

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0350.01 Richard Sweetman x4333

HOUSE BILL 26-1319

HOUSE SPONSORSHIP

Camacho and Joseph,

SENATE SPONSORSHIP

Gonzales J.,

House Committees
Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE RIGHT OF AN EMPLOYEE TO BE OPEN ABOUT THEIR
102 LGBTQ+ IDENTITY IN THE WORKPLACE WITHOUT ADVERSE
103 ACTION FROM THEIR EMPLOYER, AND, IN CONNECTION
104 THEREWITH, PROTECTING AN EMPLOYEE'S EXPRESSION OF
105 THEIR SEXUAL ORIENTATION, GENDER IDENTITY, OR STATUS AS
106 A TRANSGENDER, NONBINARY, OR TRANSITIONING INDIVIDUAL.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill prohibits an employer from:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

- Subjecting an employee to an adverse employment action in response to the employee's disclosure of, or communication about, the employee's sexual orientation, gender identity, or gender expression or to the employee's status as a transgender, nonbinary, or transitioning individual; or
- Retaliating against an employee who supports, assists, or advocates for a coworker, student, or client in exercising their right to nondiscrimination, including by referring to an individual by their chosen names, pronouns, or personal titles.

The bill allows an employee to determine the names, pronouns, and personal titles that are used to refer to the employee in the workplace, and the bill requires an employer, upon notification by an employee, to update all internal and public-facing records to reflect the employee's chosen name. If an employee chooses a name other than the employee's legal name, an employer must use the employee's legal name only where such use is required by law.

The bill prohibits an employer from having a workplace dress code that imposes different requirements on the basis of an individual's sexual orientation, gender identity, or gender expression. An employer must allow each employee access to a restroom and changing facility that corresponds with the employee's gender identity.

An employer operating a public building must ensure that the building includes at least one restroom that is compliant with the federal "Americans with Disabilities Act of 1990" and accessible to all individuals, regardless of the individual's sexual orientation, gender identity, or gender expression. An employer must provide private, nonbathroom spaces for nursing or pumping, which spaces are available to all parents regardless of their sexual orientation, gender identity, or gender expression.

An employer must ensure equal access to certain employment benefits without regard to an employee's sexual orientation, gender identity, or gender expression.

The bill requires every public employer to provide a voluntary, employee-initiated process for the development and implementation of a written transition plan for a transgender or transitioning employee. Upon request by an employee, a public employer shall promptly engage in good faith discussions with the employee, and, if applicable, the employee's designated union representative, to develop a transition plan. A transition plan may include consideration of:

- Internal and external communications regarding the employee's transition;
- Scheduling and approval of any absences related to the transition process;

1 (a) COLORADO LAW, SPECIFICALLY SECTION 24-34-402, PROHIBITS
2 DISCRIMINATORY OR UNFAIR EMPLOYMENT PRACTICES AGAINST
3 INDIVIDUALS ON THE BASIS OF SEXUAL ORIENTATION, GENDER IDENTITY,
4 OR GENDER EXPRESSION; AND

5 (b) EVERY EMPLOYEE IN COLORADO HAS A RIGHT TO BE OPEN
6 ABOUT THEIR SEXUAL ORIENTATION, GENDER IDENTITY, AND GENDER
7 EXPRESSION WITHOUT FEAR OF DISCRIMINATION OR RETALIATION.

8 (2) THE GENERAL ASSEMBLY ALSO FINDS THAT, DESPITE EXISTING
9 LAWS PROTECTING LGBTQ+ EMPLOYEES, MANY SUCH EMPLOYEES:

10 (a) CONTINUE TO EXPERIENCE DISPROPORTIONATE WORKPLACE
11 HARASSMENT, UNEQUAL BENEFITS, AND ADMINISTRATIVE BARRIERS TO
12 SELF-IDENTIFICATION;

13 (b) REMAIN UNAWARE OF THEIR RIGHTS;

14 (c) FACE RETALIATION FOR EXERCISING THEIR RIGHTS; AND

15 (d) ARE DENIED ADEQUATE TOOLS TO REMEDY DISCRIMINATORY
16 PRACTICES.

17 (3) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT:

18 (a) AFFIRMATIVELY ESTABLISHING A RIGHT TO BE OUT AT WORK
19 IN COLORADO WILL CLARIFY EXISTING PROTECTIONS, CREATE ACCESSIBLE
20 REMEDIES, AND PROMOTE EQUITABLE AND INCLUSIVE WORKPLACES IN THE
21 PUBLIC AND PRIVATE SECTORS; AND

22 (b) WITH THIS PART 3, THE GENERAL ASSEMBLY INTENDS TO:

23 (I) CODIFY THE RIGHT OF EVERY EMPLOYEE IN COLORADO TO BE
24 OPEN ABOUT THEIR SEXUAL ORIENTATION, GENDER IDENTITY, OR GENDER
25 EXPRESSION WITHOUT FEAR OF DISCRIMINATION OR RETALIATION;

26 (II) REQUIRE EMPLOYERS TO RECOGNIZE EMPLOYEES'
27 SELF-IDENTIFIED NAMES, PRONOUNS, AND PERSONAL TITLES;

1 (III) ENSURE ACCESS TO INCLUSIVE FACILITIES AND EMPLOYMENT
2 BENEFITS; AND

3 (IV) STRENGTHEN ENFORCEMENT AND ACCOUNTABILITY BY
4 AUTHORIZING THE DEPARTMENT TO RECEIVE, INVESTIGATE, AND
5 ADJUDICATE COMPLAINTS ARISING UNDER THIS PART 3.

6 **8-13.5-303. Definitions.**

7 AS USED IN THIS PART 3, UNLESS THE CONTEXT OTHERWISE
8 REQUIRES:

9 (1) "ADVERSE EMPLOYMENT ACTION" MEANS DISCHARGE,
10 DEMOTION, CONTRACT NONRENEWAL, DISCIPLINE, DENIAL OF PROMOTION,
11 HARASSMENT, OR DISCRIMINATORY TREATMENT RELATED TO
12 EMPLOYMENT CONDITIONS OR BENEFITS.

13 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND
14 EMPLOYMENT.

15 (3) "EMPLOYEE" MEANS AN INDIVIDUAL EMPLOYED BY AN
16 EMPLOYER IN THE STATE.

17 (4) "EMPLOYER" MEANS AN INDIVIDUAL, A PARTNERSHIP, AN
18 ASSOCIATION, A CORPORATION, OR A PUBLIC ENTITY EMPLOYING ONE OR
19 MORE INDIVIDUALS WITHIN THE STATE.

20 (5) "GENDER EXPRESSION" HAS THE MEANING SET FORTH IN
21 SECTION 24-34-301 (9).

22 (6) "GENDER IDENTITY" HAS THE MEANING SET FORTH IN SECTION
23 24-34-301 (10).

24 (7) "LGBTQ+" MEANS LESBIAN, GAY, BISEXUAL, TRANSGENDER
25 OR TRANSITIONING, OR QUEER OR A GENDER IDENTITY THAT IS DIFFERENT
26 FROM CISGENDER AND HETEROSEXUAL NORMS.

27 (8) "PUBLIC EMPLOYER" HAS THE MEANING SET FORTH IN SECTION

1 29-33-103 (6).

2 (9) "SEXUAL ORIENTATION" HAS THE MEANING SET FORTH IN
3 SECTION 24-34-301 (24).

4 (10) "TRANSITION" OR "TRANSITIONING" MEANS AN INDIVIDUAL'S
5 ADOPTION OF OUTWARD OR PHYSICAL CHARACTERISTICS THAT MATCH
6 THEIR GENDER IDENTITY RATHER THAN THE CHARACTERISTICS THAT ARE
7 ASSOCIATED WITH AN INDIVIDUAL'S SEX AS REGISTERED AT BIRTH.

8 (11) "TRANSITION PLAN" MEANS A WRITTEN TRANSITION PLAN
9 DESCRIBED IN SECTION 8-13.5-309.

10 **8-13.5-304. Right to be out at work - retaliation prohibited.**

11 (1) AN EMPLOYER SHALL NOT SUBJECT AN EMPLOYEE TO AN
12 ADVERSE EMPLOYMENT ACTION IN RESPONSE TO THE EMPLOYEE'S
13 DISCLOSURE OF, OR COMMUNICATION ABOUT, THE EMPLOYEE'S SEXUAL
14 ORIENTATION, GENDER IDENTITY, OR GENDER EXPRESSION OR TO THE
15 EMPLOYEE'S STATUS AS A TRANSGENDER, NONBINARY, OR TRANSITIONING
16 INDIVIDUAL.

17 (2) AN EMPLOYER SHALL NOT RETALIATE AGAINST AN EMPLOYEE
18 FOR THE EMPLOYEE'S SUPPORT OF, ASSISTANCE TO, OR ADVOCACY FOR A
19 COWORKER, STUDENT, OR CLIENT WHO EXERCISES THE INDIVIDUAL'S RIGHT
20 TO NONDISCRIMINATION, INCLUDING BY REFERRING TO AN INDIVIDUAL BY
21 THEIR CHOSEN NAMES, PRONOUNS, OR PERSONAL TITLES.

22 **8-13.5-305. Right to self-identify.**

23 (1) AN EMPLOYEE MAY DETERMINE THE NAMES, PRONOUNS, AND
24 PERSONAL TITLES THAT ARE USED TO REFER TO THE EMPLOYEE IN THE
25 WORKPLACE.

26 (2) UPON NOTIFICATION BY AN EMPLOYEE, AN EMPLOYER SHALL
27 UPDATE ALL INTERNAL AND PUBLIC-FACING RECORDS, INCLUDING

1 NAMEPLATES, DIRECTORIES, AND DIGITAL SYSTEMS, TO REFLECT THE
2 EMPLOYEE'S CHOSEN NAMES, PRONOUNS, AND PERSONAL TITLES WITHOUT
3 UNNECESSARY DELAY.

4 (3) IF AN EMPLOYEE CHOOSES A NAME OTHER THAN THE
5 EMPLOYEE'S LEGAL NAME FOR THE PURPOSES OF SUBSECTION (1) OF THIS
6 SECTION, THE EMPLOYER SHALL USE THE EMPLOYEE'S LEGAL NAME ONLY
7 WHERE SUCH USE IS REQUIRED BY LAW.

8 **8-13.5-306. Gender-inclusive dress code.**

9 AN EMPLOYER'S WORKPLACE DRESS CODE MAY NOT IMPOSE
10 DIFFERENT REQUIREMENTS ON THE BASIS OF AN INDIVIDUAL'S SEXUAL
11 ORIENTATION, GENDER IDENTITY, OR GENDER EXPRESSION.

12 **8-13.5-307. Access to inclusive facilities.**

13 (1) AN EMPLOYER SHALL ALLOW EACH EMPLOYEE ACCESS TO A
14 RESTROOM AND CHANGING FACILITY THAT CORRESPONDS WITH THE
15 EMPLOYEE'S GENDER IDENTITY.

16 (2) AN EMPLOYER THAT OPERATES A PUBLIC BUILDING SHALL
17 ENSURE THAT THE BUILDING INCLUDES AT LEAST ONE RESTROOM THAT IS:

18 (a) COMPLIANT WITH THE FEDERAL "AMERICANS WITH
19 DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ., AND ITS
20 RELATED AMENDMENTS AND IMPLEMENTING REGULATIONS; AND

21 (b) ACCESSIBLE TO ALL INDIVIDUALS, REGARDLESS OF THE
22 INDIVIDUAL'S SEXUAL ORIENTATION, GENDER IDENTITY, OR GENDER
23 EXPRESSION.

24 (3) AN EMPLOYER SHALL PROVIDE ADEQUATE PRIVATE SPACES FOR
25 NURSING OR PUMPING, WHICH SPACES ARE NOT RESTROOMS AND ARE
26 AVAILABLE TO ALL PARENTS REGARDLESS OF THEIR SEXUAL ORIENTATION,
27 GENDER IDENTITY, OR GENDER EXPRESSION.

1 **8-13.5-308. Inclusive employment benefits - model policy**
2 **language - audits.**

3 (1) AN EMPLOYER SHALL ENSURE EQUAL ACCESS TO EMPLOYMENT
4 BENEFITS WITHOUT REGARD TO AN EMPLOYEE'S SEXUAL ORIENTATION,
5 GENDER IDENTITY, OR GENDER EXPRESSION.

6 (2) THE DEPARTMENT SHALL ADOPT MODEL POLICY LANGUAGE
7 AND CONDUCT REGULAR AUDITS TO ENSURE COMPLIANCE WITH THIS
8 SECTION.

9 **8-13.5-309. Transition plans for public employees - policies**
10 **required - voluntary participation by employees.**

11 (1) **Transition plan policy required.** EVERY PUBLIC EMPLOYER
12 SHALL PROVIDE AN EMPLOYEE-INITIATED PROCESS FOR THE DEVELOPMENT
13 AND IMPLEMENTATION OF A WRITTEN TRANSITION PLAN FOR
14 TRANSGENDER OR TRANSITIONING EMPLOYEES.

15 (2) **Voluntary participation.**

16 (a) PARTICIPATION IN A TRANSITION PLAN BY AN EMPLOYEE IS
17 VOLUNTARY.

18 (b) A TRANSITION PLAN MAY BE INITIATED ONLY AT THE REQUEST
19 OF AN EMPLOYEE.

20 (c) AN EMPLOYER SHALL NOT IMPOSE ANY PENALTY OR TAKE ANY
21 ADVERSE EMPLOYMENT ACTION AGAINST AN EMPLOYEE FOR
22 DISCONTINUING A TRANSITION PLAN AT ANY TIME, FOR ANY REASON.

23 (3) **Good faith collaboration.** UPON REQUEST BY AN EMPLOYEE,
24 A PUBLIC EMPLOYER SHALL PROMPTLY ENGAGE IN GOOD FAITH
25 DISCUSSIONS WITH THE EMPLOYEE, AND, IF APPLICABLE, THE EMPLOYEE'S
26 DESIGNATED UNION REPRESENTATIVE, TO DEVELOP A TRANSITION PLAN.
27 A PUBLIC EMPLOYER SHALL ENSURE THAT SUCH DISCUSSIONS ARE

1 COLLABORATIVE, CONFIDENTIAL, AND CONDUCTED IN A MANNER THAT
2 AFFIRMS THE DIGNITY AND PRIVACY OF THE EMPLOYEE.

3 (4) **Employee-centered scope.**

4 (a) A TRANSITION PLAN MUST ADDRESS ONLY THOSE ASPECTS OF
5 TRANSITIONING THAT THE EMPLOYEE CHOOSES TO RAISE.

6 (b) AN EMPLOYER SHALL NOT REQUIRE AN EMPLOYEE TO DISCUSS
7 OR DISCLOSE ANY MATTER THAT THE EMPLOYEE DOES NOT WISH TO
8 ADDRESS.

9 (c) AN EMPLOYER SHALL NOT REQUIRE AN EMPLOYEE TO CREATE
10 OR MAINTAIN A TRANSITION PLAN AS A CONDITION OF EMPLOYMENT.

11 (5) **Plan contents.** AS MUTUALLY AGREED UPON BY AN EMPLOYEE
12 AND AN EMPLOYER, A TRANSITION PLAN MAY INCLUDE CONSIDERATION OF:

13 (a) INTERNAL AND EXTERNAL COMMUNICATIONS REGARDING THE
14 EMPLOYEE'S TRANSITION;

15 (b) SCHEDULING AND APPROVAL OF ANY ABSENCES RELATED TO
16 THE EMPLOYEE'S TRANSITION;

17 (c) PROCEDURES FOR UPDATING AND USING THE EMPLOYEE'S
18 CHOSEN NAME, PRONOUNS, AND PERSONAL TITLES IN ALL EMPLOYMENT
19 CONTEXTS; AND

20 (d) TRAINING OR EDUCATIONAL OPPORTUNITIES FOR COWORKERS,
21 STUDENTS, OR OTHER STAKEHOLDERS TO PROMOTE UNDERSTANDING OF
22 THE EXPERIENCES IN THE WORKPLACE OF TRANSGENDER INDIVIDUALS AND
23 INDIVIDUALS WHO ARE TRANSITIONING.

24 (6) **Confidentiality.** ALL RECORDS AND COMMUNICATIONS
25 RELATED TO A TRANSITION PLAN ARE CONFIDENTIAL, AND AN EMPLOYER
26 SHALL MAINTAIN THE RECORDS AND COMMUNICATIONS SEPARATELY FROM
27 STANDARD PERSONNEL FILES UNLESS DISCLOSURE IS REQUIRED BY LAW OR

1 AUTHORIZED IN WRITING BY THE EMPLOYEE.

2 **8-13.5-310. Transition plans - private employers.**

3 AN EMPLOYEE OF A PRIVATE EMPLOYER MAY REQUEST TO
4 COLLABORATE WITH THE EMPLOYER TO DEVELOP AND IMPLEMENT A
5 TRANSITION PLAN, AS DESCRIBED IN SECTION 8-13.5-309.

6 **8-13.5-311. Use of leave time.**

7 AN EMPLOYER SHALL PERMIT AN EMPLOYEE TO USE THE
8 EMPLOYEE'S AVAILABLE SICK OR PERSONAL LEAVE TIME FOR THE PURPOSE
9 OF CHANGING THE EMPLOYEE'S LEGAL NAME OR OBTAINING
10 GENDER-AFFIRMING MEDICAL CARE, INCLUDING RECOVERY TIME.

11 **8-13.5-312. Professional development and training.**

12 (1) A PUBLIC EMPLOYER SHALL PROVIDE ANNUAL TRAINING TO ALL
13 EMPLOYEES REGARDING INCLUSIVE WORKPLACES AND SUPPORT FOR
14 LGBTQ+ EMPLOYEES.

15 (2) THE DEPARTMENT, IN CONSULTATION WITH LABOR UNIONS AND
16 LGBTQ+ ADVOCACY ORGANIZATIONS, SHALL DEVELOP AND MAKE
17 AVAILABLE TRAINING MATERIALS FOR THE PURPOSES OF THIS SECTION TO
18 ENSURE CONSISTENCY AND ACCESSIBILITY STATEWIDE.

19 **8-13.5-313. Enforcement and remedies.**

20 (1) THE DEPARTMENT MAY:

21 (a) RECEIVE AND INVESTIGATE COMPLAINTS ALLEGING VIOLATIONS
22 OF THIS PART 3;

23 (b) ISSUE FINDINGS AND ORDERS TO PROVIDE RELIEF; AND

24 (c) REFER CASES INVOLVING EGREGIOUS OR WILLFUL VIOLATIONS
25 TO THE COLORADO CIVIL RIGHTS DIVISION OR TO THE ATTORNEY GENERAL.

26 (2) THE TYPES OF RELIEF THAT THE DEPARTMENT MAY ORDER
27 PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION INCLUDE:

- 1 (a) A CEASE-AND-DESIST ORDER;
- 2 (b) BACK PAY;
- 3 (c) FRONT PAY;
- 4 (d) HIRING OF AN EMPLOYEE, WITH BACK PAY;
- 5 (e) REINSTATEMENT OF AN EMPLOYEE, WITH BACK PAY;
- 6 (f) EXPUNGEMENT OF ANY DISCIPLINARY ACTIONS RELATED TO THE
- 7 VIOLATION;
- 8 (g) UPGRADING OR PROMOTING OF AN EMPLOYEE; AND
- 9 (h) A FINE IN AN AMOUNT NOT TO EXCEED FIVE THOUSAND
- 10 DOLLARS FOR EACH VIOLATION. THE DEPARTMENT SHALL TRANSFER
- 11 MONEY COLLECTED AS FINES PURSUANT TO THIS SUBSECTION (2)(h) TO
- 12 THE COMPLAINANT.

13 **8-13.5-314. Applicability.**

14 (1) THIS PART 3 SHALL NOT BE CONSTRUED TO ABROGATE OR

15 DIMINISH:

16 (a) THE RIGHTS, PRIVILEGES, OR REMEDIES OF AN EMPLOYEE

17 UNDER A COLLECTIVE BARGAINING AGREEMENT OR AN EMPLOYMENT

18 CONTRACT; OR

19 (b) AN EMPLOYER'S OBLIGATION TO COMPLY WITH A COLLECTIVE

20 BARGAINING AGREEMENT OR AN EMPLOYER POLICY, AS APPLICABLE, THAT

21 PROVIDES GREATER PROTECTIONS, SAFEGUARDS, OR REMEDIES FOR

22 LGBTQ+ EMPLOYEES THAN THE PROTECTIONS, SAFEGUARDS, OR

23 REMEDIES DESCRIBED IN THIS PART 3.

24 **8-13.5-315. Rules.**

25 THE DEPARTMENT SHALL ADOPT RULES TO IMPLEMENT AND

26 ENFORCE THIS PART 3, INCLUDING RULES ESTABLISHING PROCEDURES FOR

27 FILING, INVESTIGATING, AND RESOLVING COMPLAINTS THAT THE

1 DEPARTMENT RECEIVES CONCERNING THIS PART 3. IN ADOPTING RULES AS
2 DESCRIBED IN THIS SECTION, THE DEPARTMENT SHALL CONSULT WITH
3 LGBTQ+ SUPPORT GROUPS AND LABOR UNIONS.

4 **SECTION 2. Act subject to petition - effective date.** This act
5 takes effect June 1, 2028; except that, if a referendum petition is filed
6 pursuant to section 1 (3) of article V of the state constitution against this
7 act or an item, section, or part of this act within the ninety-day period
8 after final adjournment of the general assembly, then the act, item,
9 section, or part will not take effect unless approved by the people at the
10 general election to be held in November 2026 and, in such case, will take
11 effect June 1, 2028.