

By: González of Dallas

H.B. No. 3860

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the prohibition of certain discrimination; authorizing
3 civil penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subtitle C, Title 5, Business & Commerce Code, is
6 amended by adding Chapter 113 to read as follows:

7 CHAPTER 113. DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION

8 SUBCHAPTER A. GENERAL PROVISIONS

9 Sec. 113.001. DEFINITIONS. In this chapter:

10 (1) "Commission" means the Texas Workforce
11 Commission.

12 (2) "Complainant" means an individual who brings an
13 action or proceeding under this chapter.

14 (3) "Discriminatory practice" means an act prohibited
15 by this chapter.

16 (4) "Executive director" means the executive director
17 of the commission.

18 (5) "Gender identity" means the gender-related
19 identity, appearance, or other gender-related characteristics of
20 an individual with or without regard to the individual's designated
21 sex at birth.

22 (6) "Military veteran" means a person who:

23 (A) has served in:

24 (i) the armed forces of the United States or

1 the United States Public Health Service under 42 U.S.C. Section 201
2 et seq.;

3 (ii) the state military forces, as defined
4 by Section 431.001, Government Code; or

5 (iii) an auxiliary service of a branch of
6 the armed forces described by Subparagraph (i) or (ii); and

7 (B) has been honorably discharged from the branch
8 of the service in which the person served.

9 (7) "Person" means:

10 (A) an individual;

11 (B) a corporation, partnership, association,
12 unincorporated organization, labor organization, mutual company,
13 joint-stock company, and trust; and

14 (C) a legal representative, a trustee, a trustee
15 in a case under Title 11, U.S.C., a receiver, and a fiduciary.

16 (8) "Public accommodation" means a business or other
17 entity that offers to the public any good, service, privilege,
18 facility, or accommodation.

19 (9) "Respondent" means a person charged in a complaint
20 filed under this chapter.

21 (10) "Sexual orientation" means an individual's actual
22 or perceived heterosexuality, bisexuality, or homosexuality.

23 Sec. 113.002. RULES. The commission may adopt rules
24 necessary to implement this chapter.

25 SUBCHAPTER B. DISCRIMINATION IN PUBLIC ACCOMMODATIONS PROHIBITED

26 Sec. 113.051. PUBLIC ACCOMMODATIONS. (a) A person engages
27 in a discriminatory practice and violates this chapter if the

1 person, because of the race, color, disability, religion, sex,
2 national origin, age, sexual orientation, or gender identity of an
3 individual, or because of the individual's status as a military
4 veteran:

5 (1) refuses, withholds, or denies that individual full
6 and equal accommodation in any place of public accommodation in
7 this state;

8 (2) publishes, circulates, issues, displays, posts,
9 or mails, either directly or indirectly, any communication, notice,
10 or advertisement to the effect that any good, service, privilege,
11 facility, or accommodation of a place of public accommodation in
12 this state will be refused, withheld, or denied; or

13 (3) otherwise discriminates against or segregates or
14 separates the individual in a place of public accommodation based
15 on race, color, disability, religion, sex, national origin, age,
16 sexual orientation, or gender identity or based on the individual's
17 status as a military veteran.

18 (b) This section does not apply to a private club, a place of
19 accommodation owned by or operated on behalf of a religious
20 corporation, association, or society that is not in fact open to the
21 public, or any other establishment that is not in fact open to the
22 public.

23 (c) This section does not prohibit the provision of a
24 special benefit, incentive, discount, or promotion through a
25 private or public program to assist persons who:

26 (1) are 50 years of age or older; or

27 (2) are military veterans or family members of

1 military veterans.

2 (d) This section does not supersede or interfere with any
3 state law or local ordinance that prohibits a person under the age
4 of 21 from entering a place of public accommodation.

5 SUBCHAPTER C. ADMINISTRATIVE ENFORCEMENT

6 Sec. 113.101. FILING OF COMPLAINT; FORM AND CONTENT;
7 SERVICE. (a) A person claiming to be aggrieved by an alleged
8 discriminatory practice or the person's agent may file a complaint
9 with the commission.

10 (b) The complaint must be in writing and made under oath.

11 (c) The complaint must state:

12 (1) that a discriminatory practice has been committed;

13 (2) the facts on which the complaint is based,
14 including the date, place, and circumstances of the alleged
15 discriminatory practice; and

16 (3) facts sufficient to enable the commission to
17 identify the respondent.

18 (d) The executive director or the executive director's
19 designee shall serve the respondent with a copy of the perfected
20 complaint not later than the 10th day after the date the complaint
21 is filed.

22 (e) A complaint may be amended to cure technical defects or
23 omissions, including a failure to verify the complaint or to
24 clarify and amplify an allegation made in the complaint.

25 (f) An amendment to a complaint alleging additional facts
26 that constitute discriminatory practices relating to or arising
27 from the subject matter of the original complaint relates back to

1 the date the complaint was first received by the commission.

2 (g) If a perfected complaint is not received by the
3 commission within 180 days of the alleged discriminatory practice,
4 the commission shall notify the respondent that a complaint has
5 been filed and that the process of perfecting the complaint is in
6 progress.

7 Sec. 113.102. STATUTE OF LIMITATIONS. (a) A complaint
8 under this subchapter must be filed not later than the 180th day
9 after the date the alleged discriminatory practice occurred.

10 (b) The commission shall dismiss an untimely complaint.

11 Sec. 113.103. ALTERNATIVE DISPUTE RESOLUTION; OFFICE. (a)
12 The use of alternative means of dispute resolution, including
13 settlement negotiations, conciliation, facilitation, mediation,
14 fact-finding, minitrials, and arbitration, is encouraged to
15 resolve disputes arising under this chapter. The settlement of a
16 disputed claim under this chapter that results from the use of
17 traditional or alternative means of dispute resolution is binding
18 on the parties to the claim.

19 (b) The commission shall establish an office of alternative
20 dispute resolution. At any time after a complaint is received under
21 Section 113.101, at the request of a party or at the direction of
22 the commission, the matter may be referred to the office of
23 alternative dispute resolution.

24 Sec. 113.104. INVESTIGATION BY COMMISSION. (a) The
25 executive director or a staff member of the commission designated
26 by the executive director shall investigate a complaint and
27 determine if there is reasonable cause to believe that the

1 respondent engaged in a discriminatory practice as alleged in the
2 complaint.

3 (b) If the federal government has referred the complaint to
4 the commission or has deferred jurisdiction over the subject matter
5 of the complaint to the commission, the executive director or the
6 executive director's designee shall promptly investigate the
7 allegations stated in the complaint.

8 Sec. 113.105. LACK OF REASONABLE CAUSE; DISMISSAL OF
9 COMPLAINT. (a) If after investigation the executive director or
10 the executive director's designee determines that reasonable cause
11 does not exist to believe that the respondent engaged in a
12 discriminatory practice as alleged in a complaint, the executive
13 director or the executive director's designee shall issue a written
14 determination, incorporating the finding that the evidence does not
15 support the complaint and dismissing the complaint.

16 (b) The executive director or the executive director's
17 designee shall serve a copy of the determination on the
18 complainant, the respondent, and other agencies as required by law.

19 Sec. 113.106. DETERMINATION OF REASONABLE CAUSE; REVIEW BY
20 COMMISSION. (a) If after investigation the executive director or
21 the executive director's designee determines that there is
22 reasonable cause to believe that the respondent engaged in a
23 discriminatory practice as alleged in a complaint, the executive
24 director or the executive director's designee shall review with the
25 commission members the evidence in the record.

26 (b) If after the review at least two of the three commission
27 members determine that there is reasonable cause to believe that

1 the respondent engaged in a discriminatory practice, the executive
2 director shall:

3 (1) issue a written determination incorporating the
4 executive director's finding that the evidence supports the
5 complaint; and

6 (2) serve a copy of the determination on the
7 complainant, the respondent, and other agencies as required by law.

8 Sec. 113.107. RESOLUTION BY INFORMAL METHODS. (a) If a
9 determination of reasonable cause is made under Section 113.106,
10 the commission shall endeavor to eliminate the alleged
11 discriminatory practice by informal methods of conference,
12 conciliation, and persuasion.

13 (b) Without the written consent of the complainant and
14 respondent, the commission, its executive director, or its other
15 officers or employees may not disclose to the public information
16 about the efforts in a particular case to resolve an alleged
17 discriminatory practice by conference, conciliation, or
18 persuasion, regardless of whether there is a determination of
19 reasonable cause.

20 Sec. 113.108. NOTICE OF DISMISSAL OR UNRESOLVED COMPLAINT.
21 If the commission dismisses a complaint filed under Section 113.101
22 or does not resolve the complaint before the 181st day after the
23 date the complaint was filed, the commission shall inform the
24 complainant of the dismissal or failure to resolve the complaint in
25 writing by certified mail.

26 Sec. 113.109. TEMPORARY INJUNCTIVE RELIEF. (a) If the
27 commission concludes from a preliminary investigation of a

1 discriminatory practice alleged in a complaint that prompt judicial
2 action is necessary to carry out the purpose of this chapter, the
3 commission shall file a petition seeking appropriate temporary
4 relief against the respondent pending final determination of a
5 proceeding under this chapter.

6 (b) The petition shall be filed in a district court in a
7 county in which:

8 (1) the alleged discriminatory practice that is the
9 subject of the complaint occurred; or

10 (2) the respondent resides.

11 (c) A court may not issue temporary injunctive relief unless
12 the commission shows:

13 (1) a substantial likelihood of success on the merits;

14 and

15 (2) irreparable harm to the complainant in the absence
16 of the preliminary relief pending final determination on the
17 merits.

18 Sec. 113.110. ELECTION OF REMEDIES. A person who has
19 initiated a court action or who has an action pending before an
20 administrative agency under other law or an order or ordinance of a
21 political subdivision of this state based on an act that would be a
22 discriminatory practice under this chapter may not file a complaint
23 under this subchapter for the same grievance.

24 SUBCHAPTER D. JUDICIAL ENFORCEMENT

25 Sec. 113.151. CIVIL ACTION BY COMMISSION. (a) The
26 commission may bring a civil action against a respondent if:

27 (1) the commission determines that there is reasonable

1 cause to believe that the respondent engaged in a discriminatory
2 practice;

3 (2) the commission's efforts to resolve the alleged
4 discriminatory practice to the satisfaction of the complainant and
5 respondent through conciliation have been unsuccessful; and

6 (3) a majority of the commissioners determines that
7 the civil action may achieve the purposes of this chapter.

8 (b) The complainant may intervene in a civil action brought
9 by the commission.

10 Sec. 113.152. NOTICE OF COMPLAINANT'S RIGHT TO FILE CIVIL
11 ACTION. (a) A complainant who receives notice under Section
12 113.108 that the complaint is dismissed or not resolved is entitled
13 to request from the commission a written notice of the
14 complainant's right to file a civil action.

15 (b) The complainant must request the notice in writing.

16 (c) The executive director may issue the notice.

17 (d) Failure to issue the notice of a complainant's right to
18 file a civil action does not affect the complainant's right under
19 this subchapter to bring a civil action against the respondent.

20 Sec. 113.153. CIVIL ACTION BY COMPLAINANT. Not later than
21 the 60th day after the date a notice of the right to file a civil
22 action is received, the complainant may bring a civil action
23 against the respondent.

24 Sec. 113.154. COMMISSION'S INTERVENTION IN CIVIL ACTION BY
25 COMPLAINANT. After receipt of a timely application, a court may
26 permit the commission to intervene in a civil action filed under
27 Section 113.153 if:

1 (1) the commission certifies that the case is of
2 general public importance; and

3 (2) before commencement of the action the commission
4 issued a determination of reasonable cause to believe that this
5 chapter was violated.

6 Sec. 113.155. STATUTE OF LIMITATIONS. A civil action may
7 not be brought under this subchapter later than the second
8 anniversary of the date the complaint relating to the action is
9 filed.

10 Sec. 113.156. ASSIGNMENT TO EARLY HEARING. The court shall
11 set an action brought under this subchapter for hearing at the
12 earliest practicable date to expedite the action.

13 Sec. 113.157. INJUNCTION; EQUITABLE RELIEF. On finding
14 that a respondent engaged in a discriminatory practice as alleged
15 in a complaint, a court may:

16 (1) prohibit by injunction the respondent from
17 engaging in the discriminatory practice; and

18 (2) order additional equitable relief as may be
19 appropriate.

20 Sec. 113.158. COMPENSATORY AND PUNITIVE DAMAGES. (a) On
21 finding that a respondent engaged in a discriminatory practice as
22 alleged in a complaint, a court may, as provided by this section,
23 award:

24 (1) compensatory damages; and

25 (2) punitive damages.

26 (b) A complainant may recover punitive damages against a
27 respondent, other than a respondent that is a governmental entity,

1 if the complainant demonstrates that the respondent engaged in a
2 discriminatory practice with malice or with reckless indifference
3 to the state-protected rights of an aggrieved individual.

4 Sec. 113.159. ATTORNEY'S FEES; COSTS. (a) In a proceeding
5 under this chapter, a court may allow the prevailing party, other
6 than the commission, a reasonable attorney's fee as part of the
7 costs.

8 (b) The state, a state agency, or a political subdivision is
9 liable for costs, including attorney's fees, to the same extent as a
10 private person.

11 (c) In awarding costs and attorney's fees in an action or a
12 proceeding under this chapter, the court, in its discretion, may
13 include reasonable expert fees.

14 Sec. 113.160. COMPELLED COMPLIANCE. If a person fails to
15 comply with a court order issued under this subchapter, a party to
16 the action or the commission, on the written request of a person
17 aggrieved by the failure, may commence proceedings to compel
18 compliance with the order.

19 Sec. 113.161. TRIAL DE NOVO. (a) A judicial proceeding
20 under this chapter is by trial de novo.

21 (b) A commission finding, recommendation, determination, or
22 other action is not binding on a court.

23 SUBCHAPTER E. ENFORCEMENT BY ATTORNEY GENERAL

24 Sec. 113.201. ENFORCEMENT BY ATTORNEY GENERAL; PATTERN OR
25 PRACTICE CASE. (a) If the commission determines that a person is
26 engaged in a pattern or practice of discriminatory practices under
27 this chapter or that an alleged violation raises an issue of general

1 public importance, the commission may request the attorney general
2 to file a civil action in district court for appropriate relief.

3 (b) In an action under this section, the court may:

4 (1) award equitable relief and other appropriate
5 relief, including monetary damages, a reasonable attorney's fee,
6 and court costs, available under Subchapter D for an action under
7 that subchapter; and

8 (2) to vindicate the public interest, assess a civil
9 penalty against the respondent in the amount not to exceed the
10 applicable amounts prescribed by Section 301.132, Property Code,
11 for a pattern or practice violation under the Texas Fair Housing
12 Act.

13 SECTION 2. Section 21.002, Labor Code, is amended by adding
14 Subdivisions (9-a), (11-b), and (13-a) to read as follows:

15 (9-a) "Gender identity" means the gender-related
16 identity, appearance, or other gender-related characteristics of
17 an individual with or without regard to the individual's designated
18 sex at birth.

19 (11-b) "Military veteran" means a person who:

20 (A) has served in:

21 (i) the armed forces of the United States or
22 the United States Public Health Service under 42 U.S.C. Section 201
23 et seq.;

24 (ii) the state military forces, as defined
25 by Section 431.001, Government Code; or

26 (iii) an auxiliary service of a branch of
27 the armed forces described by Subparagraph (i) or (ii); and

1 (B) has been honorably discharged from the branch
2 of the service in which the person served.

3 (13-a) "Sexual orientation" means an individual's
4 actual or perceived heterosexuality, bisexuality, or
5 homosexuality.

6 SECTION 3. Section 21.005, Labor Code, is amended by adding
7 Subsection (d) to read as follows:

8 (d) A provision in this chapter prohibiting discrimination
9 on the basis of an individual's status as a military veteran does
10 not affect the operation or enforcement of a program under the laws
11 of this state or the United States that is designed to give a
12 preference to a military veteran in recognition of the veteran's
13 service to this state or the United States, including a preference
14 authorized under Section 302.154 or under Chapter 657, Government
15 Code.

16 SECTION 4. Section 21.051, Labor Code, is amended to read as
17 follows:

18 Sec. 21.051. DISCRIMINATION BY EMPLOYER. An employer
19 commits an unlawful employment practice if because of race, color,
20 disability, religion, sex, national origin, ~~or~~ age, sexual
21 orientation, or gender identity, or because of the individual's
22 status as a military veteran, the employer:

23 (1) fails or refuses to hire an individual, discharges
24 an individual, or discriminates in any other manner against an
25 individual in connection with compensation or the terms,
26 conditions, or privileges of employment; or

27 (2) limits, segregates, or classifies an employee or

1 applicant for employment in a manner that would deprive or tend to
2 deprive an individual of any employment opportunity or adversely
3 affect in any other manner the status of an employee.

4 SECTION 5. Section 21.052, Labor Code, is amended to read as
5 follows:

6 Sec. 21.052. DISCRIMINATION BY EMPLOYMENT AGENCY. An
7 employment agency commits an unlawful employment practice if the
8 employment agency:

9 (1) fails or refuses to refer for employment or
10 discriminates in any other manner against an individual because of
11 race, color, disability, religion, sex, national origin, ~~or~~ age,
12 sexual orientation, or gender identity, or because of the
13 individual's status as a military veteran; or

14 (2) classifies or refers an individual for employment
15 on the basis of race, color, disability, religion, sex, national
16 origin, ~~or~~ age, sexual orientation, or gender identity, or
17 because of the individual's status as a military veteran.

18 SECTION 6. Section 21.053, Labor Code, is amended to read as
19 follows:

20 Sec. 21.053. DISCRIMINATION BY LABOR ORGANIZATION. A labor
21 organization commits an unlawful employment practice if because of
22 race, color, disability, religion, sex, national origin, ~~or~~ age,
23 sexual orientation, or gender identity, or because of the
24 individual's status as a military veteran, the labor organization:

25 (1) excludes or expels from membership or
26 discriminates in any other manner against an individual; or

27 (2) limits, segregates, or classifies a member or an

1 applicant for membership or classifies or fails or refuses to refer
2 for employment an individual in a manner that would:

3 (A) deprive or tend to deprive an individual of
4 any employment opportunity;

5 (B) limit an employment opportunity or adversely
6 affect in any other manner the status of an employee or of an
7 applicant for employment; or

8 (C) cause or attempt to cause an employer to
9 violate this subchapter.

10 SECTION 7. Section 21.054, Labor Code, is amended to read as
11 follows:

12 Sec. 21.054. ADMISSION OR PARTICIPATION IN TRAINING
13 PROGRAM. [~~(a)~~] Unless a training or retraining opportunity or
14 program is provided under an affirmative action plan approved under
15 a federal law, rule, or order, an employer, labor organization, or
16 joint labor-management committee controlling an apprenticeship,
17 on-the-job training, or other training or retraining program
18 commits an unlawful employment practice if the employer, labor
19 organization, or committee discriminates against an individual
20 because of race, color, disability, religion, sex, national origin,
21 ~~[or]~~ age, sexual orientation, or gender identity, or because of the
22 individual's status as a military veteran, in admission to or
23 participation in the program.

24 SECTION 8. Section 21.059(a), Labor Code, is amended to
25 read as follows:

26 (a) An employer, labor organization, employment agency, or
27 joint labor-management committee controlling an apprenticeship,

1 on-the-job training, or other training or retraining program
2 commits an unlawful employment practice if the employer, labor
3 organization, employment agency, or committee prints or publishes
4 or causes to be printed or published a notice or advertisement
5 relating to employment that:

6 (1) indicates a preference, limitation,
7 specification, or discrimination based on race, color, disability,
8 religion, sex, national origin, [~~or~~] age, sexual orientation, or
9 gender identity, or based on an individual's status as a military
10 veteran; and

11 (2) concerns an employee's status, employment, or
12 admission to or membership or participation in a labor union or
13 training or retraining program.

14 SECTION 9. Section 21.102(c), Labor Code, is amended to
15 read as follows:

16 (c) This section does not apply to standards of compensation
17 or terms, conditions, or privileges of employment that are
18 discriminatory on the basis of race, color, disability, religion,
19 sex, national origin, [~~or~~] age, sexual orientation, or gender
20 identity, or on the basis of an individual's status as a military
21 veteran.

22 SECTION 10. Section 21.112, Labor Code, is amended to read
23 as follows:

24 Sec. 21.112. EMPLOYEES AT DIFFERENT LOCATIONS. An employer
25 does not commit an unlawful employment practice by applying to
26 employees who work in different locations different standards of
27 compensation or different terms, conditions, or privileges of

1 employment that are not discriminatory on the basis of race, color,
2 disability, religion, sex, national origin, [~~or~~] age, sexual
3 orientation, or gender identity, or on the basis of an individual's
4 status as a military veteran.

5 SECTION 11. Section 21.113, Labor Code, is amended to read
6 as follows:

7 Sec. 21.113. IMBALANCE PLAN NOT REQUIRED. This chapter
8 does not require a person subject to this chapter to grant
9 preferential treatment to an individual or a group on the basis of
10 race, color, disability, religion, sex, national origin, [~~or~~] age,
11 sexual orientation, or gender identity, or on the basis of an
12 individual's status as a military veteran, because of an imbalance
13 between:

14 (1) the total number or percentage of persons of that
15 individual's or group's race, color, disability, religion, sex,
16 national origin, [~~or~~] age, sexual orientation, or gender identity,
17 or the total number or percentage of individuals who are military
18 veterans:

19 (A) employed by an employer;

20 (B) referred or classified for employment by an
21 employment agency or labor organization;

22 (C) admitted to membership or classified by a
23 labor organization; or

24 (D) admitted to or employed in an apprenticeship,
25 on-the-job training, or other training or retraining program; and

26 (2) the total number or percentage of persons of that
27 race, color, disability, religion, sex, national origin, [~~or~~] age,

1 sexual orientation, or gender identity or the total number or
2 percentage of individuals who are military veterans in:

3 (A) a community, this state, a region, or other
4 area; or

5 (B) the available work force in a community, this
6 state, a region, or other area.

7 SECTION 12. Section 21.120(b), Labor Code, is amended to
8 read as follows:

9 (b) Subsection (a) does not apply to a policy adopted or
10 applied with the intent to discriminate because of race, color,
11 sex, national origin, religion, age, [~~or~~] disability, sexual
12 orientation, or gender identity, or because of an individual's
13 status as a military veteran.

14 SECTION 13. Section 21.122(a), Labor Code, is amended to
15 read as follows:

16 (a) An unlawful employment practice based on disparate
17 impact is established under this chapter only if:

18 (1) a complainant demonstrates that a respondent uses
19 a particular employment practice that causes a disparate impact on
20 the basis of race, color, sex, national origin, religion, [~~or~~]
21 disability, sexual orientation, or gender identity, or on the basis
22 of an individual's status as a military veteran, and the respondent
23 fails to demonstrate that the challenged practice is job-related
24 for the position in question and consistent with business
25 necessity; or

26 (2) the complainant makes the demonstration in
27 accordance with federal law as that law existed June 4, 1989, with

1 respect to the concept of alternative employment practices, and the
2 respondent refuses to adopt such an alternative employment
3 practice.

4 SECTION 14. Section 21.124, Labor Code, is amended to read
5 as follows:

6 Sec. 21.124. PROHIBITION AGAINST DISCRIMINATORY USE OF TEST
7 SCORES. (a) Except as provided by Subsection (b), it [It] is an
8 unlawful employment practice for a respondent, in connection with
9 the selection or referral of applicants for employment or
10 promotion, to adjust the scores of, use different cutoff scores
11 for, or otherwise alter the results of employment-related tests on
12 the basis of race, color, sex, national origin, religion, age, [or]
13 disability, sexual orientation, or gender identity, or on the basis
14 of an individual's status as a military veteran.

15 (b) Subsection (a) does not apply to an act described by
16 that subsection that is made in conjunction with a preference
17 program for military veterans authorized under a law of this state
18 or the United States.

19 SECTION 15. The heading to Section 21.125, Labor Code, is
20 amended to read as follows:

21 Sec. 21.125. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE
22 CONSIDERATION OF RACE, COLOR, SEX, NATIONAL ORIGIN, RELIGION, AGE,
23 [OR] DISABILITY, SEXUAL ORIENTATION, OR GENDER IDENTITY OR STATUS
24 AS MILITARY VETERAN IN EMPLOYMENT PRACTICES.

25 SECTION 16. Section 21.125(a), Labor Code, is amended to
26 read as follows:

27 (a) Except as otherwise provided by this chapter, an

1 unlawful employment practice is established when the complainant
2 demonstrates that race, color, sex, national origin, religion, age,
3 [~~or~~] disability, sexual orientation, or gender identity, or status
4 as a military veteran, was a motivating factor for an employment
5 practice, even if other factors also motivated the practice, unless
6 race, color, sex, national origin, religion, age, [~~or~~] disability,
7 sexual orientation, or gender identity, or status as a military
8 veteran, is combined with objective job-related factors to attain
9 diversity in the employer's work force.

10 SECTION 17. Section 21.126, Labor Code, is amended to read
11 as follows:

12 Sec. 21.126. COVERAGE OF PREVIOUSLY EXEMPT EMPLOYEES OF THE
13 STATE OR POLITICAL SUBDIVISION OF THE STATE. It is an unlawful
14 employment practice for a person elected to public office in this
15 state or a political subdivision of this state to discriminate
16 because of race, color, sex, national origin, religion, age, [~~or~~]
17 disability, sexual orientation, or gender identity, or because of
18 the individual's status as a military veteran, against an
19 individual who is an employee or applicant for employment to:

- 20 (1) serve on the elected official's personal staff;
21 (2) serve the elected official on a policy-making
22 level; or
23 (3) serve the elected official as an immediate advisor
24 with respect to the exercise of the constitutional or legal powers
25 of the office.

26 SECTION 18. Section 21.152(a), Labor Code, is amended to
27 read as follows:

1 (a) A political subdivision or two or more political
2 subdivisions acting jointly may create a local commission to:

3 (1) promote the purposes of this chapter; and

4 (2) secure for all individuals in the jurisdiction of
5 each political subdivision freedom from discrimination because of
6 race, color, disability, religion, sex, national origin, ~~or~~ age,
7 sexual orientation, or gender identity, or because of an
8 individual's status as a military veteran.

9 SECTION 19. Section 21.155(a), Labor Code, is amended to
10 read as follows:

11 (a) The commission [~~Commission on Human Rights~~] shall refer
12 a complaint concerning discrimination in employment because of
13 race, color, disability, religion, sex, national origin, ~~or~~ age,
14 sexual orientation, or gender identity, or because of status as a
15 military veteran, that is filed with that commission to a local
16 commission with the necessary investigatory and conciliatory
17 powers if:

18 (1) the complaint has been referred to the commission
19 [~~Commission on Human Rights~~] by the federal government; or

20 (2) jurisdiction over the subject matter of the
21 complaint has been deferred to the commission [~~Commission on Human~~
22 ~~Rights~~] by the federal government.

23 SECTION 20. Section 301.003, Property Code, is amended by
24 amending Subdivision (6) and adding Subdivisions (9-a), (9-b), and
25 (10-a) to read as follows:

26 (6) "Disability" means a mental or physical impairment
27 that substantially limits at least one major life activity, a

1 record of the impairment, or being regarded as having the
2 impairment. The term does not include current illegal use of or
3 addiction to any drug or illegal or federally controlled substance
4 [~~and does not apply to an individual because of an individual's~~
5 ~~sexual orientation or because that individual is a transvestite~~].

6 (9-a) "Gender identity" means the gender-related
7 identity, appearance, or other gender-related characteristics of
8 an individual with or without regard to the individual's designated
9 sex at birth.

10 (9-b) "Military veteran" means a person who:

11 (A) has served in:

12 (i) the armed forces of the United States or
13 the United States Public Health Service under 42 U.S.C. Section 201
14 et seq.;

15 (ii) the state military forces, as defined
16 by Section 431.001, Government Code; or

17 (iii) an auxiliary service of a branch of
18 the armed forces described by Subparagraph (i) or (ii); and

19 (B) has been honorably discharged from the branch
20 of the service in which the person served.

21 (10-a) "Sexual orientation" means an individual's
22 actual or perceived heterosexuality, bisexuality, or
23 homosexuality.

24 SECTION 21. Sections 301.021(a) and (b), Property Code, are
25 amended to read as follows:

26 (a) A person may not refuse to sell or rent, after the making
27 of a bona fide offer, refuse to negotiate for the sale or rental of,

1 or in any other manner make unavailable or deny a dwelling to
2 another because of race, color, religion, sex, familial status,
3 [~~or~~] national origin, sexual orientation, or gender identity, or
4 because of status as a military veteran.

5 (b) A person may not discriminate against another in the
6 terms, conditions, or privileges of sale or rental of a dwelling or
7 in providing services or facilities in connection with a sale or
8 rental of a dwelling because of race, color, religion, sex,
9 familial status, [~~or~~] national origin, sexual orientation, or
10 gender identity, or because of status as a military veteran.

11 SECTION 22. Section 301.022, Property Code, is amended to
12 read as follows:

13 Sec. 301.022. PUBLICATION. A person may not make, print, or
14 publish or effect the making, printing, or publishing of a notice,
15 statement, or advertisement that is about the sale or rental of a
16 dwelling and that indicates any preference, limitation, or
17 discrimination or the intention to make a preference, limitation,
18 or discrimination because of race, color, religion, sex,
19 disability, familial status, [~~or~~] national origin, sexual
20 orientation, or gender identity, or because of status as a military
21 veteran.

22 SECTION 23. Section 301.023, Property Code, is amended to
23 read as follows:

24 Sec. 301.023. INSPECTION. A person may not represent to
25 another because of race, color, religion, sex, disability, familial
26 status, [~~or~~] national origin, sexual orientation, or gender
27 identity, or because of status as a military veteran, that a

1 dwelling is not available for inspection for sale or rental when the
2 dwelling is available for inspection.

3 SECTION 24. Section 301.024, Property Code, is amended to
4 read as follows:

5 Sec. 301.024. ENTRY INTO NEIGHBORHOOD. A person may not,
6 for profit, induce or attempt to induce another to sell or rent a
7 dwelling by representations regarding the entry or prospective
8 entry into a neighborhood of a person of a particular race, color,
9 religion, sex, disability, familial status, [~~or~~] national origin,
10 sexual orientation, or gender identity or with the status of a
11 military veteran.

12 SECTION 25. Section 301.026(a), Property Code, is amended
13 to read as follows:

14 (a) A person whose business includes engaging in
15 residential real estate related transactions may not discriminate
16 against another in making a real estate related transaction
17 available or in the terms or conditions of a real estate related
18 transaction because of race, color, religion, sex, disability,
19 familial status, [~~or~~] national origin, sexual orientation, or
20 gender identity, or because of status as a military veteran.

21 SECTION 26. Section 301.027, Property Code, is amended to
22 read as follows:

23 Sec. 301.027. BROKERAGE SERVICES. A person may not deny
24 another access to, or membership or participation in, a
25 multiple-listing service, real estate brokers' organization, or
26 other service, organization, or facility relating to the business
27 of selling or renting dwellings, or discriminate against a person

1 in the terms or conditions of access, membership, or participation
2 in such an organization, service, or facility because of race,
3 color, religion, sex, disability, familial status, [~~or~~] national
4 origin, sexual orientation, or gender identity, or because of
5 status as a military veteran.

6 SECTION 27. Sections 301.042(a) and (c), Property Code, are
7 amended to read as follows:

8 (a) This chapter does not prohibit a religious
9 organization, association, or society or a nonprofit institution or
10 organization operated, supervised, or controlled by or in
11 conjunction with a religious organization, association, or society
12 from:

13 (1) limiting the sale, rental, or occupancy of
14 dwellings that it owns or operates for other than a commercial
15 purpose to persons of the same religion; or

16 (2) giving preference to persons of the same religion,
17 unless membership in the religion is restricted because of race,
18 color, [~~or~~] national origin, sexual orientation, or gender
19 identity, or because of status as a military veteran.

20 (c) This chapter does not prohibit a person engaged in the
21 business of furnishing appraisals of real property from considering
22 in those appraisals factors other than race, color, religion, sex,
23 disability, familial status, [~~or~~] national origin, sexual
24 orientation, or gender identity, or status as a military veteran.

25 SECTION 28. Section 301.068, Property Code, is amended to
26 read as follows:

27 Sec. 301.068. REFERRAL TO MUNICIPALITY. (a) Subject to

1 Subsection (b), the ~~[The]~~ commission may defer proceedings under
2 this chapter and refer a complaint to a municipality that has been
3 certified by the federal Department of Housing and Urban
4 Development as a substantially equivalent fair housing agency.

5 (b) The commission may not defer proceedings and refer a
6 complaint under Subsection (a) to a municipality in which the
7 alleged discrimination occurred if:

8 (1) the complaint alleges discrimination based on
9 sexual orientation or gender identity or based on status as a
10 military veteran; and

11 (2) the municipality does not have laws prohibiting
12 the alleged discrimination.

13 SECTION 29. Section 301.171(a), Property Code, is amended
14 to read as follows:

15 (a) A person commits an offense if the person, without
16 regard to whether the person is acting under color of law, by force
17 or threat of force intentionally intimidates or interferes with a
18 person:

19 (1) because of the person's race, color, religion,
20 sex, disability, familial status, ~~[or]~~ national origin, sexual
21 orientation, or gender identity, or because of the person's status
22 as a military veteran and because the person is or has been selling,
23 purchasing, renting, financing, occupying, or contracting or
24 negotiating for the sale, purchase, rental, financing, or
25 occupation of any dwelling or applying for or participating in a
26 service, organization, or facility relating to the business of
27 selling or renting dwellings; or

1 (2) because the person is or has been or to intimidate
2 the person from:

3 (A) participating, without discrimination
4 because of race, color, religion, sex, disability, familial status,
5 ~~[or]~~ national origin, sexual orientation, or gender identity, or
6 because of status as a military veteran, in an activity, service,
7 organization, or facility described by Subdivision (1); ~~[or]~~

8 (B) affording another person opportunity or
9 protection to so participate; or

10 (C) lawfully aiding or encouraging other persons
11 to participate, without discrimination because of race, color,
12 religion, sex, disability, familial status, ~~[or]~~ national origin,
13 sexual orientation, or gender identity, or because of status as a
14 military veteran, in an activity, service, organization, or
15 facility described by Subdivision (1).

16 SECTION 30. (a) The changes in law made by this Act to the
17 Business & Commerce Code and the Labor Code apply to conduct
18 occurring on or after the effective date of this Act. Conduct
19 occurring before that date is governed by the law in effect on the
20 date the conduct occurred, and the former law is continued in effect
21 for that purpose.

22 (b) The changes in law made by this Act to the Property Code
23 apply only to a complaint filed with the Texas Workforce Commission
24 on or after the effective date of this Act. A complaint filed
25 before that date is governed by the law as it existed immediately
26 before the effective date of this Act, and that law is continued in
27 effect for that purpose.

1 SECTION 31. This Act takes effect September 1, 2021.