

ASSEMBLY BILL NO. 384—ASSEMBLYMAN MCCURDY

MARCH 21, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to employment practices.
(BDR 53-869)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to employment; requiring a court to award certain relief to an employee injured by unlawful employment practices under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Title VII of the Civil Rights Act of 1964 makes various employment practices unlawful if such practices are based on an individual’s: (1) race; (2) color; (3) religion; (4) sex; or (5) national origin. (42 U.S.C. §§ 2000e-2, 2000e-3) Title VII of the Civil Rights Act of 1964 provides various forms of legal and equitable relief to individuals against whom such unlawful employment practices were committed. (42 U.S.C. § 2000e-5) Existing Nevada law authorizes a person who has suffered an injury as a result of certain unlawful employment practices to file a complaint with the Nevada Equal Rights Commission if the complaint is based on discrimination because of: (1) race; (2) color; (3) sex; (4) sexual orientation; (5) gender identity or expression; (6) age; (7) disability; (8) religion; or (9) national origin. (NRS 613.405) Existing Nevada law also provides that if the Commission does not conclude that an unfair employment practice has occurred, any person alleging such a practice may bring an action in district court. (NRS 613.420)

Section 1 of this bill provides that if a court finds that an employee has been injured as the result of certain unlawful employment practices, the court is required to award to the employee the same legal or equitable relief that may be awarded to a person pursuant to Title VII of the Civil Rights Act of 1964 even if the employee is not protected by Title VII of the Civil Rights Act of 1964. **Sections 2-4** of this bill make conforming changes.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 613 of NRS is hereby amended by adding thereto a new section to read as follows:

If a court finds that an employee has been injured by an unlawful employment practice within the scope of this section and NRS 613.310 to 613.4383, inclusive, the court shall award the employee the same legal or equitable relief that may be awarded to a person pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq., even if the employee is not protected by Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq.

Sec. 2. NRS 613.310 is hereby amended to read as follows:

613.310 As used in NRS 613.310 to 613.4383, inclusive, *and section 1 of this act*, unless the context otherwise requires:

1. "Disability" means, with respect to a person:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of the person, including, without limitation, the human immunodeficiency virus;

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

2. "Employer" means any person who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, but does not include:

(a) The United States or any corporation wholly owned by the United States.

(b) Any Indian tribe.

(c) Any private membership club exempt from taxation pursuant to 26 U.S.C. § 501(c).

3. "Employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer, but does not include any agency of the United States.

4. "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

5. "Labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or other conditions of employment.

6. "Person" includes the State of Nevada and any of its political subdivisions.



7. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 3. NRS 613.320 is hereby amended to read as follows:

613.320 1. The provisions of NRS 613.310 to 613.4383, inclusive, *and section 1 of this act* do not apply to:

(a) Any employer with respect to employment outside this state.

(b) Any religious corporation, association or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of its religious activities.

2. The provisions of NRS 613.310 to 613.4383, inclusive, *and section 1 of this act* concerning unlawful employment practices related to sexual orientation and gender identity or expression do not apply to an organization that is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

Sec. 4. NRS 613.390 is hereby amended to read as follows:

613.390 Nothing contained in NRS 613.310 to 613.4383, inclusive, *and section 1 of this act* applies to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because the individual is an Indian living on or near a reservation.

