87R10705 MCF-D

By:  Rose H.B. No. 4122

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting certain discrimination based on sexual orientation or gender identity or expression.

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

SECTION 1.  Articles 42.014(a) and (c), Code of Criminal Procedure, are amended to read as follows:

(a)  In the trial of an offense under Title 5, Penal Code, or Section 28.02, 28.03, or 28.08, Penal Code, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment of the case if at the guilt or innocence phase of the trial, the judge or the jury, whichever is the trier of fact, determines beyond a reasonable doubt that the defendant intentionally selected the person against whom the offense was committed, or intentionally selected the person's property that was damaged or affected as a result of the offense, because of the defendant's bias or prejudice against a group identified by race, color, disability, religion, national origin or ancestry, age, gender, [~~or~~] sexual orientation, or gender identity or expression [~~preference~~] or by status as a peace officer or judge.

(c)  In this article:

(1)  "Gender identity or expression" means having or being perceived as having a gender-related identity, appearance, expression, or behavior, regardless of whether that identity, appearance, expression, or behavior is different from that commonly associated with the person's actual or perceived sex.

(2)  "Sexual orientation" means the actual or perceived status of an individual with respect to the individual's sexuality[~~, "sexual preference" has the following meaning only: a preference for heterosexuality, homosexuality, or bisexuality~~].

SECTION 2.  Section 153.003, Family Code, is amended to read as follows:

Sec. 153.003.  NO DISCRIMINATION BASED ON SEX, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR MARITAL STATUS. (a) The court shall consider the qualifications of the parties without regard to their marital status, sexual orientation, or gender identity or expression, or to the sex of the party or the child in determining:

(1)  which party to appoint as sole managing conservator;

(2)  whether to appoint a party as joint managing conservator; and

(3)  the terms and conditions of conservatorship and possession of and access to the child.

(b)  In this section:

(1)  "Gender identity or expression" means having or being perceived as having a gender-related identity, appearance, expression, or behavior, regardless of whether that identity, appearance, expression, or behavior is different from that commonly associated with the person's actual or perceived sex.

(2)  "Sexual orientation" means the actual or perceived status of an individual with respect to the individual's sexuality.

SECTION 3.  Section 544.002, Insurance Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a)  A person may not refuse to insure or provide coverage to an individual, refuse to continue to insure or provide coverage to an individual, limit the amount, extent, or kind of coverage available for an individual, or charge an individual a rate that is different from the rate charged to other individuals for the same coverage because of the individual's:

(1)  race, color, religion, or national origin;

(2)  age, gender, marital status, or geographic location; [~~or~~]

(3)  disability or partial disability; or

(4)  sexual orientation or gender identity or expression.

(d)  In this section:

(1)  "Gender identity or expression" means having or being perceived as having a gender-related identity, appearance, expression, or behavior, regardless of whether that identity, appearance, expression, or behavior is different from that commonly associated with the person's actual or perceived sex.

(2)  "Sexual orientation" means the actual or perceived status of an individual with respect to the individual's sexuality.

SECTION 4.  Section 21.002, Labor Code, is amended by adding Subdivisions (9-a) and (13-a) to read as follows:

(9-a)  "Gender identity or expression" means having or being perceived as having a gender-related identity, appearance, expression, or behavior, regardless of whether that identity, appearance, expression, or behavior is different from that commonly associated with the person's actual or perceived sex.

(13-a)  "Sexual orientation" means the actual or perceived status of an individual with respect to the individual's sexuality.

SECTION 5.  Section 21.051, Labor Code, is amended to read as follows:

Sec. 21.051.  DISCRIMINATION BY EMPLOYER. An employer commits an unlawful employment practice if because of race, color, disability, religion, sex, national origin, [~~or~~] age, sexual orientation, or gender identity or expression the employer:

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

(2)  limits, segregates, or classifies an employee or applicant for employment in a manner that would deprive or tend to deprive an individual of any employment opportunity or adversely affect in any other manner the status of an employee.

SECTION 6.  Article 42.014, Code of Criminal Procedure, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 7.  (a) Section 153.003, Family Code, as amended by this Act, applies to a suit affecting the parent-child relationship pending in a trial court on the effective date of this Act or filed on or after that date.

(b)  The enactment of this Act constitutes a material and substantial change of circumstances sufficient to warrant modification of a court order or portion of a decree that provides for conservatorship or possession of or access to a child rendered before the effective date of this Act.

SECTION 8.  Section 544.002, Insurance Code, as amended by this Act, applies only to a health benefit plan delivered, issued for delivery, or renewed on or after January 1, 2022. A health benefit plan delivered, issued for delivery, or renewed before January 1, 2022, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 9.  Section 21.051, Labor Code, as amended by this Act, applies to conduct occurring on or after the effective date of this Act. Conduct occurring before that date is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 10.  This Act takes effect September 1, 2021.