

SENATE FLOOR AMENDMENT

Second Reading

BY SENATOR Winter

- 1 Amend the Judiciary Committee Report, dated May 6, 2021, page 4,
2 strike lines 1 and 2 and substitute "**division to develop**. THE DIVISION
3 SHALL".
- 4 Page 4, line 5, strike "CIVILITY." and substitute "CIVILITY IN COMPLIANCE
5 WITH PART 4 OF THIS ARTICLE 34."
- 6 Page 4, line 6, strike "COMMISSION" and substitute "DIVISION".
- 7 Page 4, line 17, strike "DISCRIMINATION, HOSTILITY, OR" and substitute
8 "DISCRIMINATION AND".
- 9 Page 6, line 15, strike "INDIVIDUAL employed by" and substitute
10 "~~employed by~~ INDIVIDUAL PERFORMING LABOR OR SERVICES FOR".
- 11 Page 6, strike lines 21 through 41.
- 12 Page 7, strike lines 1 through 12 and substitute "EVIDENCE THAT THE
13 INDIVIDUAL SATISFIES THE CONDITIONS SPECIFIED IN SECTION 8-4-101 (5)
14 FOR A DETERMINATION THAT THE INDIVIDUAL IS NOT AN EMPLOYEE. A
15 DETERMINATION THAT AN INDIVIDUAL IS NOT AN EMPLOYEE FOR PURPOSES
16 OF THIS PART 4 DOES NOT AFFECT RIGHTS OR LIABILITIES UNDER ANY
17 OTHER LAW OR AGREEMENT.
- 18 (II) EVERY WRITTEN, ELECTRONIC, OR ORAL CONTRACT OR
19 AGREEMENT BETWEEN A PERSON FOR WHOM SERVICES ARE PERFORMED
20 AND AN INDIVIDUAL PERFORMING THE SERVICES WHO IS NOT AN
21 EMPLOYEE, AS DETERMINED PURSUANT TO SECTION 8-4-101 (5), SHALL
22 IMPOSE A REQUIREMENT THAT THE PERSON FOR WHOM THE SERVICES ARE
23 PERFORMED SHALL NOT ENGAGE IN ANY DISCRIMINATORY OR UNFAIR
24 EMPLOYMENT PRACTICE SPECIFIED IN SECTION 24-34-402 (1) WITH
25 RESPECT TO THE INDIVIDUAL PERFORMING THE SERVICES."
- 26 Page 7, line 16, after "INDIVIDUAL'S" insert "MEMBERSHIP IN A PROTECTED
27 CLASS BASED ON".
- 28 Page 7, line 25, strike "WITH" and substitute "IN THE SAME PROTECTED
29 CLASS OR WHO SHARES".
- 30 Page 7, line 29, strike "WITH" and substitute "IN THE SAME PROTECTED
31 CLASS OR WHO SHARES".

- 1 Page 8, strike line 9 and substitute "(1)(j), (1.5), and (8) as follows":
2 Page 9, line 1, after "REASONABLE," insert "AND, IF WARRANTED,".
- 3 Page 10, line 31, strike "OF AN EMPLOYEE'S" and substitute "OF, OR FAIL
4 TO TAKE PROMPT, REASONABLE, AND, IF WARRANTED, REMEDIAL ACTION
5 IN RESPONSE TO, A".
- 6 Page 10, strike lines 33 and 34 and substitute "DISCRIMINATION, OR
7 RETALIATION.".
- 8 Page 10, line 35, strike "CLAIMS" and substitute "PROVES".
- 9 Page 10, line 39, strike "END THE" and substitute "PREVENT".
- 10 Page 11, line 3, strike "A" and substitute "AN ADMISSIBLE".
- 11 Page 11, after line 10 insert:
- 12 "(8) THE CAREGIVER STATUS PROTECTIONS IN THIS SECTION DO
13 NOT REQUIRE AN EMPLOYER TO MAKE SPECIAL ACCOMMODATIONS FOR AN
14 EMPLOYEE WHO IS A CAREGIVER SO LONG AS THE EMPLOYER APPLIES ITS
15 POLICIES RELATED TO LEAVE, SCHEDULING, ABSENTEEISM, WORK
16 PERFORMANCE, AND BENEFITS IN A MANNER THAT IS NOT DISCRIMINATORY
17 OR UNFAIR UNDER SUBSECTION (1) OF THIS SECTION.".
- 18 Page 12, line 8, strike "PROVISION:" and substitute "PROVISION APPLIES".
- 19 Page 12, strike line 9.
- 20 Page 12, line 10, strike "(B) APPLIES".
- 21 Page 12, strike lines 21 through 28 and substitute:
- 22 "(IV) THE AGREEMENT INCLUDES A CONDITION THAT IF ANY PARTY
23 TO THE AGREEMENT MAKES A MATERIAL MISREPRESENTATION ABOUT
24 ANOTHER PARTY TO THE AGREEMENT, THE PARTY MAKING THE MATERIAL
25 MISREPRESENTATION MAY NOT ENFORCE ANY NONDISCLOSURE PROVISION
26 OR ASSOCIATED LIQUIDATED DAMAGES PROVISION IN THE AGREEMENT
27 AGAINST ANY OTHER PARTY, BUT ALL REMAINING TERMS OF THE
28 AGREEMENT REMAIN ENFORCEABLE.".
- 29 Page 12, line 36, strike "ALLOW" and substitute "INSTRUCT".

- 1 Page 13, line 23, strike "DEVELOPED" and substitute "PROVIDED".
- 2 Page 13, line 24, strike "COMMISSION" and substitute "DIVISION".
- 3 Page 14, strike lines 14 through 20.

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