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By:  Rosenthal H.B. No. 3918

A BILL TO BE ENTITLED

AN ACT

relating to the prohibition, prevention, and remedying of certain discrimination.

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

SECTION 1.  Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 100B to read as follows:

CHAPTER 100B. LIABILITY ARISING FROM DISCRIMINATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 100B.001.  DEFINITIONS. In this chapter:

(1)  "Aggrieved person" includes any person who:

(A)  claims to have been injured by a discriminatory practice; or

(B)  believes that the person will be injured by a discriminatory practice that is about to occur.

(2)  "Discriminatory practice" means an act prohibited by this chapter.

(3)  "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 individual's actual or perceived sex.

(4)  "Public accommodation" means a business or other entity that offers to the public food, shelter, recreation or amusement, or any other goods, service, privilege, facility, or accommodation.

(5)  "Religious organization" means:

(A)  a religious corporation, association, or society; or

(B)  a school, institution of higher education, or other educational institution, not otherwise a religious organization, that:

(i)  is wholly or substantially controlled, managed, owned, or supported by a religious organization; or

(ii)  has a curriculum directed toward the propagation of a particular religion.

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

Sec. 100B.002.  APPLICABILITY OF CHAPTER. (a) Except as provided by Subsection (b), this chapter does not apply to a religious organization.

(b)  This chapter applies to activities conducted by a religious organization for profit to the extent that those activities are subject to federal taxation under Section 511(a), Internal Revenue Code of 1986, as that section existed on September 1, 2023.

SUBCHAPTER B. DISCRIMINATION IN PUBLIC ACCOMMODATIONS PROHIBITED

Sec. 100B.051.  PUBLIC ACCOMMODATIONS. (a) Except as provided by Subsection (b), a person engages in a discriminatory practice and violates this chapter if the person, because of the sexual orientation or gender identity or expression of an individual:

(1)  denies that individual full and equal accommodation in any place of public accommodation in this state, subject only to the conditions established by law and applicable to all persons; or

(2)  otherwise discriminates against or segregates or separates the individual in a place of public accommodation in this state based on sexual orientation or gender identity or expression.

(b)  A person does not engage in a discriminatory practice or violate this chapter under Subsection (a) if segregation or separation of an individual is necessary to provide a service that:

(1)  provides acceptance, support, and understanding to the individual;

(2)  assists the individual with coping with the individual's sexual orientation or gender identity or expression, maintaining social support, and exploring and identifying the individual's identity; or

(3)  provides support to an individual undergoing a gender transition.

(c)  The services described by Subsection (b)(2) include a sexual orientation-neutral intervention for preventing or addressing unlawful conduct or unsafe sexual practices if the intervention does not seek to change the individual's sexual orientation or gender identity or expression.

SUBCHAPTER C. CAUSE OF ACTION

Sec. 100B.101.  CIVIL ACTION. An aggrieved person may file a civil action in district court not later than the second anniversary of the occurrence of the termination of an alleged discriminatory practice under this chapter to obtain appropriate relief with respect to the discriminatory practice.

Sec. 100B.102.  RELIEF GRANTED. In an action under this subchapter, if the court finds that a discriminatory practice has occurred or is about to occur, the court may award to the plaintiff:

(1)  actual and exemplary damages;

(2)  reasonable attorney's fees;

(3)  court costs; and

(4)  any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in the practice or ordering other appropriate action.

SECTION 2.  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, 28.08, or 42.0601, 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 individual'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 3.  Subchapter D, Chapter 11, Education Code, is amended by adding Section 11.172 to read as follows:

Sec. 11.172.  DISCRIMINATION, HARASSMENT, AND RETALIATION PROHIBITED. (a) 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 individual's actual or perceived sex.

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

(b)  A school district or employee of a school district may not:

(1)  discriminate against or harass a district employee or a student enrolled in the district on account of:

(A)  the actual or perceived ethnicity, color, gender, gender identity or expression, sexual orientation, disability, religion, or national origin of the employee, student, or student's parent; or

(B)  one or more persons with whom the employee, student, or student's parent associates; or

(2)  retaliate against a district employee or a student enrolled in the district for reporting potential discrimination or harassment prohibited by Subdivision (1).

(c)  This section applies to conduct that occurs:

(1)  on school property;

(2)  while attending a school-sponsored or school-related activity on or off school property; or

(3)  in connection with transportation of students in a vehicle owned or operated by a school district or owned or operated by another entity under contract with a school district.

(d)  A school district shall provide periodic training to district employees regarding prevention of discrimination and harassment prohibited by this section and procedures for responding to reported or observed incidents of prohibited discrimination or harassment. The training may be provided in conjunction with any training provided under Section 37.083.

(e)  In accordance with rules adopted by the commissioner, each school district shall report biennially to the agency information regarding each incident of alleged discrimination or harassment that occurred at each campus in the district during the preceding two school years. The agency shall include the information, disaggregated by campus, in the comprehensive biennial report required by Section 39.332.

SECTION 4.  Subchapter A, Chapter 1, Family Code, is amended by adding Section 1.0015 to read as follows:

Sec. 1.0015.  CONSTRUCTION OF GENDER-SPECIFIC TERMINOLOGY. When necessary to implement the rights and duties of spouses or parents in a marriage between persons of the same sex under the laws of this state, gender-specific terminology must be construed in a neutral manner to refer to a person of either gender.

SECTION 5.  Section 2.001(a), Family Code, is amended to read as follows:

(a)  Two individuals [~~A man and a woman~~] desiring to enter into a ceremonial marriage must obtain a marriage license from the county clerk of any county of this state.

SECTION 6.  Section 2.004(b), Family Code, is amended to read as follows:

(b)  The application form must contain:

(1)  a heading entitled "Application for Marriage License, \_\_\_\_\_\_\_\_\_\_\_\_ County, Texas";

(2)  spaces for each applicant's full name, including the [~~woman's maiden~~] surname of an applicant intending to change the applicant's surname as a result of the marriage, address, social security number, if any, date of birth, and place of birth, including city, county, and state;

(3)  a space for indicating the document tendered by each applicant as proof of identity and age;

(4)  spaces for indicating whether each applicant has been divorced within the last 30 days;

(5)  printed boxes for each applicant to check "true" or "false" in response to the following statement:  "I am not presently married and the other applicant is not presently married.";

(6)  printed boxes for each applicant to check "true" or "false" in response to the following statement:  "The other applicant is not related to me as:

(A)  an ancestor or descendant, by blood or adoption;

(B)  a brother or sister, of the whole or half blood or by adoption;

(C)  a parent's brother or sister, of the whole or half blood or by adoption;

(D)  a son or daughter of a brother or sister, of the whole or half blood or by adoption;

(E)  a current or former stepchild or stepparent; or

(F)  a son or daughter of a parent's brother or sister, of the whole or half blood or by adoption.";

(7)  printed boxes for each applicant to check "true" or "false" in response to the following statement:  "I am not presently delinquent in the payment of court-ordered child support.";

(8)  a printed oath reading:  "I SOLEMNLY SWEAR (OR AFFIRM) THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION IS CORRECT.";

(9)  spaces immediately below the printed oath for the applicants' signatures;

(10)  a certificate of the county clerk that:

(A)  each applicant made the oath and the date and place that it was made; or

(B)  an applicant did not appear personally but the prerequisites for the license have been fulfilled as provided by this chapter;

(11)  spaces for indicating the date of the marriage and the county in which the marriage is performed;

(12)  a space for the address to which the applicants desire the completed license to be mailed; and

(13)  a printed box for each applicant to check indicating that the applicant wishes to make a voluntary contribution of $5 to promote healthy early childhood by supporting the Texas Home Visiting Program administered by the Department of Family and Protective Services [~~Office of Early Childhood Coordination of the Health and Human Services Commission~~].

SECTION 7.  Section 2.401(a), Family Code, is amended to read as follows:

(a)  In a judicial, administrative, or other proceeding, the marriage of two individuals [~~a man and woman~~] may be proved by evidence that:

(1)  a declaration of their marriage has been signed as provided by this subchapter; or

(2)  the individuals [~~man and woman~~] agreed to be married and after the agreement they lived together in this state as spouses [~~husband and wife~~] and there represented to others that they were married.

SECTION 8.  Section 2.402(b), Family Code, is amended to read as follows:

(b)  The declaration form must contain:

(1)  a heading entitled "Declaration and Registration of Informal Marriage, \_\_\_\_\_\_\_\_\_\_\_ County, Texas";

(2)  spaces for each party's full name, including the [~~woman's maiden~~] surname of a party intending to change the party's surname as a result of the marriage, address, date of birth, place of birth, including city, county, and state, and social security number, if any;

(3)  a space for indicating the type of document tendered by each party as proof of age and identity;

(4)  printed boxes for each party to check "true" or "false" in response to the following statement:  "The other party is not related to me as:

(A)  an ancestor or descendant, by blood or adoption;

(B)  a brother or sister, of the whole or half blood or by adoption;

(C)  a parent's brother or sister, of the whole or half blood or by adoption;

(D)  a son or daughter of a brother or sister, of the whole or half blood or by adoption;

(E)  a current or former stepchild or stepparent; or

(F)  a son or daughter of a parent's brother or sister, of the whole or half blood or by adoption.";

(5)  a printed declaration and oath reading:  "I SOLEMNLY SWEAR (OR AFFIRM) THAT WE, THE UNDERSIGNED, ARE MARRIED TO EACH OTHER BY VIRTUE OF THE FOLLOWING FACTS:  ON OR ABOUT (DATE) WE AGREED TO BE MARRIED, AND AFTER THAT DATE WE LIVED TOGETHER AS SPOUSES [~~HUSBAND AND WIFE~~] AND IN THIS STATE WE REPRESENTED TO OTHERS THAT WE WERE MARRIED.  SINCE THE DATE OF MARRIAGE TO THE OTHER PARTY I HAVE NOT BEEN MARRIED TO ANY OTHER PERSON.  THIS DECLARATION IS TRUE AND THE INFORMATION IN IT WHICH I HAVE GIVEN IS CORRECT.";

(6)  spaces immediately below the printed declaration and oath for the parties' signatures; and

(7)  a certificate of the county clerk that the parties made the declaration and oath and the place and date it was made.

SECTION 9.  Section 3.401, Family Code, is amended by adding Subdivision (1) and amending Subdivisions (4) and (5) to read as follows:

(1)  "Civil union" means any relationship status other than marriage that:

(A)  is intended as an alternative to marriage or applies primarily to cohabitating persons; and

(B)  grants to the parties of the relationship legal protections, benefits, or responsibilities granted to the spouses of a marriage.

(4)  "Marital estate" means one of three estates:

(A)  the community property owned by the spouses together and referred to as the community marital estate; or

(B)  the separate property owned individually by each spouse [~~the husband~~] and referred to as a separate marital estate[~~; or~~

[~~(C)  the separate property owned individually by the wife, also referred to as a separate marital estate~~].

(5)  "Spouse" means one of the two individuals who are the parties to:

(A)  a marriage; or

(B)  [~~a husband, who is a man, or a wife, who is a woman. A member of~~] a civil union [~~or similar relationship~~] entered into in another state [~~between persons of the same sex is not a spouse~~].

SECTION 10.  Section 6.104(b), Family Code, is amended to read as follows:

(b)  In exercising its discretion, the court shall consider the pertinent facts concerning the welfare of the parties to the marriage, including whether a spouse [~~the female~~] is pregnant.

SECTION 11. Section 6.202(b), Family Code, is amended to read as follows:

(b)  The later marriage that is void under this section becomes valid when the prior marriage is dissolved if, after the date of the dissolution, the parties have lived together as spouses [~~husband and wife~~] and represented themselves to others as being married.

SECTION 12.  Section 6.203, Family Code, is amended to read as follows:

Sec. 6.203.  CERTAIN VOID MARRIAGES VALIDATED. Except for a marriage that would have been void under Section 6.201, a marriage that was entered into before January 1, 1970, in violation of the prohibitions of Article 496, Penal Code of Texas, 1925, is validated from the date the marriage commenced if the parties continued until January 1, 1970, to live together as spouses [~~husband and wife~~] and to represent themselves to others as being married.

SECTION 13.  Section 6.704, Family Code, is amended to read as follows:

Sec. 6.704.  TESTIMONY OF SPOUSE [~~HUSBAND OR WIFE~~]. (a) In a suit for dissolution of a marriage, each spouse is a [~~the husband and wife are~~] competent witness [~~witnesses~~] for and against the [~~each~~] other spouse. A spouse may not be compelled to testify as to a matter that will incriminate the spouse.

(b)  If a spouse [~~the husband or wife~~] testifies, the court or jury trying the case shall determine the credibility of the witness and the weight to be given the witness's testimony.

SECTION 14.  Subchapter B, Chapter 45, Family Code, is amended by adding Section 45.108 to read as follows:

Sec. 45.108.  CHANGE OF NAME AND VITAL STATISTICS INFORMATION. (a) Subject to the eligibility requirements for a name change under Section 45.103, a court shall order a change of name under this subchapter for a petitioner whose petition is accompanied by a sworn affidavit of a licensed physician stating the petitioner identifies as a gender other than the gender indicated on the petitioner's driver's license, birth certificate, or other official document.

(b)  A court that orders a change of name for a petitioner under this section shall simultaneously order:

(1)  the Department of Public Safety, as soon as practicable, to change the petitioner's name and gender on the petitioner's driver's license and other identification documents under the department's control; and

(2)  the vital statistics unit of the Department of State Health Services, on receipt of a licensed physician's sworn affidavit that the petitioner identifies as a gender other than the gender indicated on the petitioner's birth certificate, to amend the petitioner's birth certificate in the manner provided by Section 192.011, Health and Safety Code, to reflect the petitioner's true gender.

(c)  This section may not be construed to require a surgical procedure as a prerequisite for a court order under Subsection (a) or (b).

SECTION 15.  Chapter 51, Family Code, is amended by adding Section 51.015 to read as follows:

Sec. 51.015.  CONSTRUCTION OF GENDER-SPECIFIC TERMINOLOGY. When necessary to implement the rights and duties of spouses or parents in a marriage between persons of the same sex under the laws of this state, gender-specific terminology must be construed in a neutral manner to refer to a person of either gender.

SECTION 16.  Chapter 101, Family Code, is amended by adding Section 101.0012 to read as follows:

Sec. 101.0012.  CONSTRUCTION OF GENDER-SPECIFIC TERMINOLOGY. When necessary to implement the rights and duties of spouses or parents in a marriage between persons of the same sex under the laws of this state, gender-specific terminology must be construed in a neutral manner to refer to a person of either gender.

SECTION 17.  Section 101.024(a), Family Code, is amended to read as follows:

(a)  "Parent" means the mother, a man presumed to be the father, an individual [~~a man~~] legally determined to be a parent [~~the father~~], an individual [~~a man~~] who has been adjudicated to be a parent [~~the father~~] by a court of competent jurisdiction, a man who has acknowledged his parentage [~~paternity~~] under applicable law, or an adoptive mother or father. Except as provided by Subsection (b), the term does not include a parent as to whom the parent-child relationship has been terminated.

SECTION 18.  Section 108.009(b), Family Code, is amended to read as follows:

(b)  The new certificate may not show that a parent-child [~~the father and child~~] relationship was established after the child's birth but may show the child's actual place and date of birth.

SECTION 19.  Section 152.310(d), Family Code, is amended to read as follows:

(d)  A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of spouses [~~husband and wife~~] or parent and child may not be invoked in a proceeding under this subchapter.

SECTION 20.  Section 153.312(b), Family Code, is amended to read as follows:

(b)  The following provisions govern possession of the child for vacations and certain specific holidays and supersede conflicting weekend or Thursday periods of possession.  The possessory conservator and the managing conservator shall have rights of possession of the child as follows:

(1)  the possessory conservator shall have possession in even-numbered years, beginning at 6 p.m. on the day the child is dismissed from school for the school's spring vacation and ending at 6 p.m. on the day before school resumes after that vacation, and the managing conservator shall have possession for the same period in odd-numbered years;

(2)  if a possessory conservator:

(A)  gives the managing conservator written notice by April 1 of each year specifying an extended period or periods of summer possession, the possessory conservator shall have possession of the child for 30 days beginning not earlier than the day after the child's school is dismissed for the summer vacation and ending not later than seven days before school resumes at the end of the summer vacation, to be exercised in not more than two separate periods of at least seven consecutive days each, with each period of possession beginning and ending at 6 p.m. on each applicable day; or

(B)  does not give the managing conservator written notice by April 1 of each year specifying an extended period or periods of summer possession, the possessory conservator shall have possession of the child for 30 consecutive days beginning at 6 p.m. on July 1 and ending at 6 p.m. on July 31;

(3)  if the managing conservator gives the possessory conservator written notice by April 15 of each year, the managing conservator shall have possession of the child on any one weekend beginning Friday at 6 p.m. and ending at 6 p.m. on the following Sunday during one period of possession by the possessory conservator under Subdivision (2), provided that the managing conservator picks up the child from the possessory conservator and returns the child to that same place; and

(4)  if the managing conservator gives the possessory conservator written notice by April 15 of each year or gives the possessory conservator 14 days' written notice on or after April 16 of each year, the managing conservator may designate one weekend beginning not earlier than the day after the child's school is dismissed for the summer vacation and ending not later than seven days before school resumes at the end of the summer vacation, during which an otherwise scheduled weekend period of possession by the possessory conservator will not take place, provided that the weekend designated does not interfere with the possessory conservator's period or periods of extended summer possession or with Father's Day if the possessory conservator is a [~~the~~] father of the child who is entitled to possession of the child for Father's Day weekend that year.

SECTION 21.  Sections 153.313 and 153.314, Family Code, are amended to read as follows:

Sec. 153.313.  PARENTS WHO RESIDE OVER 100 MILES APART. If the possessory conservator resides more than 100 miles from the residence of the child, the possessory conservator shall have the right to possession of the child as follows:

(1)  either regular weekend possession beginning on the first, third, and fifth Friday as provided under the terms applicable to parents who reside 100 miles or less apart or not more than one weekend per month of the possessory conservator's choice beginning at 6 p.m. on the day school recesses for the weekend and ending at 6 p.m. on the day before school resumes after the weekend, provided that the possessory conservator gives the managing conservator 14 days' written or telephonic notice preceding a designated weekend, and provided that the possessory conservator elects an option for this alternative period of possession by written notice given to the managing conservator within 90 days after the parties begin to reside more than 100 miles apart, as applicable;

(2)  each year beginning at 6 p.m. on the day the child is dismissed from school for the school's spring vacation and ending at 6 p.m. on the day before school resumes after that vacation;

(3)  if the possessory conservator:

(A)  gives the managing conservator written notice by April 1 of each year specifying an extended period or periods of summer possession, the possessory conservator shall have possession of the child for 42 days beginning not earlier than the day after the child's school is dismissed for the summer vacation and ending not later than seven days before school resumes at the end of the summer vacation, to be exercised in not more than two separate periods of at least seven consecutive days each, with each period of possession beginning and ending at 6 p.m. on each applicable day; or

(B)  does not give the managing conservator written notice by April 1 of each year specifying an extended period or periods of summer possession, the possessory conservator shall have possession of the child for 42 consecutive days beginning at 6 p.m. on June 15 and ending at 6 p.m. on July 27;

(4)  if the managing conservator gives the possessory conservator written notice by April 15 of each year the managing conservator shall have possession of the child on one weekend beginning Friday at 6 p.m. and ending at 6 p.m. on the following Sunday during one period of possession by the possessory conservator under Subdivision (3), provided that if a period of possession by the possessory conservator exceeds 30 days, the managing conservator may have possession of the child under the terms of this subdivision on two nonconsecutive weekends during that time period, and further provided that the managing conservator picks up the child from the possessory conservator and returns the child to that same place; and

(5)  if the managing conservator gives the possessory conservator written notice by April 15 of each year, the managing conservator may designate 21 days beginning not earlier than the day after the child's school is dismissed for the summer vacation and ending not later than seven days before school resumes at the end of the summer vacation, to be exercised in not more than two separate periods of at least seven consecutive days each, with each period of possession beginning and ending at 6 p.m. on each applicable day, during which the possessory conservator may not have possession of the child, provided that the period or periods so designated do not interfere with the possessory conservator's period or periods of extended summer possession or with Father's Day if the possessory conservator is a [~~the~~] father of the child who is entitled to possession of the child for Father's Day weekend that year.

Sec. 153.314.  HOLIDAY POSSESSION UNAFFECTED BY DISTANCE PARENTS RESIDE APART. The following provisions govern possession of the child for certain specific holidays and supersede conflicting weekend or Thursday periods of possession without regard to the distance the parents reside apart.  The possessory conservator and the managing conservator shall have rights of possession of the child as follows:

(1)  the possessory conservator shall have possession of the child in even-numbered years beginning at 6 p.m. on the day the child is dismissed from school for the Christmas school vacation and ending at noon on December 28, and the managing conservator shall have possession for the same period in odd-numbered years;

(2)  the possessory conservator shall have possession of the child in odd-numbered years beginning at noon on December 28 and ending at 6 p.m. on the day before school resumes after that vacation, and the managing conservator shall have possession for the same period in even-numbered years;

(3)  the possessory conservator shall have possession of the child in odd-numbered years, beginning at 6 p.m. on the day the child is dismissed from school before Thanksgiving and ending at 6 p.m. on the following Sunday, and the managing conservator shall have possession for the same period in even-numbered years;

(4)  the parent not otherwise entitled under this standard possession order to present possession of a child on the child's birthday shall have possession of the child beginning at 6 p.m. and ending at 8 p.m. on that day, provided that the parent picks up the child from the residence of the conservator entitled to possession and returns the child to that same place;

(5)  if a conservator, the father shall have possession of the child beginning at 6 p.m. on the Friday preceding Father's Day and ending on Father's Day at 6 p.m., provided that, if he is not otherwise entitled under this standard possession order to present possession of the child, he picks up the child from the residence of the conservator entitled to possession and returns the child to that same place, except that if the child has two fathers appointed as conservators, the managing conservator shall have possession of the child for the period described by this subdivision in even-numbered years and the possessory conservator shall have possession of the child for that period in odd-numbered years; and

(6)  if a conservator, the mother shall have possession of the child beginning at 6 p.m. on the Friday preceding Mother's Day and ending on Mother's Day at 6 p.m., provided that, if she is not otherwise entitled under this  standard possession order to present possession of the child, she picks up the child from the residence of the conservator entitled to possession and returns the child to that same place, except that if the child has two mothers appointed as conservators, the managing conservator shall have possession of the child for the period described by this subdivision in even-numbered years and the possessory conservator shall have possession of the child for that period in odd-numbered years.

SECTION 22.  Section 85.007(b), Health and Safety Code, is amended to read as follows:

(b)  The materials in the education programs intended for persons younger than 18 years of age must[~~:~~

[~~(1)~~]  emphasize sexual abstinence before marriage and fidelity in marriage as the expected standard in terms of public health and the most effective ways to prevent HIV infection, sexually transmitted diseases, and unwanted pregnancies[~~; and~~

[~~(2)  state that homosexual conduct is not an acceptable lifestyle and is a criminal offense under Section 21.06, Penal Code~~].

SECTION 23.  Section 163.002, Health and Safety Code, is amended to read as follows:

Sec. 163.002.  INSTRUCTIONAL ELEMENTS. Course materials and instruction relating to sexual education or sexually transmitted diseases should include:

(1)  an emphasis on sexual abstinence as the only completely reliable method of avoiding unwanted teenage pregnancy and sexually transmitted diseases;

(2)  an emphasis on the importance of self-control, responsibility, and ethical conduct in making decisions relating to sexual behavior;

(3)  statistics, based on the latest medical information, that indicate the efficacy of the various forms of contraception;

(4)  information concerning the laws relating to the financial responsibilities associated with pregnancy, childbirth, and child rearing;

(5)  information concerning the laws prohibiting sexual abuse and the legal and counseling options available to victims of sexual abuse;

(6)  information on how to cope with and rebuff unwanted physical and verbal sexual advances, as well as the importance of avoiding the sexual exploitation of other persons;

(7)  psychologically sound methods of resisting unwanted peer pressure; and

(8)  emphasis, provided in a factual manner and from a public health perspective, that homosexuality is not a lifestyle acceptable to the general public [~~and that homosexual conduct is a criminal offense under Section 21.06, Penal Code~~].

SECTION 24.  Section 21.11(b), Penal Code, is amended to read as follows:

(b)  It is an affirmative defense to prosecution under this section that the actor:

(1)  was not more than three years older than the victim [~~and of the opposite sex~~];

(2)  did not use duress, force, or a threat against the victim at the time of the offense; and

(3)  at the time of the offense:

(A)  was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or

(B)  was not a person who under Chapter 62, Code of Criminal Procedure, had a reportable conviction or adjudication for an offense under this section.

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

(6)  "Disability" means a mental or physical impairment that substantially limits at least one major life activity, a record of the impairment, or being regarded as having the impairment. The term does not include current illegal use or addiction to any drug or illegal or federally controlled substance [~~and does not apply to an individual because of an individual's sexual orientation or because that individual is a transvestite~~].

(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 individual's actual or perceived sex.

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

SECTION 26.  Sections 301.021(a) and (b), Property Code, are amended to read as follows:

(a)  A person may not refuse to sell or rent, after the making of a bona fide offer, refuse to negotiate for the sale or rental of, or in any other manner make unavailable or deny a dwelling to another because of race, color, religion, sex, familial status, [~~or~~] national origin, sexual orientation, or gender identity or expression.

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

SECTION 27.  Section 301.022, Property Code, is amended to read as follows:

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

SECTION 28.  Section 301.023, Property Code, is amended to read as follows:

Sec. 301.023.  INSPECTION. A person may not represent to another because of race, color, religion, sex, disability, familial status, [~~or~~] national origin, sexual orientation, or gender identity or expression that a dwelling is not available for inspection for sale or rental when the dwelling is available for inspection.

SECTION 29.  Section 301.024, Property Code, is amended to read as follows:

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

SECTION 30.  Section 301.026(a), Property Code, is amended to read as follows:

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

SECTION 31.  Section 301.027, Property Code, is amended to read as follows:

Sec. 301.027.  BROKERAGE SERVICES. A person may not deny another access to, or membership or participation in, a multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or discriminate against a person in the terms or conditions of access, membership, or participation in such an organization, service, or facility because of race, color, religion, sex, disability, familial status, [~~or~~] national origin, sexual orientation, or gender identity or expression.

SECTION 32.  Sections 301.042(a) and (c), Property Code, are amended to read as follows:

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

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

(2)  giving preference to persons of the same religion, unless membership in the religion is restricted because of race, color, sex, disability, familial status, [~~or~~] national origin, sexual orientation, or gender identity or expression.

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

SECTION 33.  Section 301.068, Property Code, is amended to read as follows:

Sec. 301.068.  REFERRAL TO MUNICIPALITY. (a) Subject to Subsection (b), the [~~The~~] commission may defer proceedings under this chapter and refer a complaint to a municipality that has been certified by the federal Department of Housing and Urban Development as a substantially equivalent fair housing agency.

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

(1)  the complaint alleges discrimination based on sexual orientation or gender identity or expression; and

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

SECTION 34.  Section 301.171(a), Property Code, is amended to read as follows:

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

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

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

(A)  participating, without discrimination because of race, color, religion, sex, disability, familial status, [~~or~~] national origin, sexual orientation, or gender identity or expression, in an activity, service, organization, or facility described by Subdivision (1); [~~or~~]

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

(C)  lawfully aiding or encouraging other persons to participate, without discrimination because of race, color, religion, sex, disability, familial status, [~~or~~] national origin, sexual orientation, or gender identity or expression, in an activity, service, organization, or facility described by Subdivision (1).

SECTION 35.  The following laws are repealed:

(1)  Section 2.001(b), Family Code;

(2)  Section 6.204, Family Code;

(3)  Sections 810.001(g), (h), and (i), Government Code; and

(4)  Section 21.06, Penal Code.

SECTION 36.  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 37.  (a) Notwithstanding Section 11.172(e), Education Code, as added by this Act, each school district shall submit to the Texas Education Agency information described by that subsection for the 2023-2024 school year not later than October 1, 2024, and the Texas Education Agency shall include the submitted information in the comprehensive biennial report required by Section 39.332, Education Code, to be submitted by the agency not later than December 1, 2024. As authorized by Section 11.172(e), Education Code, as added by this Act, the commissioner of education in a timely manner shall adopt any rules necessary to implement the deadlines specified by this subsection.

(b)  Beginning with the comprehensive biennial report required by Section 39.332, Education Code, to be submitted not later than December 1, 2026, the Texas Education Agency shall include information submitted by school districts in accordance with Section 11.172(e), Education Code, as added by this Act, for the preceding two school years.

(c)  Section 11.172, Education Code, as added by this Act, applies beginning with the 2023-2024 school year.

SECTION 38.  Section 108.009(b), Family Code, as amended by this Act, applies only to a new birth certificate for a child born on or after the effective date of this Act. A new birth certificate for a child born before that date is governed by the law in effect on the date the child was born, and the former law is continued in effect for that purpose.

SECTION 39.  Sections 153.312(b), 153.313, and 153.314, Family Code, as amended by this Act, apply only to a court order providing for possession of or access to a child rendered on or after the effective date of this Act. A court order rendered before the effective date of this Act is governed by the law in effect on the date the order was rendered, and the former law is continued in effect for that purpose.

SECTION 40.  Section 21.11(b), Penal Code, as amended by this Act, applies to an offense committed on or after the effective date of this Act and to any criminal action pending on the effective date of this Act for an offense committed before that effective date. A final conviction for an offense under Section 21.11, Penal Code, that exists on the effective date of this Act is unaffected by this Act.

SECTION 41.  Sections 301.003, 301.021, 301.022, 301.023, 301.024, 301.026, 301.027, 301.042, 301.068, and 301.171, Property Code, as amended by this Act, apply only to a complaint filed with the Texas Workforce Commission civil rights division on or after the effective date of this Act. A complaint filed before that date 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 42. (a) Except as otherwise provided by Subsection (b) of this section, this Act takes effect September 1, 2023.

(b)  Section 11.172, Education Code, as added by this Act, takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for Section 11.172, Education Code, as added by this Act, to have immediate effect, that section takes effect September 1, 2023.