

CHAPTER 473

GOVERNMENT - STATE

HOUSE BILL 22-1367

BY REPRESENTATIVE(S) Lontine and Gray, Duran, Bacon, Bennett, Cutter, Esgar, Froelich, Amabile, Boesenecker, Exum, Gonzales-Gutierrez, Herod, Hooton, Jodeh, Kennedy, Lindsay, Michaelson Jenet, Ricks, Sirota, Titone, Weissman; also SENATOR(S) Winter and Pettersen, Gonzales, Buckner, Danielson, Donovan, Jaquez Lewis, Moreno, Story.

AN ACT

CONCERNING MODIFICATIONS TO LAWS PROHIBITING DISCRIMINATION IN EMPLOYMENT PRACTICES, AND, IN CONNECTION THEREWITH, REPEALING THE EXCLUSION OF DOMESTIC WORKERS FROM THE DEFINITION OF "EMPLOYEE", EXTENDING THE TIME LIMIT FOR FILING A CHARGE ALLEGING UNFAIR OR DISCRIMINATORY EMPLOYMENT PRACTICES WITH THE COLORADO CIVIL RIGHTS COMMISSION, REPEALING THE PROHIBITION AGAINST CERTAIN DAMAGES IN CASES ALLEGING AGE-BASED DISCRIMINATION, AND MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) Under Colorado employment discrimination law in effect before the enactment of House Bill 22-1367:

(I) A worker alleging workplace discrimination or harassment is allowed only 180 days to file a complaint with the Colorado civil rights commission, whereas a worker filing a complaint under federal employment discrimination law is allowed 300 days to file a complaint with the federal equal employment opportunity commission;

(II) Domestic workers are excluded from the protections afforded other workers; and

(III) Workers who are victims of discrimination on the basis of age are not afforded the same remedies that are available to victims of other forms of workplace discrimination; and

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(b) It is important to enact House Bill 22-1367 to:

(I) Eliminate the different deadline for filing a discrimination or harassment complaint under state law to ensure that Colorado workers filing a complaint under state law have the same amount of time to file the complaint as any worker filing a complaint under federal law;

(II) Afford domestic workers the same protections against discrimination and harassment in the workplace that are afforded other workers in the state; and

(III) Provide all Colorado workers who are victims of discrimination or harassment in the workplace consistent remedies.

SECTION 2. In Colorado Revised Statutes, 24-34-306, **amend** (11) as follows:

24-34-306. Charge - complaint - hearing - procedure - exhaustion of administrative remedies. (11) (a) THE JURISDICTION OF THE COMMISSION OVER THE COMPLAINT CEASES if:

(I) Written notice that a formal hearing will be held is not served within ~~two hundred seventy~~ FOUR HUNDRED FIFTY days after the filing of the charge; if

(II) The complainant has requested and received a notice of right to sue pursuant to subsection (15) of this section; or if

(III) The hearing is not commenced within the one-hundred-twenty-day period prescribed by subsection (4) of this section. ~~the jurisdiction of the commission over the complaint shall cease, and~~

(b) ~~IF THE JURISDICTION OF THE COMMISSION CEASES PURSUANT TO SUBSECTION (11)(a) OF THIS SECTION, the complainant may seek the relief authorized under this part 3 and parts 4 to 7 of this article ARTICLE 34 against the respondent by filing a civil action in the district court for the district in which the alleged discriminatory or unfair practice occurred. Such THE COMPLAINANT MUST FILE A CIVIL ACTION must be filed within ninety days of AFTER the date upon which the jurisdiction of the commission ceased. and if not so filed, it shall be IF THE COMPLAINANT FAILS TO FILE THE ACTION WITHIN THE TIME SPECIFIED IN THIS SUBSECTION (11)(b), THE ACTION IS barred, and the district court shall have no DOES NOT HAVE jurisdiction to hear such THE action. If any party requests the extension of any time period prescribed by this subsection (11), such extension may be granted for good cause by the commission, a commissioner, or the administrative law judge, as the case may be, but the total period of all such extensions to either the respondent or the complainant shall not exceed ninety days each, and, in the case of multiple parties, the total period of all extensions shall not exceed one hundred eighty days.~~

SECTION 3. In Colorado Revised Statutes, 24-34-401, **amend** (2) as follows:

24-34-401. Definitions. As used in this part 4, unless otherwise defined in section 24-34-301 or unless the context otherwise requires:

(2) "Employee" means any ~~person~~ INDIVIDUAL employed by an employer. ~~except~~

~~a person in the domestic service of any person.~~

SECTION 4. In Colorado Revised Statutes, 24-34-402, **add** (8) as follows:

24-34-402. Discriminatory or unfair employment practices - definition.

(8) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE CONTRARY, IT IS NOT A DISCRIMINATORY OR AN UNFAIR EMPLOYMENT PRACTICE WITH RESPECT TO SEX FOR A PERSON TO CONSIDER SEX WHEN HIRING AN EMPLOYEE ENGAGED IN CHILD-CARE-RELATED DOMESTIC SERVICES.

SECTION 5. In Colorado Revised Statutes, **amend** 24-34-403 as follows:

24-34-403. Time limits on filing of charges. Any charge alleging a violation of this part 4 ~~shall~~ **MUST** be filed with the commission pursuant to section 24-34-306 within ~~six months~~ **THREE HUNDRED DAYS** after the alleged discriminatory or unfair employment practice occurred, and if **A CHARGE IS NOT SO** TIMELY filed, it ~~shall be~~ is barred.

SECTION 6. In Colorado Revised Statutes, 24-34-405, **amend** (3)(a); and **repeal** (3)(g) as follows:

24-34-405. Relief authorized - short title. (3) (a) In addition to the relief available pursuant to subsection (2) of this section, ~~and except as provided in paragraph (g) of this subsection (3);~~ in a civil action brought by a plaintiff under this part 4 against a defendant who is found to have engaged in an intentional discriminatory or unfair employment practice, the plaintiff may recover compensatory and punitive damages as specified in this subsection (3). The court shall not award a plaintiff compensatory or punitive damages when the defendant is found to have engaged in an employment practice that is unlawful solely because of its disparate impact.

~~(g) In a civil action involving a claim of discrimination based on age, the plaintiff is entitled only to the relief authorized in subsection (2) of this section and in 29 U.S.C. sec. 626 (b) and 29 U.S.C. sec. 216 (b) if the court finds that the defendant engaged in a discriminatory or unfair employment practice based on age. If, in addition to alleging discrimination based on age, the plaintiff alleges discrimination based on any other factor specified in section 24-34-402 (1), this paragraph (g) does not preclude a plaintiff from recovering the relief authorized by this section for that discrimination claim.~~

SECTION 7. Appropriation. (1) For the 2022-23 state fiscal year, \$113,548 is appropriated to the department of regulatory agencies for use by the civil rights division. This appropriation is from the general fund. To implement this act, the division may use this appropriation as follows:

(a) \$98,718 for personal services, which amount is based on an assumption that the division will require an additional 1.7 FTE; and

(b) \$14,830 for operating expenses.

SECTION 8. Act subject to petition - effective date - applicability. (1) This

act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to employment practices occurring on or after the applicable effective date of this act.

Approved: June 8, 2022