

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

1 associated with the person's actual or perceived sex.

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

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

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

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

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

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

20 (b) In this section:

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

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

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

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

- 10 (1) race, color, religion, or national origin;  
11 (2) age, gender, marital status, or geographic  
12 location; ~~or~~  
13 (3) disability or partial disability; or  
14 (4) sexual orientation or gender identity or  
15 expression.

16 (d) In this section:

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

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

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

26 (9-a) "Gender identity or expression" means having or  
27 being perceived as having a gender-related identity, appearance,

1 expression, or behavior, regardless of whether that identity,  
2 appearance, expression, or behavior is different from that commonly  
3 associated with the person's actual or perceived sex.

4 (13-a) "Sexual orientation" means the actual or  
5 perceived status of an individual with respect to the individual's  
6 sexuality.

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

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

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

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

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

1 of the offense occurred before that date.

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

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

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

18 SECTION 9. Section [21.051](#), Labor Code, as amended by this  
19 Act, applies to conduct occurring on or after the effective date of  
20 this Act. Conduct occurring before that date is governed by the law  
21 in effect on the date the conduct occurred, and the former law is  
22 continued in effect for that purpose.

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