall contracts.** Make unenforceable any hiring hall contract that obligates a contractor to hire, if available, only employees referred to the contractor by a labor organization (essentially, a union), unless within 30 days after the contract's execution, the labor organization has procedures in effect for referring qualified employees for hire without regard to race, color, religion, national origin, military status, or ancestry. The bill additionally adds "gender" to the list of covered characteristics.<sup>34</sup>

(3) **Department of Natural Resources leases and contracts.** Require leases and contracts negotiated by the Director of Natural Resources for the construction and operation of certain public service facilities in state parks and for major renovation of existing public service facilities by the lessees of lands in state parks to include in their

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<sup>32</sup> R.C. 125.111(A)(1) and (2).

<sup>33</sup> R.C. 153.59.

<sup>34</sup> R.C. 153.591.



terms and conditions a requirement that the facility be available to all members of the public without regard to sex, race, color, creed, ancestry, national origin, or disability.<sup>35</sup>

(4) **Domestic violence shelters.** Disqualify a shelter for victims of domestic violence for funds from its local county's collection of fees for marriage licenses and as additional costs in annulment, divorce, or dissolution of marriage actions if it discriminates in its admissions or provision of services on the basis of race, religion, color, age, marital status, national origin, or ancestry.<sup>36</sup>

(5) **Preschool program standards.** Require the State Board of Education rules that prescribe minimum standards for certain preschool programs to include standards ensuring that preschool staff members and nonteaching employees are recruited, employed, assigned, evaluated, and provided inservice education without discrimination on the basis of age, color, national origin, race, or sex.<sup>37</sup>

(6) **Rehabilitation Services Commission.** Authorize the Governor to grant the Administrator of the Rehabilitation Services Commission the authority to appoint, remove, and discipline without regard to sex, race, creed, color, age, or national origin, such other professional, administrative, and clerical staff members as necessary to carry out the Commission's functions and duties.<sup>38</sup>

(7) **Ohio Independent Living Council.** Authorize the Ohio Independent Living Council to delegate to the Council's Executive Director the authority to appoint, remove, and discipline without regard to sex, race, creed, color, age, or national origin, such other professional, administrative, and clerical staff members as are necessary to carry out the Council's functions and duties.<sup>39</sup>

(8) **Community schools.** Require the governing authority of each community school to include within the admission procedures it adopts procedures that specify that there will be no discrimination in the admission of students to the school on the basis of race, creed, color, disability, or sex, except that single-gender schools and schools serving both autistic students and students who are not disabled may be established if certain conditions are met.<sup>40</sup>

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<sup>35</sup> R.C. 1501.012(C)(9).

<sup>36</sup> R.C. 3113.36(B).

<sup>37</sup> R.C. 3301.53(A)(3).

<sup>38</sup> R.C. 3304.14.

<sup>39</sup> R.C. 3304.50.

<sup>40</sup> R.C. 3314.06(D)(1).



(9) **Career colleges and schools.** Authorize the State Board of Career Colleges and Schools to limit, suspend, revoke, or refuse to issue or renew a certificate of registration or program authorization or to impose a penalty for discrimination in the acceptance of students on the basis of race, color, religion, sex, or national origin.<sup>41</sup>

(10) **Nursing homes and residential care facilities.** Require the rights of residents of a nursing home, residential care facility, etc., to include, upon admission and thereafter, the right to adequate and appropriate medical treatment and nursing care and to other ancillary services that comprise necessary and appropriate care consistent with the program for which the resident contracted, and to have this care provided without regard to considerations such as race, color, religion, national origin, age, or the source of payment for care.<sup>42</sup>

(11) **Insurance agents.** Generally authorize an insurance agent to charge a consumer a fee if all of a list of specified conditions are met, including the condition that the agent, in charging the fee, does not discriminate on the basis of race, sex, national origin, religion, disability, health status, age, marital status, military status, or geographic location, and does not unfairly discriminate between persons of essentially the same class and of essentially the same hazard or expectation of life.<sup>43</sup>

(12) **State Employment Relations Board filings.** Require the annual report that an employee organization (essentially, a union) for public employees files with the State Employment Relations Board to contain specified information and statements, including a pledge that the organization will comply with Ohio laws and that it will accept members without regard to age, race, color, sex, creed, religion, ancestry, national origin, military status, disability, or physical disability.<sup>44</sup>

(13) **Real estate brokers.** Require every real estate broker's office to include in the statement that the office prominently displays in the same immediate area as licenses are displayed a statement that it is illegal to discriminate against any person because of race, color, religion, sex, familial status, military status, national origin, disability, or ancestry, in the sale or rental of housing or residential lots, in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokerage services.<sup>45</sup>

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<sup>41</sup> R.C. 3332.09(K).

<sup>42</sup> R.C. 3721.13(A)(3).

<sup>43</sup> R.C. 3905.55(A)(7).

<sup>44</sup> R.C. 4117.19(B)(5).

<sup>45</sup> R.C. 4735.16(D).



(14) **Real estate agency agreements.** Require each written agency agreement (a contract between a real estate broker or salesperson licensee and a client in which the client promises to pay the real estate broker a valuable consideration, or agrees that the licensee may receive a valuable consideration from another, for performing an act that requires a real estate license) to contain a statement that it is illegal, pursuant to the Ohio Fair Housing Law and the Federal Fair Housing Law to refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of race, color, religion, sex, familial status, military status, national origin, disability, or ancestry or to so discriminate in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokerage services.<sup>46</sup>

(15) **Emergency Medical, Fire, and Transportation Services Board.** Authorize the State Board of Emergency Medical, Fire, and Transportation Services to suspend or revoke a certificate of accreditation or a certificate of approval for discrimination in the acceptance of students on the basis of race, color, religion, sex, or national origin.<sup>47</sup>

(16) **Ohio Works First.** For purposes of the provision preventing any Ohio Works First assistance group member from losing or being denied eligibility to participate in Ohio Works First if the member's termination of employment was because an assistance group member or recipient of transitional child day-care or transitional Medicaid secured comparable or better employment or the county department of job and family services certifies that the member or recipient terminated the employment with just cause, specify that just cause includes discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, or national origin.<sup>48</sup>

(17) **Nursing facilities and intermediate care facilities.** Require every provider agreement with the provider of a nursing facility or intermediate care facility for the mentally retarded to prohibit the facility from discriminating against any patient on the basis of race, sex, color, creed, or national origin.<sup>49</sup>

(18) **Alcohol, drug addiction, and mental health services boards.** Authorize the Director of Mental Health to withhold state funds from a board of alcohol, drug addiction, and mental health services that denies available service on the basis of

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<sup>46</sup> R.C. 4735.55(A)(2) and R.C. 4735.51 – not in the bill.

<sup>47</sup> R.C. 4765.18(I).

<sup>48</sup> R.C. 5107.26(C)(1).

<sup>49</sup> R.C. 5111.31(A)(3).



religion, race, color, creed, sex, national origin, age, disability, or developmental disability.<sup>50</sup>

(19) **Facilities and programs for persons with mental retardation or a developmental disability.** Require the Director of Developmental Disabilities, with respect to the eligibility for state reimbursement of expenses incurred by facilities and programs established and operated for persons with mental retardation or a developmental disability, to withhold state funds from an agency, corporation, or association denying or rendering service on the basis of race, color, sex, religion, ancestry, national origin, disability, or the inability to pay.<sup>51</sup>

(20) **Roadside rest area advertising.** Require that commercial advertising placed on buildings located in roadside rest areas under the jurisdiction of the Department of Transportation not promote illegal discrimination on the basis of race, religion, national origin, handicap, age, or ancestry.<sup>52</sup>

(21) **Local government tax exemptions.** For purposes of the requirement that the legislative authority of a county, township, or municipal corporation that grants an exemption from taxation under certain laws must develop policies to ensure that the recipient of the exemption practices nondiscriminatory hiring in its operations, specify that "nondiscriminatory hiring" means that no individual may be denied employment solely on the basis of race, religion, sex, disability, color, national origin, or ancestry.<sup>53</sup>

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## HISTORY

ACTION	DATE
Introduced	05-14-13

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<sup>50</sup> R.C. 5119.623.

<sup>51</sup> R.C. 5123.351(E).

<sup>52</sup> R.C. 5515.08(B)(2).

<sup>53</sup> R.C. 5709.832.

