

SENATE BILL NO. 177—SENATORS CANCELA, SPEARMAN, PARKS;
ATKINSON, BROOKS, CANNIZZARO, DENIS, DONDERO
LOOP, HARRIS, OHRENSCHALL, RATTI, SCHEIBLE AND
WOODHOUSE

FEBRUARY 18, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to employment practices.
(BDR 53-723)

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

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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 the Nevada Equal Rights Commission to notify certain persons that the Commission shall, upon request, provide a right-to-sue notice; requiring a court to award certain relief to an employee injured by certain unlawful employment practices under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person may file a complaint which alleges unlawful discriminatory practices in employment with the Nevada Equal Rights Commission not later than 300 days after the date of the occurrence of the alleged unlawful discriminatory practice in employment. (NRS 233.160) **Section 9** of this bill requires the Commission to notify in writing the person who filed the complaint that the person may request the Commission to issue a right-to-sue notice. **Section 2** of this bill requires the Commission to issue, upon request, a right-to-sue notice if at least 180 days have passed after the complaint was filed. The right-to-sue notice must inform the person that the person may bring a civil action in district court against the person named in the complaint. **Sections 7 and 8** of this bill make conforming changes.

Title VII of the Civil Rights Act of 1964 sets forth various employment practices that are 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 provides that a person who has suffered an injury as a result of certain unlawful employment practices



may 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 3 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 shall 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 4-6** 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 the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *If a person files a complaint pursuant to paragraph (b) of subsection 1 of NRS 233.160 which alleges an unlawful discriminatory practice in employment, the Commission shall issue, upon request from the person, a right-to-sue notice if at least 180 days have passed after the complaint was filed pursuant to NRS 233.160. The right-to-sue notice must indicate that the person may bring a civil action in district court against the person named in the complaint.*

Sec. 3. *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, and section 2 of this act, 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. 4. NRS 613.310 is hereby amended to read as follows:
613.310 As used in NRS 613.310 to 613.4383, inclusive, *and sections 2 and 3 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



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1 weeks in the current or preceding calendar year, but does not
2 include:

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

5 (b) Any Indian tribe.

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

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

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

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

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

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

26 **Sec. 5.** NRS 613.320 is hereby amended to read as follows:

27 613.320 1. The provisions of NRS 613.310 to 613.4383,
28 inclusive, *and sections 2 and 3 of this act* do not apply to:

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

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

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

39 **Sec. 6.** NRS 613.390 is hereby amended to read as follows:

40 613.390 Nothing contained in NRS 613.310 to 613.4383,
41 inclusive, *and sections 2 and 3 of this act* applies to any business or
42 enterprise on or near an Indian reservation with respect to any
43 publicly announced employment practice of such business or
44 enterprise under which a preferential treatment is given to any



individual because the individual is an Indian living on or near a reservation.

Sec. 7. NRS 613.420 is hereby amended to read as follows:

613.420 If the Nevada Equal Rights Commission does not conclude that an unfair employment practice within the scope of NRS 613.310 to 613.4383, inclusive, *and sections 2 and 3 of this act* has occurred, ~~[any]~~ *or if the Nevada Equal Rights Commission has issued a right-to-sue notice pursuant to section 2 of this act,* the person alleging such a practice *has occurred* may ~~[apply to]~~ *bring a civil action in* the district court for *any appropriate relief, including, without limitation,* an order granting or restoring to that person the rights to which the person is entitled under those sections.

Sec. 8. NRS 613.430 is hereby amended to read as follows:

613.430 No action authorized by NRS 613.420 may be brought more than 180 days after the date of the act complained of ~~[.]~~ *or more than 180 days after the date of the issuance of the right-to-sue notice pursuant to section 2 of this act, whichever is later.* When a complaint is filed with the Nevada Equal Rights Commission, the limitation provided by this section is tolled as to any action authorized by NRS 613.420 during the pendency of the complaint before the Commission.

Sec. 9. NRS 233.160 is hereby amended to read as follows:

233.160 1. A complaint which alleges unlawful discriminatory practices in:

(a) Housing must be filed with the Commission not later than 1 year after the date of the occurrence of the alleged practice or the date on which the practice terminated.

(b) Employment or public accommodations must be filed with the Commission not later than 300 days after the date of the occurrence of the alleged practice.

➤ A complaint is timely if it is filed with an appropriate federal agency within that period. A complainant shall not file a complaint with the Commission if any other state or federal administrative body or officer which has comparable jurisdiction to adjudicate complaints of discriminatory practices has made a decision upon a complaint based upon the same facts and legal theory.

2. The complainant shall specify in the complaint the alleged unlawful practice and sign it under oath.

3. The Commission shall send to the party against whom an unlawful discriminatory practice is alleged:

(a) A copy of the complaint;

(b) An explanation of the rights which are available to that party; and

(c) A copy of the Commission's procedures.



1 4. *If a person files a complaint pursuant to paragraph (b) of*
2 *subsection 1 which alleges an unlawful discriminatory practice in*
3 *employment, the Commission shall, as soon as practicable after*
4 *receiving the complaint, notify in writing the person who filed the*
5 *complaint that the person may request the Commission to issue a*
6 *right-to-sue notice pursuant to section 2 of this act.*

